

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONSIDERING THE )	RESOLUTION NO. 08-3889
RELEASE OF REQUEST FOR PROPOSAL NO. 08- )	
1254 FOR THE PROCUREMENT OF SOLID )	Introduced by Chief Operating
WASTE TRANSPORTATION SERVICES )	Officer Michael Jordan with the
)	concurrence of Council President
)	David Bragdon

WHEREAS, Metro is responsible for ensuring the proper disposal of the region's solid waste; and,

WHEREAS, in partial fulfillment of this responsibility, Metro owns the Metro Central and Metro South transfer stations; and,

WHEREAS, Metro contracts for the transportation of solid waste from its transfer stations to the Columbia Ridge Landfill in Arlington, Oregon; and,

WHEREAS, Metro's current solid waste transportation contract expires on December 31, 2009, at which time a replacement contract or contracts must be in place; and,

WHEREAS, Metro Code Section 2.04.056(c) requires that any procurement of a public contract exceeding \$100,000 shall be awarded in accordance with the provisions of either ORS 279B.055 (allowing competitive sealed bidding), ORS 279B.060 (allowing competitive sealed proposals) or ORS 279B.085 (allowing certain special procurements); and

WHEREAS, the Metro Contracts Manager has recommended the use of a competitive sealed proposal method for procuring a public contract with a solid waste transportation contractor; and

WHEREAS, the Director of the Solid Waste & Recycling Department and his staff have conducted substantial public outreach and have formulated the form of Request For Proposal No. 08-1254 set forth on the attached Exhibit A for the procurement of a public contract for the transport of solid waste from the region; and

WHEREAS the Chief Operating Officer has reviewed the Request for Proposal and recommends it to the Metro Council for approval, now therefore,

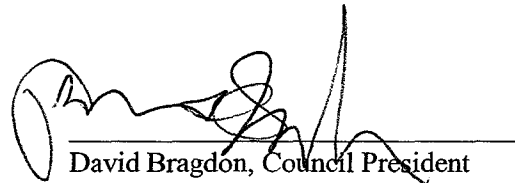
BE IT RESOLVED that the Metro Council hereby authorizes the Chief Operating Officer:

1) To release Request for Proposal No. 08-1254 in a form substantially similar to that set forth on the attached Exhibit A, thereby seeking procurement of a public contract for the transport of solid waste from from the Metro Central and Metro South transfer stations to the Columbia Ridge Landfill in Arlington, Oregon; and

2) To accept and evaluate the proposals received in response to Request for Proposal No. 08-1254 and to conduct negotiations with proposers as provided therein; and

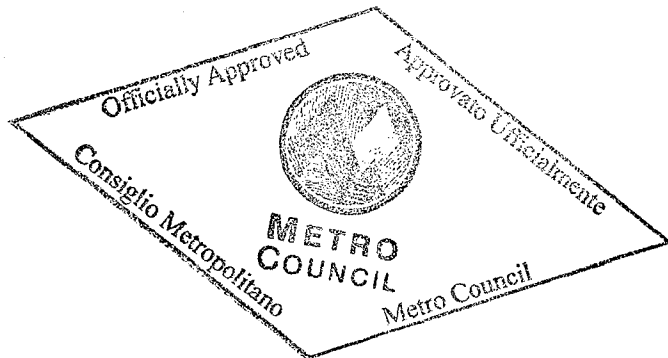
3) Following evaluation of the responses to the Request for Proposal and any negotiations, to recommend for the approval of the Metro Council (a) the responsible proposer whose proposal is the most advantageous to Metro and (b) an appropriate form of agreement with such proposer for the transport of solid waste from the Metro Central and Metro South transfer stations.

ADOPTED by the Metro Council this 17<sup>th</sup> day of January, 2008.

  
David Bragdon, Council President

Approved as to Form:

  
Daniel B. Cooper, Metro Attorney



# DRAFT

## REQUEST FOR PROPOSALS

for

### Solid Waste Transportation Services

RFP 08-1254-SWR

January 2008

Prepared by:

**METRO**

Solid Waste & Recycling Department  
*Engineering & Environmental Services Division*

600 NE Grand Ave.

Portland, OR 97232-2736

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**REQUEST FOR PROPOSALS**  
Solid Waste Transportation Services

**SOLID WASTE & RECYCLING DEPARTMENT**

600 N.E. Grand Avenue  
Portland, OR 97232  
(503) 797-1650, Fax (503)797-1795

**Project Manager:**

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**Procurement Officer:**

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Phone: 503-797-1626

**RFP 08-1254-SWR**

Notice is hereby given that proposals for **RFP 08-1254** for: **Solid Waste Transportation Services** shall be received by Metro, 600 N.E. Grand Avenue, Portland OR 97232 until **3:00 PM** on \_\_\_\_\_. **It is the sole responsibility of the proposer to ensure that Metro receives the Proposal by the specified date and time. All late Proposals shall be rejected. PROPOSERS SHALL REVIEW ALL INSTRUCTIONS AND CONTRACT TERMS AND CONDITIONS.**

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## I. INTRODUCTION

The Solid Waste & Recycling 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 Solid Waste Transportation Services. The work will involve the transportation of over 500,000 tons annually from Metro's two transfer stations to the Columbia Ridge Landfill in Gilliam County, Oregon. It is the intent of Metro to award a single contract to service both transfer stations.

Proposals will be due no later than 3:00 p.m. on \_\_\_\_\_, 2008 in the Solid Waste & Recycling Department's business offices at 600 NE Grand Avenue, Portland, OR 97232-2736. Details concerning the project and proposal process are contained in this document.

## II. BACKGROUND/HISTORY OF PROJECT

### General

Metro is a regional government providing a variety of services for the urbanized portions of Clackamas, Multnomah and Washington counties of Oregon. Solid waste planning and the disposal of solid waste generated within its jurisdictional boundary are two of Metro's principal responsibilities.

A system of public and private transfer stations currently receives mixed solid waste prior to transport and disposal at general-purpose landfills. This RFP addresses waste delivered to two public transfer stations (Metro South and Metro Central) that are owned by Metro and operated by a private contractor, Allied Waste Industries.

Both the general public and commercial haulers deliver waste to each Metro facility. Upon arrival at the facility, the waste is weighed by Metro at scalehouses, as described more fully herein. Metro staff collects payments from customers, at disposal prices established by Metro. The transfer station operator directs the unloading of the waste, removes recoverable materials for marketing, and then compacts and loads the residual into transfer trailers for disposal. Compactors are located at both Metro South Station (MSS) and Metro Central Station (MCS) to compact the waste into average payloads in excess of 30 tons.

The vast majority of the waste received at MSS and MCS destined for a general-purpose landfill is disposed at the Columbia Ridge Landfill (CRL) in conformance with the Waste Disposal Services Contract between Metro and Waste Management Disposal Systems of Oregon. The landfill is located in Gilliam County, Oregon, approximately 150 miles east of Portland.

CSU Transport, Inc., in conformance with the Waste Transport Services contract with Metro, currently transports the waste via long-haul tractor-trailers to CRL<sup>1</sup>.

The Waste Transport Services contract<sup>2</sup> expires on December 31, 2009. The Waste Disposal Services contract expires December 31, 2019. The Transfer Station Operations contract is generally for a five-year period; the current contract is scheduled to terminate in early 2010.

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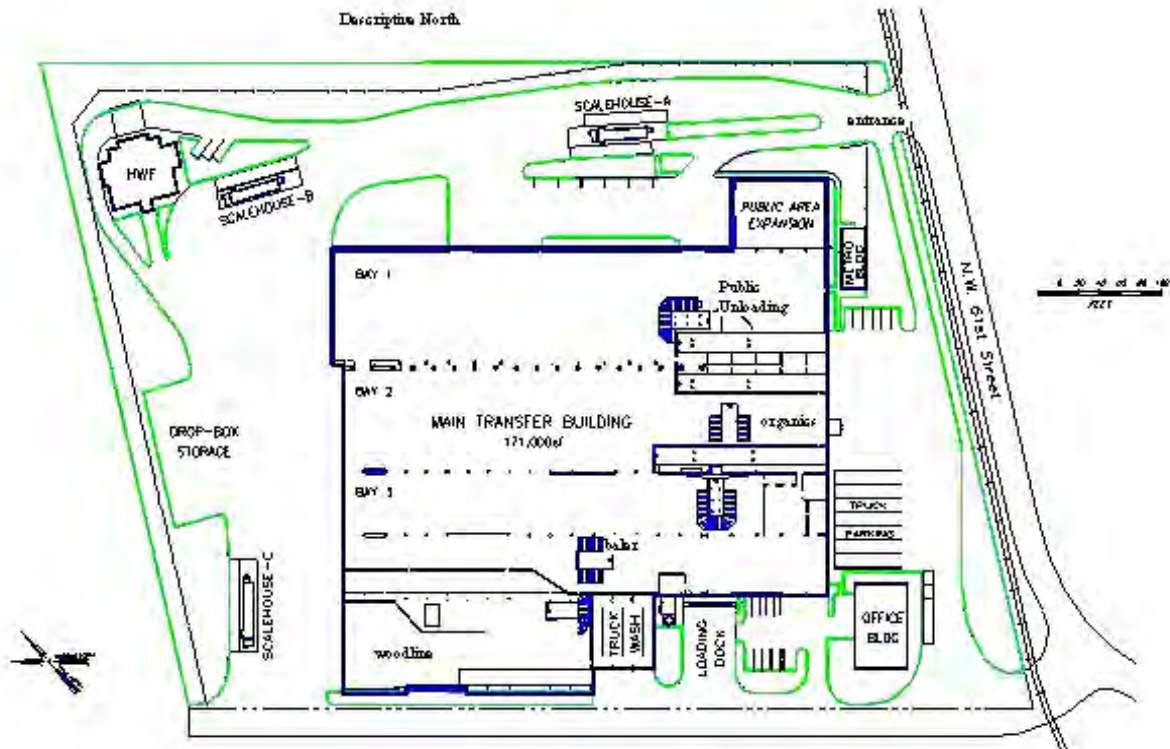
<sup>1</sup> See Annual Report: Waste Transport Services – a copy of the report is contained in the Appendix.

<sup>2</sup> See Waste Transport Services Contract also posted at the Metro's website [www.metro-region.org/article.cfm?ArticleID=16805](http://www.metro-region.org/article.cfm?ArticleID=16805).

## Current Metro Central Station Operations

Metro Central Station (MCS) is located at 6161 NW 61st in Portland, Oregon, and can be reached by taking St. Helens Rd (HWY 30) to Kittridge Ave., left on Front Avenue, and left on 61<sup>st</sup> Avenue. The facility is open for the general public from 8:00 a.m. to 7:00 p.m. during PDT and from 8:00 a.m. to 6:00 p.m. during PST, seven days a week. The facility is open for commercial and industrial accounts with automation tags at 2:00 a.m. except on Sundays when it opens at 8:00 a.m. for all customers. The facility is closed for all business on Christmas and New Year's days.

As shown in the figure below, there are three bays available for use. Each bay is equipped with a compactor. Material is tipped on the floor, sorted if appropriate, and then moved to the compactor conveyors by front-end loader. A compactor operator loads the compactor, builds the load and extrudes the load (bale) into the transport contractor's trailers.



In 2006, approximately 55% of the waste handled by Metro's transfer stations was received at MCS. Detailed historical and projected tonnage/load information is available in the Appendix.

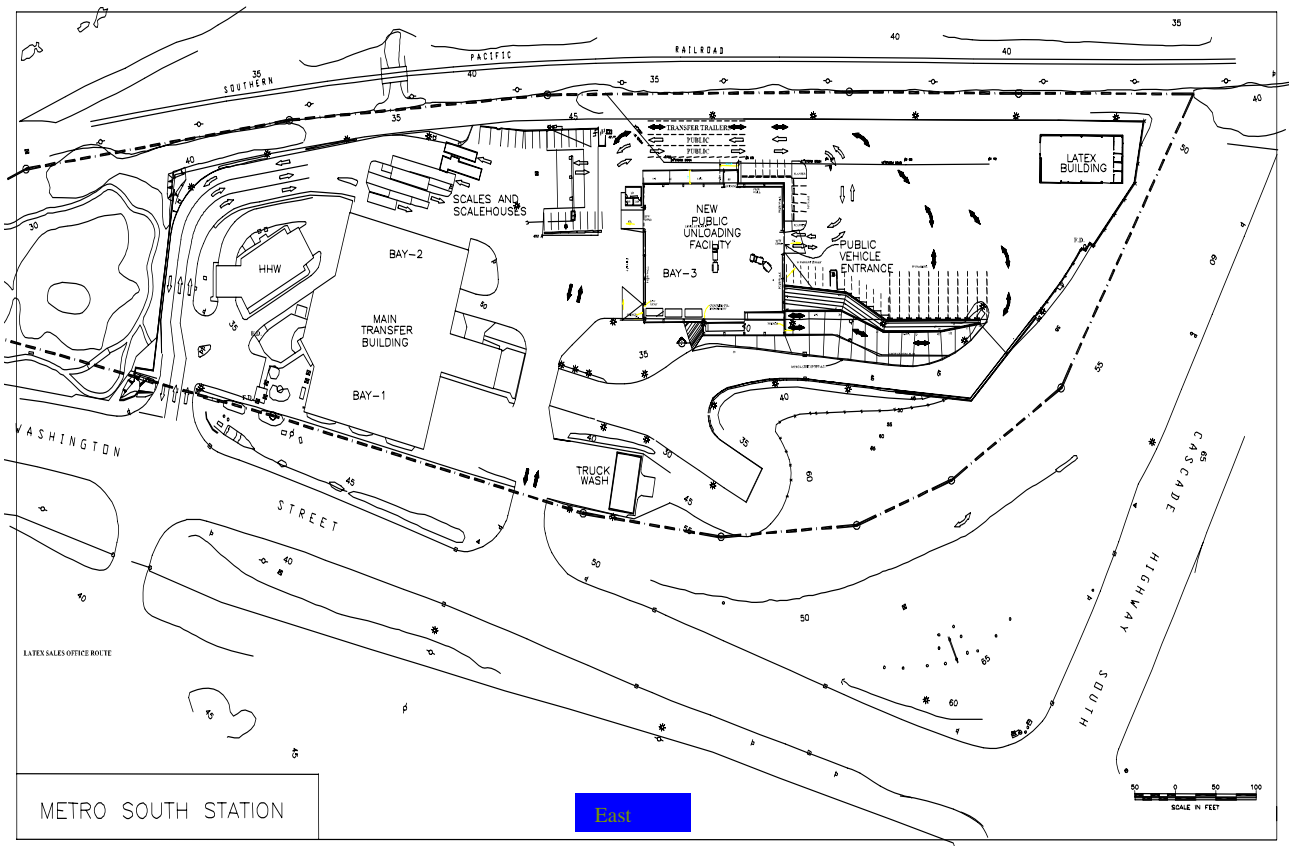
Three parking spaces for transport equipment at MCS are provided on-site. Additional parking is available at an area adjacent to the facility under a lease agreement between the waste transport contractor and the Burlington Northern and Santa Fe Railway Co. (A copy of the agreement is contained in the Appendix.) Transfer trailers are shuttled to and from the compactors to the parking spaces by Metro's Waste Transport Services Contractor. No permanent space for waste transport contractor's equipment is available at MCS.

An on-site scale is dedicated for use by the transport contractor. It is shown on the diagram directly east of the “Office Building.”

### Current Metro South Station Operations

Metro South Station (MSS) is located at 2001 Washington Street, in Oregon City, Oregon, and can be reached by taking the Oregon City/Molalla exit (Exit 10) off I-205. The facility is open for the general public from 7:00 a.m. to 7:00 p.m. during PDT and from 7:00 a.m. to 6:00 p.m. during PST, seven days a week. The facility opens at 3:00 a.m. for commercial and industrial accounts with automation tags, except on Sundays when it opens at 7:00 a.m. for all customers. The facility is closed for all business on Christmas and New Year’s days.

As shown in the figure below, three Bays are available for handling waste at MSS.



Historically, Bay #1 has been used to unload commercial customers directly into the pit located between Bay #1 and Bay #2. Two compactors are located at the north end of the pit, with openings into which the track loader operator pushes waste. The operator builds the loads with a remote control device. A compactor operator extrudes loads into the transport contractor’s trailers.

Bay #3 is currently being used to accept and sort dry waste received from commercial haulers and overflow self-haul traffic. Residual from this bay is trucked to the pit in the main transfer building.

Transfer trailers are shuttled to and from the compactors by Metro’s Waste Transport Services Contractor. The contractor has 10 spaces in which full and empty trailers are staged. An on-site, dedicated scale for use by the contractor is located at the area under the bridge north of the main transfer building.



### Other On-Site Transfer Station Activities

Metro personnel operate the on-site scalehouses for receiving waste from Metro's customers. There are four scalehouses at MSS and three at MCS.

Each site has a hazardous waste facility (HWF) operated by Metro that receives household hazardous waste from the general public. Conditionally-exempt generator (CEG) waste is also received at the facilities. These facilities are also used to appropriately manage and process unacceptable waste found by the station operator prior to disposal.

Metro's contract for operation of the transfer station contains an incentive (and corresponding disincentive) for its transfer station operations contractor to maximize payloads. The target payload is 29 tons. If loads of waste exceed 29 tons and are road legal<sup>3</sup> the transfer station operator receives half the projected savings to Metro. Metro saves money because it pays the current transport contractor on a per-load basis, based on an average projected payload of 28 tons contained in their original bid. A similar arrangement is anticipated in the contract resulting from this procurement.

Maintenance of transport contractor's vehicles or other activities such as cleaning trailers/containers is not permitted at the transfer stations.

### Waste Disposal Contract

The Columbia Ridge Landfill (CRL) is located at 18177 Cedar Springs Lane in Gilliam County, Oregon. It can be reached by taking Exit 137 off I-84 and then proceeding on State HWY 19 approximately 8 miles, right on Cedar Springs Lane for 2.5 miles. The landfill is owned and operated by Waste Management Disposal Services of Oregon (WMDS), a subsidiary of Waste Management, Inc. The site consists of approximately 2,000 acres, approximately 700 of which are currently scheduled for landfill development. The landfill currently accepts approximately 2.3 million tons of waste per year; Metro and the City of Seattle, Washington are its largest customers. Waste is delivered to CRL by both truck and rail. Metro's agreement with WMDS began operations in 1990 and expires in 2019.

At the landfill, the disposal contractor (WMDS) currently provides at no cost a staging/storage area for the transport contractor that can accommodate approximately 200 trailers. The disposal contractor also provides an on-site pole building for heating trailers to thaw loads during winter so they can be tipped. The transport contractor must provide the heating source for this operation. WMDS has offered the continued use of these areas as set forth in the letter from its CRL site general manager contained in the Appendix.

Currently, entry to the landfill is permitted through radio contact between the transport driver and the WMDS scalehouse. The next waste transport contractor will be required to adhere to the landfill entrance policies contained in the Appendix. Operating hours for purposes of tipping the waste are 7 a.m. to 4 p.m. weekdays.

While at present the transport contractor is responsible for tipping the waste, WMDS will offer waste tipping services to prospective proposers. Detailed information for the interface with the disposal contractor (including proposed tipping prices and contact information) is provided in the Appendix. Per the contract between Metro and WMDS, WMDS must provide "reasonable access" for unloading.<sup>4</sup>

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<sup>3</sup> Metro, the transport contractor and transfer station operator have agreed on the calculations to compute when a load is road legal. It is anticipated that a similar computation will be used for the next transport contract based on the equipment configuration of the next contractor(s).

<sup>4</sup> See Item #13 of the Specifications of the Waste Disposal Services contracted posted on the project's website.

## Overview of Current Waste Transport Contract

Operations for the existing Waste Transport Services contract began in January 1990 and will cease on December 31, 2009. The contractor providing services under the agreement is CSU, Inc. Under the contract, CSU shuttles an empty container to one of the compactors at each site and receives a load of waste from the transfer station operator. CSU then weighs the vehicle and generates a ticket that becomes the basis of payment. If CSU determines the vehicle is overloaded, the transfer station operator is responsible for correcting the load. This may involve shifting the load while working with CSU, or unloading the vehicle. The transfer station operator incurs a penalty for each overload.

Once a legal payload has been achieved, the trailer is shuttled by CSU back to its staging area for pickup by a driver with an over-the-road tractor. The ticket generated at the on-site scalehouse accompanies the load.

The following summary of activities is derived from the 2006 annual report for the Waste Transport Services contract:

*“During the period of January 1 through December 31, 2006, CSU transported a total of 571,095 tons of solid waste from Metro’s transfer stations to the Columbia Ridge Landfill<sup>5</sup> (260,240 tons from Metro South Transfer Station, and 310,854 tons from Metro Central Transfer Station). A total of 18,604 loads, averaging 30.70 tons per load, were hauled during 2006.*

*The costs for waste transport services in 2006 were as follows: Per-load payments to CSU totaled \$7,019,682, an average of \$377.32 per load or \$12.29 per ton. Total costs to Metro, including fuel<sup>6</sup>, shuttle operations, overloads, weighing, parking, etc. were \$9,787,863, an average of \$526.12 per load or \$17.14 per ton.*

*During 2006, CSU trucks traveled a total of 5.7 million miles hauling solid waste from Metro’s transfer stations to the Columbia Ridge Landfill. CSU had one reportable accident related to the Metro transport contract. Six speeding tickets were issued to CSU drivers. No other traffic citations were issued. There were 57 overweight citations issued to CSU.*

*CSU currently utilizes 34 tractors, 180 trailers, one track-mounted tipper and ten shuttlecraft in performing its solid waste transport services. As of December 31, 2006, CSU employed 66 drivers, seven office personnel, and 20 shuttle operators, tipper operators, and maintenance personnel<sup>7</sup>.”*

The majority of equipment and drivers are based at the landfill end of the trip. Drivers typically make two turns per day, ending their shift either at the landfill or at a staging yard based in Rufus, Oregon<sup>8</sup>. Loads from the Rufus yard are then taken to the landfill. A staging yard is located at the landfill where full and empty trailers are parked and repaired at an adjacent maintenance facility<sup>9</sup>. Full trailers are shuttled to the tipper by a CSU shuttle driver. The tipper operator unloads waste.

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<sup>5</sup> Detailed cost, tonnage and load information is contained in the Appendix.

<sup>6</sup> The purchase of fuel was originally the responsibility of the contractor. Metro began the purchase of fuel in 1994 to take advantage of federal excise tax savings. Detailed information concerning fuel consumption and prices are contained in the Appendix.

<sup>7</sup> It should be noted that equipment and drivers are used to perform other contracts such as Kennewick, WA. and Troutdale Transfer Station in the Portland area.

<sup>8</sup> The Rufus yard was initially needed because of driving time limitations in force at the time of the contract. Subsequent increases in allowable driving times resulted in a portion of the driver’s working maximum shifts. A copy of the Rufus lease is contained in the Appendix.

<sup>9</sup> No maintenance facility will be available at the landfill for the next transport contractor.

### III. PROPOSED SCOPE OF WORK/SCHEDULE

Generally, the work for which Metro is soliciting proposals includes the provision of all labor, equipment, materials and facilities needed to transport waste from the Metro South and the Metro Central transfer stations to the Columbia Ridge Landfill located in Gilliam County, Oregon; including the unloading of the waste at the landfill. Details concerning specific operational and contractual requirements will be developed based on the successful proposal for this project in conjunction with Metro's proposed contractual terms as attached to this RFP.

In addition, Metro has conducted an analysis of transportation options concerning this project and resulting opportunities for maximizing the values important to Metro concerning this project<sup>10</sup>. The analysis should be consulted for Metro's assumptions concerning certain elements of the scope of services necessary in accomplishing the work generally described below.

1. Contractor shall be responsible for receiving a load of waste from the Metro South and Metro Central transfer station whenever a load has been prepared by the transfer station operator.
  - a. After receiving a load, the transfer operator will place a pre-numbered door seal on the container (container, as used herein, refers to both intermodal containers, their chassis and transfer trailers).
  - b. Contractor shall weigh the vehicle at the dedicated onsite scale and print a load ticket / manifest that becomes the basis of payment.
  - c. If the load is not road legal, the Contractor shall inform the transfer station operator, who must correct the overloaded container.
2. Contractor shall provide new containers that are leakproof and compatible with the preload compactors used at the transfer stations during the life of this contract<sup>11</sup>.
  - a. Contractor shall maintain/replace equipment as necessary to ensure continued compliance with these requirements.
  - b. Any repair or replacement shall not decrease payload weights.
  - c. Containers and shuttle equipment shall be equipped with RFID technology provided by Metro to facilitate weighing.
  - d. All trucks and containers shall be equipped with a real-time GPS data device such that Metro can determine the location, travel path and current status of each piece of equipment.
3. Tractors shall be new as of the start of operations and maintained/replaced to ensure compliance with emission requirements in place at the time of contract execution, and applicable requirements for the duration of the contract. Shuttle vehicles shall be equipped to meet similar emission requirements.
4. Barge/rail equipment shall comply with all emission standards for such equipment.
5. Contractor shall deliver loads of waste to the CRL<sup>12</sup>.
  - a. Contractor shall comply with CRL entrance policies.
  - b. Contractor shall be able to access on-site staging area outside normal CRL operating hours.
6. Contractor shall be responsible for unloading waste at the working face of the landfill as instructed by the landfill operator utilizing its own tipper or the services of the landfill operator.
7. Contractor shall be responsible for providing Metro a written contingency plan for the transport of waste, and for implementing such plan in the event that normal operations are disrupted.
8. Contractor shall begin operations January 1, 2010 and cease operations December 31, 2019.

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<sup>10</sup> See the "White Paper" contained <http://www.metro-region.org/article.cfm?ArticleID=16805>

<sup>11</sup> Specifications for existing compaction equipment are contained in the Appendix.

<sup>12</sup> Details concerning the interface with the CRL contractor (WMDS) are contained in its letter in the Appendix.

9. Metro shall pay the contractor on a per load basis.<sup>13</sup>
10. Metro reserves the right to provide fuel for a portion or portions of this project should it determine it is in Metro's best interests.

#### **IV. EXPERIENCE/QUALIFICATIONS**

##### Experience:

The Proposer or, if applicable, a parent company, a partner of the Proposer, or a principal on the project team who will be active in the project, must have been in existence as a going concern for no fewer than three years, and possess no fewer than two years of actual operating experience in transportation projects of a similar nature and scale.

“Similar nature and scale” shall mean annually transporting a minimum of 250,000 tons of time-sensitive freight a one-way distance of at least 75 miles.

Proposers who do not submit documentation demonstrating sufficient experience in accordance with this section of the RFP may have their proposals rejected.

#### **V. PROJECT ADMINISTRATION**

The Engineering & Environmental Services Division of Metro's Solid Waste & Recycling Department will manage the resulting contract. Metro will make payment in accordance with the appropriate contract provisions after authorization by the Division's manager.

#### **VI. PROPOSAL INSTRUCTIONS**

##### A. Submission of Proposals

One (1) original and five (5) hard copies of the proposal together with one (1) electronic copy in PDF format shall be furnished to Metro. Hard copy proposals should be double-sided, and printed on recycled-content paper with a minimum of 30% post-consumer content. Any non-recycled or non-reusable bindings, section dividers or covers should be omitted. Proposals should be addressed to:

Metro- Solid Waste & Recycling Department  
Attn: Chuck Geyer, Principal Planner  
600 NE Grand Avenue  
Portland, OR 97232

Please mark the envelope:

**“Waste Transport Project Proposal - RFP 08-1254-SWR ”.**

Proposals may also be hand delivered to the Solid Waste & Recycling Department's front desk.

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<sup>13</sup> As described in Section VII of this RFP, proposers may request a separate payment or adjustment for the fuel component of the project.

B. Proposal Deadline

Proposals are due no later than 3:00 p.m., \_\_\_\_\_, 2008. Late proposals will not be considered.

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 that 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 Chuck Geyer - Principal Planner, 600 NE Grand Ave, Portland Oregon 97232-2736 at (503) 797-1691 or [geyer@metro.dst.or.us](mailto:geyer@metro.dst.or.us). Answers to any questions which in the opinion of Metro warrant a written reply or addendum, will be furnished to all parties receiving this RFP. **Metro will not respond to questions after \_\_\_\_\_, 2008.**

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, Women and Emerging Small 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, which encourage the use of minority, women and emerging small businesses (MWESB) to the maximum extent practical. Copies of these MWESB requirements are available from the Metro Procurement Office, 600 NE Grand Avenue, Portland, OR 97232, (503) 797-1816.

## VII. PROPOSAL CONTENTS

The proposal should contain the items and be in the order as described below.

- A. Transmittal Letter: As part of the proposal, submit a transmittal letter. The letter should provide an overview of the approach that will be used to accomplish the work. Include in the overview who is to be the contact for the project, and who in the firm has authority to sign the agreement with Metro if a contract is awarded to the firm. State that the proposal will be valid for a minimum of one hundred eighty (180) days. List other firms that will be involved in the project and describe their roles.
- B. Proposal Questionnaire: The "Proposer's Questionnaire" is to be filled out and submitted as part of the proposal. Failure to complete the forms fully may result in the rejection of a proposal. Attachments may be included as part of the questionnaire.

The information included in the questionnaire will be used to evaluate proposals and determine whether the proposal is responsive. Information submitted should demonstrate the ability of the proposer to accomplish the work requested in this RFP. Please be thorough and complete.

- C. Exceptions and Alternative Proposal Conditions: A firm wishing to take exception to, comment on, or offer alternative approaches to any proposed terms within this RFP is encouraged to document its concerns in this part of its proposal. Exceptions, comments or alternatives should be succinct, thorough and organized. Please include any exceptions or alternative conditions you wish to substitute for Metro's proposed contractual terms as attached to this RFP. Please describe if, and

how, the exception or alternatives would benefit Metro. Exceptions raised during contract negotiation that were not raised in contractor's proposal are not required to be considered by Metro.

- D. Confidentiality: This paragraph shall apply to information that the Proposer is submitting to Metro which Proposer considers to be confidential and proprietary, and which Proposer does not want Metro to disclose to third parties. To protect such information from disclosure, Proposers should specifically identify the pages of the proposal containing such information by marking the applicable pages "**CONFIDENTIAL.**"<sup>14</sup> Provided that, in Metro's sole discretion, such information should reasonably be considered confidential, and to the extent otherwise permitted by law, Metro obliges itself in good faith not to disclose such properly identified confidential information to any person outside of Metro. However, Proposers should be aware that Oregon Law (ORS chapter 192) requires public disclosure of most records deemed to be "public records." Metro cannot, therefore, guarantee to protect the confidentiality of any records submitted to Metro, even if the Proposer believes them to be exempt from disclosure. If properly identified confidential information is requested, and if Metro determines that such information should reasonably be considered confidential, Metro will not disclose it unless ordered to do so by the Multnomah County District Attorney, and, if Metro receives such an order, Metro will provide Proposer with the opportunity to appeal the District Attorney's decision to the State courts.

Metro shall not release for public inspection proposals received until it concludes negotiations and issues a Notice of Intent to Award.

## **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, in accordance with ORS 279B.100.
- B. Validity Period and Authority: The proposal shall be considered valid for a period of at least one hundred eighty (180) 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.
- C. Conflict of Interest: All persons or entities filing a proposal thereby certify that neither Metro, nor any of its officers, agents or employees, has a pecuniary interest in the 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; and the Proposer is competing solely on its own behalf without connection with, or obligation to, any undisclosed person or firm.
- D. Equal Employment and Nondiscrimination Clause: Metro and its contractors will not discriminate against any person(s), employee or applicant for employment based on race, creed, color, national origin, sex, sexual orientation, age, religion, physical handicap, political affiliation or marital status. Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Complaint Form, see [www.metro-region.org](http://www.metro-region.org).

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<sup>14</sup> Proposers shall not identify the entire proposal "CONFIDENTIAL".

- E. Changes Subject to Future Negotiations: Based on feedback from potential proposers during the public comment period for this project, Metro is committed to negotiating changes in the final agreement that accomplish the contractual conditions listed below. Proposers should assume such terms when preparing their proposals.
1. Metro Obligations Metro will provide the waste from its two transfer stations that requires disposal at CRL under our disposal agreement, to the successful contractor for this project.
  2. Payment Rate Adjustment
    - a. A one-time CPI adjustment that accounts for changes in costs that occur during the period between proposal submission in 2008 and the beginning of operations in 2010.
    - b. If container and fuel prices are reimbursed separately, per Article 7-2, then Metro will adjust fuel prices monthly rather than the quarterly adjustment described in the draft agreement (cf. Article 7-2C).
    - c. Metro will pay Contractor for unit price work in the same month that Contractor submits an invoice for said work, i.e., “Net 17,” not in the month following invoice submission.
    - d. Metro will eliminate the restrictions on reimbursement for changes in local and county laws in Article 7-3A.1.
  3. Additional or Deleted Work Metro will negotiate Force Account procedures that specify how payment will be made in the event the Contractor and Metro cannot agree on prices for additional or deleted work but where Metro orders the work to be performed.
  4. Insurance Metro intends to negotiate specific insurance coverages with the selected contractor, keeping in mind provisions that best protect the agency as well as industry standards. Article 13 of the services contract included in the RFP specifies current Metro requirements.
  5. Penalties Metro intends to negotiate the imposition of penalties in Article 15-3, such that penalties will only be applicable during a 12 hour period weekdays and an 8 hour period on weekends as mutually agreed to by the Contractor and transfer station operator, subject to the approval of Metro. Prior to the imposition of penalties, Metro will consider notifying contractor of its intention to impose penalties and Contractor will have time to remedy the situation.

## **IX. EVALUATION OF PROPOSALS**

- A. Evaluation Process: Proposals received that conform to the proposal instructions will be evaluated. The evaluation will be conducted using the evaluation criteria identified in the following section. The evaluation committee will also use the detailed analysis contained in the “White Paper” as a guide to identify and apply relevant factors during the evaluation process, together with the information and any additional analysis presented in proposals. The interpretation and application of the evaluation criteria is at the sole discretion of the evaluation committee. If the committee believes that information contained in any proposal is inaccurate, the committee reserves the right, after requesting clarification from the proposer, to adjust the data for purposes of evaluation, or to reject the proposal as nonresponsive.

The evaluation committee will rank proposals based on the evaluation criteria and points described below. Interviews with the top ranked firm or firms may be conducted at Metro’s sole discretion.

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. Additional information:

1. Cost

**45 points**

Proposers shall submit the following information in the Questionnaire that will be used to evaluate the total cost of the proposal:

- a. The per container payload (in tons) on which the proposal is based.
- b. The price per load and whether the price includes compensation for fuel.
- c. The percent of the CPI (as stipulated in the Contract Terms and Conditions) the Proposer will accept to annually adjust per-load prices.
- d. The price per load for fuel (unless contained in item “b” above).

The total cost of the proposal will be computed by Metro by applying the above information to the tonnage projections over the life of the contract<sup>15</sup>.

The lowest total cost proposal will receive all 45 points for this criterion. Proposals that are not the lowest cost will be allocated points based on a percentage of the lowest cost proposal. The formula to allocate points to proposals other than the lowest cost is as follows:

“Other” total cost \$ \_\_\_ minus “Lowest” total cost \$ \_\_\_ = Difference

Percentage = 1 – (Difference divided by “Lowest” total cost)

Percentage times 45 points = Points for other than lowest cost proposal

A simple example is provided for the purpose of illustration. If two companies were to submit proposals, and the total cost for Company A’s proposal is \$100, and the total cost for Company B’s proposal is \$110, then Company A, as the low-cost proposer, would receive all 45 points in the category of cost. Company B would receive 40.5 points. Per the preceding formulae, Company B’s points would be calculated as follows:

Difference = \$110 - \$100  
= \$10

Percentage = 1 – (\$10/\$100)  
= .90 or 90%

Percentage x 45 points = 90% x 45  
= 40.5 points

2. Environmental Impacts

**20 points**

The evaluation committee will use information provided by proposers and information and assumptions contained in **Section 4.3** of the *White Paper* to analyze the environmental impacts of each proposal. The analysis will include both the overall impact from emissions and specific impacts on the Columbia River Gorge National Scenic Area (NSA). The types of emissions that will be examined include:

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<sup>15</sup> Metro will assume an annual inflation rate of 3% for evaluating per load costs, and if fuel per load costs are proposed separately, 5% for fuel costs. An electronic spreadsheet that calculates total cost will be provided to potential proposers.



- a. Generation of particulate matter (including fine particulates), particularly as they impact the Metro area.
- b. NOx and SOx emissions affecting visibility in the Columbia River Gorge NSA.
- c. Total emissions of carbon dioxide and other greenhouse gases.

3. Socioeconomic Impacts

**10 points**

The socioeconomic impacts (both positive and negative) of the proposals will be assessed and scored. The committee will examine both Metro regional impacts, as well as the impacts along transportation routes and in Gilliam County, Oregon. Some of the impacts that will be considered include:

- a. Noise and traffic effects on neighborhoods.
- b. Enhancement of regional freight mobility in the Metro area.
- c. Support economic development in Gilliam County.
- d. Positive/negative effects on the Columbia River Gorge NSA.
- e. MWESB utilization of subcontractors and suppliers.

4. Operational Considerations/Reduction of Risk to Metro

**25 points**

The efficiency, reliability and flexibility of the proposed transportation system will be evaluated in light of the following factors:

- a. Ability to move waste in timely manner by providing sufficient equipment and personnel.
- b. Operational procedures/location of supervisory personnel to ensure the coordination of the waste movement in delivering reliable, timely service.
- c. Likely effectiveness of contingency plans for dealing with planned and unplanned disruptions to normal service such as inclement weather, lock closures, strikes, etc.
- d. Equipment maintenance procedures and facilities.
- e. Equipment replacement schedules.
- f. Ability to maximize payloads over time.
- g. Emphasis on safety procedures/training and employee evaluation.
- h. Emergency procedures for dealing with accidents and releases to the environment.
- i. Flexibility of the system in adapting to changes in technology, fuel supplies or transfer station relocations/additions.
- j. Financial strength of proposing entity as determined by, but not limited to, corporate credit ratings, common financial ratios, management continuity, reputation, and ability to support indemnification and performance guarantees.
- k. Sustainable practices proposed.

- C. Simultaneous Negotiation Process: A negotiating committee will meet with the evaluation committee and review the results of the evaluation process. Based on the quality of the proposals received, a short list of proposers may be selected for further consideration by the negotiating committee. Metro reserves the right to request supplemental information from the short-listed proposers.

Metro will conduct interviews/oral presentations with short-listed proposers if deemed necessary. During the interviews/oral presentations, specific aspects of the project and elements of each of the proposers' offers will be discussed as appropriate. Metro reserves the right to request best and final offers (BAFO) from some or all of the short-listed firms, including additional performance and financial guarantees such as guarantees from parent companies. In

the event negotiations are unsuccessful with the short-listed firms, Metro may enter into negotiations with firms not originally short-listed.

Based on the results of the proposal evaluation and negotiation process, and consistent with the criteria listed in the RFP, Metro will make its contract award recommendation(s).

- D. Contract Award: In accordance with state law and Metro Code, contract award(s) will be made to the firm(s) submitting the most advantageous proposal(s). This determination will be made solely by Metro and in accordance with the criteria listed in the RFP.

## **X. APPEAL OF CONTRACT AWARD**

Aggrieved proposers who wish to appeal the award of this contract must do so in writing within seven (7) days of issuance of the notice of intent to award by Metro. Appeals must be submitted to the Metro Procurement Officer, 600 NE Grand, Portland, OR 97232 and must state the specific deviation of rule, law, or procedure upon which the appeal is based. Any disagreement with the judgment exercised by the evaluation committee is not a basis for appeal.

Upon receipt of an appeal, the Procurement Officer will notify the Solid Waste & Recycling Director and the Chief Operating Officer. Within ten (10) days of receipt of the appeal, Metro will issue its notice of rejection or acceptance of the appeal. The appellant may appeal the decision to the Metro Council, acting as the agency's local public contract review board. Such appeals must be received within five (5) working days from the postmarked date of the appeal response. The appeal will be considered by the Metro Council, whose decision on the matter shall be considered final.

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## **APPENDICES**

Proposal Questionnaire

Proposed Solid Waste Transportation Services Agreement  
Scope of Work  
Approved Bond Forms

Historical Transport Payments/Fuel Consumption

Tonnage Projections/Historical Tonnage Patterns

Annual Report: Waste Transport Services

*White Paper*- Metro Solid Waste Transportation Study- Sections 4.3 and 5

Information on Metro Compaction Equipment

CRL Entrance Policies/Contact Information

Contact Information for Port of Portland and Port of Arlington

CSU- BNSF and Rufus Leases

# **PROPOSAL QUESTIONNAIRE**

## **PROPOSAL QUESTIONNAIRE**

The following Questionnaire asks for information concerning the Proposer's organization, operations and fleet maintenance plans, and emissions profile. The Proposer should submit responses to the Questionnaire in the exact order as listed below with the same headings and numbering system. Do not write directly on the questionnaire; rather, submit answers as part of your proposal.

Generally, the Proposer shall include information for the specific single business organization or entity that is submitting a Proposal for the work described in the RFP and which would be the signatory on the Contract. If the information being submitted is not for the specific proposing entity, please note such in the response. If a major portion of the work, including but not limited to material recovery is being subcontracted, information for that subcontractor should be submitted and specifically referenced.

All answers shall be specific and complete in detail. Metro reserves the right to make independent inquiries concerning the information submitted herein, to conduct any additional investigation necessary to determine the Proposer's qualifications, and to require the Proposer to supply additional information. Information submitted in response to this Questionnaire will be considered binding on the successful Proposer, and any substitutions or deviations shall be allowed only if approved by Metro.

### **Use of Attachments**

Schedules, résumés, reports, diagrams, and other forms of information may be used as attachments, provided that the information provided by the Proposer in response to this Questionnaire clearly references the attachments. The purpose of this Questionnaire and any attachments is to supply information about the Proposer to Metro so that Metro may evaluate each proposal<sup>1</sup>.

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<sup>1</sup> Confidentiality- See Section VII.(D) of the RFP for any materials proposers' desire to remain confidential.

## **A. ORGANIZATIONAL INFORMATION**

1. Name of firm that will enter into an agreement, type of firm (corporation, partnership, individual, LLC, or other – if “other,” please describe).
2. Please provide the following information for the firm:
  - Address, phone number, email address and website
  - Federal tax ID#
  - project manager for the proposal and direct contact information
3. How many years has your firm used its present name?
4. List all names your firm has used to conduct business (include dates and states of incorporation for each corporate name).
5. Please submit an organizational chart showing ownership percentages and management arrangements between the firm that would enter into an agreement, and any other entities participating in the execution of this proposal.
6. Describe the supervisory structure that will be used to perform the work, list the names of supervisory personnel if available, and where their offices will be located.
7. Please list and explain the status of any lawsuit(s) material to your ability to carry out the functions outlined in this RFP for Waste Transport Services, and in which you or a company affiliated with you (i.e. a parent corporation, a corporation in which you own an interest, or a corporation in which your parent corporation owns an interest, as applicable) are a party.

## **B. EXPERIENCE/QUALIFICATIONS**

1. **Comparable Projects** : Please list the projects you have undertaken similar to the work for which the proposal is being submitted. Include contacts and phone numbers, a description of your role (i.e. prime or subcontractor or owner) and how the project was similar to the work called for in this RFP 08-1254-SWR. If you have not had similar experience, include experience from affiliated entities and indicate how the proposer would access the expertise. Include enough information to, at a minimum, satisfy the “Experience” requirements in section IV of the RFP.
2. **Financial Capability and Risk**: For the purpose of determining financial risk, Metro will conduct an assessment of the financial capability of proposing companies, including, but not limited to, an assessment of each company’s recent performance, short-term liquidity, and long-term solvency.

Please provide the three most recent years’ financial statements for the entity or entities who will guarantee execution of the services outlined in this RFP. In the case of a joint venture or general partnership of more than one company, please submit such statements for each joint venture party or general partner. Financial statements should be audited or, if audited financials are not available, then independently reviewed by a certified public accountant. You may submit such additional information and supporting documentation as you deem adequate to demonstrate the financial capability of your company.

The completeness of the information you submit, its veracity, and the extent to which it has been independently verified will impact Metro’s judgment of financial risk.

### **C. COST PROPOSAL**

1. What is your proposed cost per load? (Please express in both numbers and words.)
  - a. Does the per-load cost include fuel costs?
  - b. If the answer to 1(a) is no, please complete item #4 of this section.
2. What is the payload size of each load on which your cost per load is based?<sup>2</sup>
3. What percentage (i.e., 100%, 75%, etc.) of the consumer price index (West All Urban Size Class A- as more fully described in the Contract Terms and Conditions appended to the RFP) do you propose for annual adjustment to per load prices?

**(Item #4 must be completed only if you responded “No” to item 1a.)**

4. What is your proposed fuel cost per load? (Please express in both numbers and words.)

### **D. ENVIRONMENTAL IMPACTS**

Metro has estimated total emissions for various transportation configurations using the assumptions detailed in Section 4.3 of the “Metro Solid Waste Transportation Study - Final White Paper,” May 2007 by CH2M HILL. The assumptions used reference factors such as engine types, the emission standards that the equipment will meet, types of fuels, etc. for each mode and any associated drayage.

Metro will use this information, and the information supplied in the proposals (primarily fuel consumption), to estimate the overall environmental impact of a proposal, as well as specific impacts on the Columbia River Gorge NSA. In particular, the analysis of impacts will focus on the generation of PM, NO<sub>x</sub>, SO<sub>x</sub> and greenhouse gases. Please provide the following information:

1. Describe any alternative assumptions from the White Paper that you believe should apply.
  - a. Include technical backup for why the alternative assumptions apply.
  - b. Describe the effects of the alternative assumptions on the generation of the targeted pollutants.
2. What is the total amount and type of fuel consumed per load?
  - a. If multiple types of fuel are consumed:
    - Provide a break-out of the amount and type, by percentage of the total gallons per load.
    - Describe the type of equipment associated with each percentage.
  - b. What provisions will be implemented to minimize fuel consumption (i.e., equipment design, backhauls, etc.)?
3. Supply an estimate of the amount of time and fuel consumed while in the Columbia River Gorge NSA<sup>3</sup>.
4. Truck emission standards are known: Explain how you will conform with those standards. Locomotive and marine standards are proposed: State any commitments you are willing to make in advance of any federal requirements to reduce emissions for these modes.
5. Describe whether renewable fuels will be used and in what amounts.

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<sup>2</sup> (NOTE: Proposals will need to include sufficient documentation under Section “H” to verify that the equipment will be road legal when hauling the proposed payload size utilizing existing compactors at Metro facilities. Metro reserves the right to adjust payload size in calculating the total cost of a proposal.

<sup>3</sup> The scenic area extends from the Sandy River on the west, to the Deschutes River on the east.

## **E. SOCIOECONOMIC IMPACTS**

1. Describe the proposed travel route(s) in detail (street level) from transfer stations to the landfill and back.
2. The Appendix contains information related to the amount of waste received at the two transfer stations, as well as when waste is loaded into the transporter's container and weighed (outbound). Describe when loads of waste will move through the system described above for a typical weekday.
3. List the location (and provide a map) of any staging/storage areas and describe how they will be used.
4. Give your assessment of how your proposed activities will:
  - a. Impact noise and traffic in neighborhoods.
  - b. Enhance regional freight mobility in the Metro area.
  - c. Support development of economic activity in Gilliam County.
  - d. Produce positive/negative effects on the Columbia River Gorge NSA.
  - e. Utilize MWESB subcontractors and suppliers.

## **F. OPERATIONAL CONSIDERATION - Logistics**

1. For the travel route(s) presented in E(1) above, provide the following:
  - a. A description (including drawings) of sites for staging equipment and any terminals, their current status in terms of ownership/permitting, and any development required to use (i.e. paving, etc.).
  - b. What equipment will be staged at each site.
  - c. Proposed schedules for staging equipment in relation to the movement described in E(2), above.
  - d. Fueling locations and fueling schedules.
  - e. Describe where supervisory personnel will be located.
2. Describe any proposed backhaul opportunities. Include:
  - a. The commodity being backhauled, its origin and the frequency of the backhaul.
  - b. How the backhaul will affect Metro schedules.
  - c. The benefit to Metro, including any rate reduction being offered to Metro.
  - d. A description of how you could continue to profitably offer services at your proposal price should this backhaul no longer be available to you.

## **G. OPERATIONAL CONSIDERATIONS - Mobilization Plan**

1. Provide a timeline with critical path items described, beginning with contract award.
2. Provide the name and title of your contact person during mobilization and for other key personnel, including their roles throughout contract mobilization and implementation.
3. Provide an inventory of permits you will be responsible for and will have to obtain, and include the schedule for permits in the timeline requested in 1, above.



## **H. OPERATIONAL CONSIDERATIONS - Equipment**

1. For proposals using tractor-trailer combinations only to perform the work:
  - a. Describe the number of tractors and trailers to be used in the project.
  - b. Include drawings (specifications) of tractor/trailer combinations, with sufficient detail to allow Metro to independently determine feasible payloads, including the calculations showing the maximum road legal payload for the over-the-road equipment configuration. Include assumptions for:
    - Bale size and weight
    - Placement in container
  - c. Document if the equipment will be dedicated to the project.
  - d. Provide make and model year of proposed over-the-road equipment.
  - e. Provide make and model year of shuttle equipment; include drawings (specifications).
  - f. Describe the tipper(s) (specification, manufacturer and year built) or whether you will contract for tipping services with WMDS or others.
  - g. Describe delivery/mobilization schedules for the proposed equipment.
  
2. For any barge portion of the work:
  - a. Describe the number of barges proposed, their dimensions; and the container capacity.
  - b. Document if barges will be dedicated to this project.
  - c. Describe the tugs that will be used, including make, model year, quantity of engines, engine types and rated horsepower.
  - d. Document if the tugs will be dedicated to the project.
  - e. Describe the terminals (and loading/unloading equipment) proposed for the project.
  - f. Describe the number of tractors/chassis and containers to be used in the project.
  - g. Include drawings (specifications) of tractor/chassis/container combination with sufficient detail to determine feasible payloads, including the calculations showing the maximum road legal payload for the over-the-road equipment configuration. Include assumptions for:
    - Bale size and weight
    - Placement in container
  - h. Provide make and model year of proposed over-the-road equipment.
  - i. Provide make and model year of shuttle equipment, include drawings (specifications).
  - j. Describe the tipper(s) (specification, manufacturer and year built) or whether you will contract for tipping services with WMDS or others.
  - k. Provide delivery/mobilization schedules for the proposed equipment.
  
3. For any rail portion of the work:
  - a. Describe the number of railcars proposed, their dimensions, manufacturer, year built, rated payload capacity and projected payloads (both by railcar and by individual intermodal containers).
  - b. Describe how many railcars are projected to be used per train.
  - c. Describe the locomotives that will be used, including make, model year, quantity of locomotives per train, engine types and rated horsepower.
  - d. Describe the terminals (and loading/unloading equipment) proposed for the project and their status (i.e., are they currently constructed?).
  - e. Describe the number of tractors/chassis and containers to be used in the project.

- f. Include drawings (specifications) of tractor/chassis/container combination, with sufficient detail to determine feasible payloads, including the calculations showing the maximum road legal payload for the over-the-road equipment configuration.  
Include assumptions for:
  - Bale size and weight
  - Placement in container
- g. Provide make and model year of proposed over-the-road equipment .
- h. Provide make and model year of shuttle equipment, include drawings (specifications).
- i. Describe the tipper(s) (specification, manufacturer and year built) or whether you will contract for tipping services with WMDS or others.
- j. Provide delivery/mobilization schedules for the proposed equipment.
- k. Document which equipment will be dedicated to the project.

**I. OPERATIONAL CONSIDERATIONS - Equipment and Equipment Maintenance**

Describe in detail your approach to maintenance on the equipment, buildings, and grounds during the life of the contract. Please distinguish between Contractor-supplied and Metro-supplied items as appropriate. Also address the following detailed items:

1. Maintenance Plan- General
  - a. Inspection Plans and Procedures
  - b. Forms
  - c. Reporting
  - d. Documentation
  - e. Coordination with Metro
  - f. Sustainable practices
2. Preventative maintenance plan (equipment, facility, grounds)
  - a. Schedule
  - b. Testing
  - c. Reporting
3. Replacement
  - a. Schedule for replacement of major equipment and containers
  - b. Schedule and methods for replacing major components (engines, container floors, etc.)
4. Miscellaneous - Describe how the following elements will be accomplished, and what resources will be subcontracted and when:
  - a. Major Repairs
  - b. Emergency Repairs
  - c. Use of Subcontractors
  - d. Spare Parts Utilization
  - e. Fleet equipment cleaning and frequency
5. Safety- Describe the following elements of your safety program:
  - a. Training
  - b. Reporting
  - c. Inspections
  - d. Investigations

**J. STAFFING PLAN**

**Provide a staffing plan that shows the following elements and contains the following information:**

1. Number and type of positions, and where each will be based.
2. Management résumés.
3. Describe how fluctuations in activity/waste flow will be accommodated.
4. Schedules by position.
5. Position descriptions.
6. Training specifications for each position.
7. Discuss dedicated (full time) positions vs. dual role, temporary positions and/or part time positions.
8. Location of support activities.
9. How you will attempt to integrate existing CSU drivers into your operations.
10. Indicate which positions will be shared between facilities.

**K. GENERAL CONTINGENCY PLANS**

**Describe how you plan to deal with the following:**

1. Site/ External communications during service outages.
2. Work stoppages.
3. Inclement weather.
4. Equipment failure.
5. Route Closure (routine or otherwise).
6. Spill response/control procedures.
7. Accident/Incident investigation.

**L. PERFORMANCE MEASURES**

**Provide the following information about how you will measure performance:**

1. What is measured and how you will measure it.
2. How you will establish baselines.
3. How you will use this information to improve service to Metro.
4. How often you will calculate or measure the activity.
5. How you plan to present data from the required GPS tracking system.

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**PROPOSED  
SOLID WASTE TRANSPORTATION SERVICES AGREEMENT**

**SCOPE OF WORK**

**APPROVED BOND FORMS**

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## **SOLID WASTE TRANSPORT SERVICES AGREEMENT**

This Solid Waste Transport Services Agreement (the "Agreement") is made by and between Metro, an Oregon Metropolitan Service District organized under the laws of the State of Oregon and the Metro Charter, located in Portland, Oregon, and \_\_\_\_\_  
\_\_\_\_\_.

### **RECITALS**

Metro is the owner of two Solid Waste Transfer Stations in the Portland Metropolitan Region and has contracted for disposal of solid waste from the Metro Region at the Columbia Ridge Landfill ("CRL") in Arlington, Oregon.

Metro wishes to procure, and Contractor wishes to provide transportation services for solid waste to be disposed at the above-named landfill.

### **ARTICLE 1 - DEFINITIONS**

Any words or terms in this Agreement describing material or work that has a well-known technical or trade meaning recognized by solid waste and transportation professionals, engineers and trades shall be construed in accordance with such well-known meaning. Unless the context indicates otherwise, the capitalized terms used herein shall have the meanings defined as follows:

A. "Acceptable Waste" means all waste which is sealed into Contractor's containers at Metro-designated transfer stations.

B. "Back-up Transport System" or "Back-up System" means that transportation system plan which Contractor has designated and Metro has accepted as the method Contractor will utilize in any circumstance in which the Primary Transport System is unavailable.

C. "Container" means the receptacle, including intermodal containers and their chassis, and transfer trailers, meeting the performance standards set forth in the Scope of Work used to transport waste from the transfer station to a disposal site.

D. "Contract Manager" means Metro's representative for all purposes of this Agreement, designated as such by Metro. The Contract Manager is also the liaison between Contractor and Metro's consultants. The Contract Manager has no authority to approve increases in the cost of this Agreement; all such changes must be approved under the procedures in this Agreement and by Metro pursuant to applicable provisions of the Metro Code.

E. "Contractor" means the person, firm, corporation or other entity which executes the Agreement with Metro.

F. "Disposal Site" means the Columbia Ridge Landfill which is located in Gilliam County, Oregon to which "acceptable waste" is transferred and disposed.

G. "Force Majeure" means riots, wars, civil disturbances, insurrections, acts of terrorism, epidemics, and federal or state government orders, any of which is beyond the reasonable anticipation of the applicable party and which prevents performance of this Agreement, but only to the extent that due diligence is being exerted by the applicable party to resume performance at the earliest possible time. Both parties agree that no other events, however catastrophic or uncontrollable, including, but not limited to, changes in laws or regulations, strikes, lockouts, other labor disturbances, breakage or accidents to machinery, equipment or plants, scheduled lock closures, or government order due to inclement weather, shall be considered force majeure.

H. "Scalehouse" means those facilities the purpose of which is to determine and collect charges from public, commercial and industrial users of a transfer station. The term "scalehouse" shall include both the buildings used for this purpose and the weighing system.

I. "Load of Waste" means the quantity of waste transported by container(s) during each trip from a transfer station.

J. "Metro" means the Metropolitan Service District, its officers, employees, contractors, or authorized agents or servants; the term Metro does not include Contractor, Contractor's officers, employees, subcontractors, agents or servants.

L. "Primary Transport System" or "Primary System" means that mode of transportation which Contractor has designated and Metro has accepted as the principal transport method Contractor will utilize.

M. "Rate" refers to the unit costs associated with the transport of a load of waste.

N. "Request for Proposal" or "RFP" means a request by Metro for a proposal on contemplated changes in this Agreement. Such Request(s) for Proposals shall be numbered consecutively in chronological order.

O. "Separate Contract" means a contract between Metro and a party other than the Contractor.

P. "Transfer Station" means the Metro Central Station and/or Metro South Station



## **ARTICLE 2 – TERM OF AGREEMENT**

This Agreement shall take effect upon execution and remain in full force and effect through and including December 31, 2019, as more fully described in this Agreement. The Contractor agrees to begin waste transport services on January 1, 2010, and to terminate such disposal services on December 31, 2019, subject to the provisions set forth below. The term of this Agreement may be extended only by a written amendment to the Agreement signed by Metro and Contractor.

## **ARTICLE 3 - OBLIGATIONS OF CONTRACTOR**

### **3-1. Contractor's Performance of Contractual Duties.**

In consideration of Metro's payments described in Articles 5 and 7 of this Agreement, Contractor agrees to perform fully the duties and tasks described in the attached Scope of Work, which is incorporated by this reference as if set forth in full, and to provide all labor, tools, equipment, machinery, supervision, transportation, disposal, permits, and every other item and service necessary to perform such duties and tasks. Contractor further agrees to fully comply with each and every term, condition, and provision of this Agreement.

Contractor and its officers, employees, agents and subcontractors shall perform each and every service to be performed under this Agreement in a skillful and competent manner in accordance with the highest standards of the solid waste and transportation industries. Contractor shall be responsible to Metro for any and all errors or omissions in the performance of this Agreement and for any and all failures to perform this Agreement.

Contractor warrants that all personnel, workers or subcontractors used in the performance of this Agreement shall be skilled in their trades. Contractor shall furnish evidence of the skill of their employees, subcontractors and agents upon the request of Metro.

Contractor shall at all times enforce strict discipline and good order among its employees and all subcontractors. Contractor shall ensure that none of its employees, subcontractors or agents, nor any of its subcontractors' employees or agents, are permitted to participate in the performance of the work required under this Agreement if any such person has recently consumed or is under the influence of alcohol or other drugs, nor shall Contractor's employees, subcontractors or agents, nor any of its subcontractors' employees or agents, be permitted to bring alcohol, drugs or firearms onto the premises of a transfer station.

Contractor further warrants that all workmanship, materials and equipment used in the performance of this Agreement shall conform with any and all representations made by Contractor, and that such workmanship material and equipment shall be of the highest quality.

### **3-2. Contractor's Acquisition of Approvals.**

The Contractor shall be responsible for obtaining all necessary approvals and permits for the services rendered under this Agreement including, but not limited to, complying with all applicable federal, state, local and Metro regulations. Contractor affirms that it has provided

Metro with copies of all current permits and conditions, together with a timetable for obtaining necessary permits not yet approved. All equipment shall comply with applicable local codes, state laws, and applicable federal requirements. Any trucks and containers used in the performance of this Agreement shall be equipped, at the Contractors' sole expense, with a real-time global positioning system data device approved by Metro and configured and implemented so that Metro can, using any internet connection, determine the location, travel path and current status of each piece of Contractor's equipment. Any software access licenses or maintenance agreements will be provided by the Contractor. All containers and vehicles used to weigh the loads shall be equipped with RFID tags provided by Metro.

### **3-3. Contractors Retention of Transaction Records.**

In accordance with the provisions of Article 11, and in addition to all requirements of such Article, Contractor shall keep accurate records of all transactions in connection with this Agreement, including, without limitation, Metro Transaction Tickets received at transfer stations, any receipts or correspondence from transfer stations, and any communication from public agencies. Copies of such records shall be forwarded to Metro as requested, and Contractor shall inform Metro of all such communications or correspondence at the meeting required under Subarticle 3-4 of this Agreement.

### **3-4. Contractor's Coordination of Activities.**

The Contractor shall coordinate with Metro's transfer station operators regarding a timely schedule for the availability of adequate labor, equipment and empty containers used to receive a load of waste. The Contractor shall also coordinate the unloading of the containerized waste with the landfill operator. Metro will act as the arbitrator of any disputes between the Contractor and all transfer station or landfill operators.

Commencing January 2010, coordination meetings will be held monthly to review the progress of the work, discuss operational problems and procedures, and complaints. Contractor shall prepare for and respond to complaints, charges, and allegations brought against it prior to such meeting. The Contractor shall present a monthly report summarizing activities during the prior month, and plans and schedules for future activities. The monthly summary report shall include, without limitation, a manifest of the tonnage by load from each transfer station; complaint forms and recommended actions; any extraordinary occurrences affecting the Contractor and/or Metro; the status of operating equipment; any correspondence between Contractor and any governmental body concerning in any way the performance of this Agreement; any proposed or performed transportation backhaul activities; and any accidents and incidents, including circumstances in which an accident or collision was narrowly avoided.

### **3-5. Additional Contractor Obligations.**

In performing each and every service required under this Agreement, Contractor, its officers, employees, agents and subcontractors shall comply with all applicable laws, regulations, ordinances, orders and all other requirements of federal, state, regional, county and local government authorities and agencies having jurisdiction over the relevant activities, and Contractor shall accordingly give all notices and obtain all licenses and permits so required by law. The latter requirements of law include, but are not limited to, all applicable statutes, regulations and orders concerning minimum wage rates, nondiscrimination in the employment of

labor, protection of public and employee safety and health, environmental protection, the protection of natural resources, fire protection, burning and non-burning requirements, permits, fees and any similar subjects. Copies of all correspondence or any other documents sent from, or received by, the Contractor, its officers, employees, agents or subcontractors to any federal, state, regional, county or local government agency, relative to any and all of the requirements of law referred to by this paragraph shall be retained by the Contractor for a period of six years, and be available for inspection by Metro. Metro shall be informed of such correspondence at the monthly meetings required under Subarticle 3-4 of this Agreement. Examples of such correspondence include, but are not limited to, citations received from the State Highway Division. All agreements between Contractor and persons, firms, and corporations employed for this Agreement shall contain this paragraph's requirements. The requirements of this paragraph shall survive the expiration of this Agreement for a period of two years.

Contractor shall use its primary transport system in performing this Agreement unless Contractor has received prior written (or, in the event of an actual emergency, verbal) approval from Metro, to use an alternative transport system. Metro shall be under no obligation whatsoever to grant such approval. In the event that Metro approves Contractor's use of an alternative system, and except as provided in Article 18, Contractor shall not be entitled to any additional compensation or consideration but shall continue to faithfully perform every provision of this Agreement.

Contractor agrees to promptly pay all subcontractors, material persons, suppliers, or laborers engaged for purposes of this Agreement in accordance with any and all contracts between any such persons or entities and the Contractor. Contractor agrees to immediately remove any liens or encumbrances which, because of any act or default of Contractor, its officers, employees, or agents, or of Contractor's subcontractors or material suppliers of any tier, are filed against any property, real or personal, which Contractor, its officers, employees, subcontractors and other agents, interferes with the performance of this Agreement; and to defend, indemnify, and hold Metro harmless as required by Article 12 of this Agreement.

Contractor shall not discriminate against any person or firm on the basis of race, color, national origin, sex, sexual orientation, age, religion, physical handicap, political affiliation or marital status. Contractor acknowledges that Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities, and further acknowledges that Metro requires that all contractors comply with the aforementioned non-discrimination obligations.

Contractor shall use recycled and recyclable materials and products to the maximum, economically feasible extent in the performance of work set forth in this document. Contractor shall comply with Section 2.04.520 of the Metro Code regarding the use of recycled materials and products, particularly in the purchase of motor oil, antifreeze, and tires.

Contractor agrees that all services necessary to complete the Agreement in the manner established by this Agreement shall be considered as a part of the Agreement, and accordingly agrees that the Contractor will execute such services, without any extra compensation, in the same manner and with the same quality of material and services as required by this Agreement.

## **ARTICLE 4 -- TITLE TO WASTE**

If the seal affixed to any load of waste in the Contractor's possession shall be broken after being affixed at the transfer station of origin or before unloading at the disposal site destination, title to that load of waste shall immediately pass to the Contractor. Nothing contained in this paragraph shall be construed to limit Contractor's responsibilities or liabilities as described elsewhere in this Agreement.

## **ARTICLE 5 -- OBLIGATIONS OF METRO**

In consideration of Contractor's performance of the work described in the attached Scope of Work, and the Contractor's performance of all duties, tasks and obligations of this Agreement, Metro agrees to pay Contractor in accordance with the provisions set forth in Article 7, and to perform any other obligation specifically enumerated in this Agreement.

Metro shall organize the coordination meeting described in Article 3, and shall inform the Contractor concerning the identity and authority of the Metro employees responsible for the routine inspections described in Article 11.

Notwithstanding any other provision of this Agreement, Metro shall have no obligation to notify Contractor when to begin, cease or resume services under this Agreement, nor to give early notice of rejection of faulty services, nor in any way to superintend so as to relieve Contractor of any liability, any responsibility or any consequences for neglect, negligence or carelessness, or for substandard or defective services, or for use of substandard or defective materials or equipment by Contractor, its officers, employees, subcontractors or agents.

## **ARTICLE 6 -- SEPARATE CONTRACTS**

Metro reserves the right to enter into separate contracts for, and in connection with, the transportation of waste within and beyond Metro's boundaries and to enter any other separate contracts involving waste transfer or disposal from any facilities controlled by Metro.

Contractor shall cooperate with Metro and with other separate contractors engaged by Metro for the transportation or disposal of waste or the operation of transfer stations or resource recovery facilities or any related projects so that all portions of this Agreement may be completed in the most efficient and timely manner, without any interference with work on related projects and contracts.

Metro shall be the sole arbitrator of all disputes between the Contractor and any other contractors concerning performance of the work and interpretation of this Agreement and any other legally binding document affecting or related to this Agreement. All decisions of Metro relating to such Agreement and documents shall be deemed final. Contractor shall notify Metro of any such disputes within ten (10) working days of the occurrence of such dispute, or such dispute will be

deemed to have been resolved adversely to the interests of Contractor. Under no circumstances whatsoever shall Metro be liable for damages of any kind or nature resulting from or related to disputes between the Contractor and any separate contractor.

## ARTICLE 7 - PAYMENT

### 7-1. Payment Provisions for Proposals Combining Transport and Fuel Costs into a Single Rate.

A. Rates. For all transport work and fuel required under this Agreement, Metro shall pay Contractor the sum of \$\_\_\_\_\_ per load.

B. Rate Adjustment. Commencing on January 1, 2011, and on January 1 of each year thereafter, the Rate set forth in Article 7.1A shall be adjusted by a percentage amount equal to the difference of the Consumer Price Index during the most recent July, and the Consumer Price Index for July of the previous year, multiplied by the percentage adjustment amount of \_\_\_\_\_.

The following formula will be used to calculate the unit price adjustment:

$$UPA = ((CPI_t / CPI_{t-1}) - 1) \times 100 \times Pct$$

UPA = Unit Price Adjustment (percentage)  
CPI<sub>t</sub> = Consumer Price Index for the most recent July  
CPI<sub>t-1</sub> = Consumer Price Index for July of the previous year  
Pct = Actual Percent Adjustment proposed by the Contractor

The Unit Price Adjustment set forth herein shall be based on the Consumer Price Index for all urban consumers entitled "West-Size Class A" published by the U.S. Department of Labor, Bureau of Labor Statistics ("BLS"). The Unit Price Adjustment percentage will be the July index directly preceding the current year divided by the July index for the previous year, minus one, multiplied by 100, multiplied by the Percent Adjustment.

Percentage changes in the index shall be calculated using the year in which the Agreement is executed as the base period, until the BLS publishes data based on a new base period. Calculations shall be made from data on the new base from that time forward. If the BLS series specified above is discontinued, a replacement index shall be agreed upon by the contracting parties. If the BLS designates an index with a new title and/or code number or table number as being the continuation of the index cited above, the new index will be used. If the specific index "West-Size Class A" is discontinued but the West Urban All Items remains, this latter index will be used. Otherwise, a substitute shall be agreed upon by the parties. The price adjustment shall be calculated as soon as data are available, and shall be effective beginning the first day of the first month in each year of the Agreement.

**7-2. Alternative Payment Provisions for Proposals Separating Transport and Fuel Costs into Separate Rates.**

A. Rates. For all work required under this Agreement, Metro will pay Contractor the sum of \$\_\_\_\_\_ per load, exclusive of fuel, together with the sum of \$\_\_\_\_\_ per load for fuel.

B. Rate Adjustment. Commencing on January 1, 2011, and on January 1 of each year thereafter, the Rate set forth in Article 7.1A shall be adjusted by a percentage amount equal to the difference of the Consumer Price Index during the most recent July, and the Consumer Price Index for July of the previous year, multiplied by the percentage adjustment amount of \_\_\_\_\_.

The following formula will be used to calculate the unit price adjustment:

$$UPA = ( (CPI_t / CPI_{t-1}) - 1 ) \times 100 \times Pct$$

UPA = Unit Price Adjustment (percentage)  
CPI<sub>t</sub> = Consumer Price Index for the most recent July  
CPI<sub>t-1</sub> = Consumer Price Index for July of the previous year  
Pct = Actual Percent Adjustment proposed by the Contractor

The Unit Price Adjustment set forth herein shall be based on the Consumer Price Index for all urban consumers entitled "West-Size Class A" published by the U.S. Department of Labor, Bureau of Labor Statistics ("BLS"). The Unit Price Adjustment percentage will be the July index directly preceding the current year divided by the July index for the previous year, minus one, multiplied by 100, multiplied by the Percent Adjustment.

Percent changes in the index shall be calculated using the year in which the Agreement is executed as the base period until the BLS publishes data based on a new base period. Calculations shall be made from data on the new base from that time forward. If the BLS series specified above is discontinued, a replacement index shall be agreed upon by the contracting parties. If the BLS designates an index with a new title and/or code number or table number as being the continuation of the index cited above, the new index will be used. If the specific index "West-Size Class A" is discontinued but the West Urban All Items remains, this latter index will be used. Otherwise, a substitute shall be agreed upon by the parties. The price adjustment shall be calculated as soon as data are available and shall be effective beginning the first day of the first month in each year of the Agreement. There shall be no Unit Price Adjustment in the first year of this Agreement.

C. Per Load Fuel Price Adjustment. The per load price for fuel set forth in Article 7.2A shall be adjusted quarterly during this Agreement, beginning with April 1, 2010, to reflect changes in the cost of fuel. The quarterly fuel price adjustment beginning in the second calendar quarter of this Agreement shall be in a percentage amount equal to the change of the fuel price index between the previous calendar quarter and the current calendar quarter, as described below.

The following formula will be used to calculate the fuel price adjustment:

$$\text{FPA} = ( (\text{FP}_q / \text{FP}_{q-1}) - 1 ) \times 100$$

FPA = Fuel Price Adjustment (percentage)  
FP<sub>q</sub> = Fuel Price in the current calendar quarter  
FP<sub>q-1</sub> = Fuel Price in the previous calendar quarter

The Fuel Price Adjustment will be based on the Portland, Oregon average rack price of No. 2 Ultra-low Sulfur Diesel published weekly by the Oil Price Information Service (OPIS) on the Thursday directly preceding the first day of the calendar quarter. The Fuel Price Adjustment percentage will be the one-week average price of the current calendar quarter, divided by the one-week average price for the previous calendar quarter, minus one, multiplied by 100. The first day of each calendar quarter is: January 1, April 1, July 1, and October 1.

If the price or OPIS report specified above is discontinued, replacement price data shall be agreed upon by the contracting parties. If OPIS designates an index with a new title as being the continuation of the price cited above, the new price will be used. If a different grade of fuel is used by the Contractor to perform this Agreement, and if the weekly OPIS report referenced above contains an average rack price for that actual fuel grade, then the Fuel Price Adjustment shall be calculated for the actual fuel grade used according to the procedure described in this section.

### **7-3. Additional Payment Provisions Applicable to all Proposals.**

A. Petition for Increased Costs Due to Change in Law. For purposes of this Article, the term "change in law" means any new or revised laws, statutes, rules, regulations, ordinances, or a final judicial determination thereof rendered by a court of competent jurisdiction in the State of Oregon. Upon petition of the Contractor and subject to approval of Metro as described in this section, Metro shall pay, subject to the limitations, conditions and procedures stated below, one hundred percent (100%) of Contractor's reasonable, actual increased costs of performing this Agreement if such increased costs are directly attributable to changes in law which increase the cost of Contractor's performance of this Agreement, and if such changes in law become effective at any time after the effective date of this Agreement.

1. Local and County Law -- Limitations: Metro shall reimburse Contractor, subject to the terms and conditions of this section, for reasonable, actual increased costs due to changes in local and county laws if and only if such changes are applicable to all businesses in the relevant county or local area. Metro shall not compensate Contractor for any increased costs due to changes in local or county laws to the extent that such laws are applicable only to Contractor, Contractor's activities in connection with this Agreement, or to persons or entities engaged in the waste management or transportation industries.
2. Federal, State or Local Taxes, Fees or Surcharges: Metro shall not be obligated to reimburse Contractor for any cost increases or expenses Contractor may incur due to increase in the rates of federal, state or local taxes, fees or surcharges of whatever nature.

3. General Conditions and Limitations on Reimbursement: Reimbursement shall be allowed under this section only for any costs incurred which are the least costly means of ensuring full compliance with and which are directly necessitated by the relevant change in law. No reimbursement for cost increases shall be allowed for any cost increases which are in any way attributable to Contractor's operations or to Contractor-provided transfer stations or to conditions, operations, or activities at Contractor-provided transfer station(s), or conditions, operations or activities which are caused by Contractor or its subcontractors, employees, agents, or servants, or which are otherwise within Contractor's control.

Contractor must fully demonstrate and document the need for the requested reimbursement to Metro's satisfaction and approval as a condition precedent to Contractor's right to any payment under this section.

4. Cancellation of Reimbursement: Metro may at any time cancel any reimbursement made under this section which was made in error. Contractor shall at all times keep Metro informed as to whether any reimbursement remains necessary. Also, upon Metro's request, Contractor shall immediately provide Metro with all documents or information or other evidence in Contractor's possession or control which Metro requests to determine whether there is a continuing need for any and all reimbursements made under this section.
5. Schedule of Payment of Reimbursement: Metro shall determine, subject to its accounting and budget limitations, the method and manner of any payment(s) which may include installment payments over an extended period of time which may extend beyond the termination or completion of this Agreement. Any such determination with regard to payments shall take into consideration Contractor's reasonable and actual financing costs.

B. Deductions from Payments for Reduced Costs due to Changes in Law. Metro shall be entitled to reduce payments to Contractor subject to the conditions stated below, to reflect one hundred percent (100%) of the reduced costs of Contractor's performance under this Agreement which reduced costs are attributable to any categories of changes in law for which Contractor is entitled to reimbursement of increased costs under the previous section. Metro may at any time serve Contractor with notice and explanation of Metro's intent to reduce payments under this paragraph. Within thirty (30) days of service of such notice, Contractor shall respond in writing to such notice, and such written response shall state whether or not Contractor believes that any deductions from payments due Contractor are justified by the change in law and shall state any reductions in the costs of performing this Agreement due to the relevant change in law. Contractor shall fully document and otherwise support its response to Metro's notice under this section.

Upon written petition of Contractor, Metro may at any time cancel reductions made under this section if Metro determines that the need for the reduction has expired or that a reduction was made in error. Contractor shall at all times keep Metro informed as to both when any reduction due to change in law is appropriate, and as to when any reduction is no longer appropriate.



C. Partial payments shall not constitute acceptance by Metro of Contractor's work nor be construed as a waiver or surrender of any right or claim by Metro in connection with the work.

D. Contractor shall submit its invoices with a detailed cost breakdown in accordance with the procedures approved by Metro. In addition to the information provided to Metro in support of its monthly applications for payments, Contractor shall submit to Metro, concurrent with its monthly payment application, a detailed accounting of all sums paid to minority, women and emerging small business (MWESB) subcontractors during the previous calendar month. This accounting shall reflect the type of work being performed by the MWESB firms and the MWESB firms' name, address, telephone and contact person, previous calendar month's payment and total payments made to the subcontractor.

E. Conditions Precedent to Payment. It is a condition precedent to Contractor's rights to any payments under this Agreement that all bills for labor and materials, including labor and materials supplied by or to Contractor, are paid in full; and, if requested by Metro, Contractor shall submit receipted invoices and/or lien waivers, as evidence of payment in full of all such accounts. As a further condition precedent to Contractor's right to any payments under this Agreement, if requested by Metro, Contractor shall submit a lien waiver before any payment, and a final lien waiver stating Contractor has been paid in full prior to the final payment. Nothing in this section is meant to establish an exhaustive list of all the conditions precedent to payment in this Agreement. Any and all conditions precedent to payment established by this Agreement but not contained in this section remain valid.

F. Basis of Payment. On or prior to the eighth day of each month, Contractor will submit to Metro a billing which indicates the quantity of waste transported from each transfer station pursuant to this Agreement. The value of unit price work shall be based upon the number of loads of waste actually transported pursuant to this Agreement for the calendar month just completed. The Contractor shall furnish to Metro such detailed information as set forth in this Agreement (including records from transfer stations) and as Metro may request to aid in the preparation of monthly payments. After approval by Metro, Metro will pay the Contractor by the 25th day of the following month for the value of unit price work and lump sum work, less any previous payments.

## **ARTICLE 8 – ADDITIONAL OR DELETED WORK**

### **8-1. Request for Proposal for Additional Work.**

Within fourteen (14) calendar days after receipt of an RFP for additional work from Metro, Contractor shall submit to Metro an itemized proposal stating the actual and reasonable costs to Contractor for performing such additional work, a schedule for performing such work, and the effect, if any, on Contractor's performance of the existing contract work by reason of the additional work. Contractor's proposal shall be based on the least costly method for performing the additional work in accordance with all provisions of this Agreement.

No request for proposals by Metro shall be construed as authorization for Contractor to perform the additional work covered by such RFP. To obtain authorization to perform any additional work, Contractor must be notified in writing by Metro that Contractor is ordered to proceed with

the relevant additional work. In any such written notification Metro shall indicate whether it accepts or rejects Contractor's proposal. If Metro rejects Contractor's proposal but orders the additional work to be performed, Contractor shall perform the additional work. If Metro does not order Contractor to perform the relevant work, Contractor shall not be entitled to any reimbursement for the work in Contractor's proposal.

### **8-2. Request for Proposal for Deleted Work.**

Within fourteen (14) calendar days after receipt of an RFP for deleted work from Metro, Contractor shall submit an itemized proposal stating the actual and reasonable costs which would be avoided by deleting work called for in this Agreement, a schedule for deleting the relevant work, and the effect, if any, on Contractor's performance of the remaining contract work by reason of the deleted work. Contractor's proposal shall be based on all current and future avoided costs to Contractor for deleting the work and any profit margins or markups which Contractor's proposal includes for such work.

No RFP by Metro shall be construed as authorization for Contractor to delete the work covered by an RFP for deleted work. Contractor shall not delete any work unless and until an order from Metro authorizing such deletion is served upon Contractor. In any such written notification Metro shall indicate whether it accepts or rejects Contractor's proposal. If Metro rejects Contractor's proposal but orders the work to be deleted, Contractor shall delete the work. However, Metro may make all appropriate deductions from payments, according to the formula below, if Metro has ordered Contractor to delete work, regardless of whether Contractor has complied with such order.

### **8-3. Amount of Deductions for Deleted Work.**

The amount of any deductions from payments for deleted work shall be equal to all current and future avoided costs resulting from the deleted work plus any profit margin or markups which Contractor's proposal includes for such work. If the latter profit margin or markup figures are unavailable, the parties hereby agree that Contractor's profit margin on all work shall be deemed to be ten percent (10%) of the actual cost of performing the work. Contractor shall submit complete records of materials and labor usage to Metro for review. If Contractor and Metro cannot agree on the amount of the deduction for the relevant deleted work, that matter shall be submitted to arbitration under Article 25.

## **ARTICLE 9– CONTRACTOR AS INDEPENDENT CONTRACTOR**

Contractor shall perform all work under this Agreement as an independent contractor. Contractor is not and shall not be considered an employee, agent or servant of Metro for any purposes, under this Agreement or otherwise; nor shall any of Contractor's subcontractors, employees or agents be, nor shall they be considered, employees, agents, subagents or servants of Metro for any purposes under this Agreement or otherwise.

Consistent with the provisions of this Agreement, Contractor shall have exclusive control of, and the exclusive right to control, the details of the services and work performed hereunder and all persons performing such work. Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Nothing in this

Agreement shall be construed as creating a partnership or joint venture between Metro and Contractor.

Nothing in this Agreement shall be construed as giving Metro any duty to supervise or control any acts or omissions of any person, entity or party, which acts or omissions are in any way connected with the performance of services under this Agreement.

## **ARTICLE 10 – CONTRACTOR’S USE OF SUBCONTRACTORS**

Contractor shall submit to Metro the names and addresses of proposed subcontractors and suppliers for each subcontract of this Agreement that is for payment of more than \$100,000 per year. Contractor shall provide copies of any subcontracts Contractor enters into to perform this Agreement within three (3) business days of receiving a request for such contracts from Metro.

All applicable provisions of this Agreement, and all applicable local, state and federal laws and regulations shall apply to all: 1) subcontracts entered into by Contractor in connection with this Agreement; and 2) leases, purchase agreements, or finance agreements for equipment or other material used in connection with this Agreement.

All subcontracts of whatever nature, including, but not limited to, leases and purchase and finance agreements, shall contain a clause which provides that if Contractor, in Metro’s sole opinion, defaults in performance of this Agreement and Metro accepts assignment of the subcontract, then subcontractor shall enter into a novation of the subcontract with Metro and, for purposes of interpretation of the subcontract, shall recognize Metro or its assignee as Contractor and shall further recognize that Metro or its assignee shall have all the rights, remedies and responsibilities of the Contractor under the relevant subcontract. Upon written notice from Metro, Contractor agrees to assign all of its rights in all such subcontracts to Metro upon Metro’s determination that Contractor has defaulted under the terms of this Agreement.

Contractor shall be as fully responsible to Metro for the acts and omissions of the subcontractors and suppliers, and of the subcontractors’ and suppliers’ employees, firms, agents and servants, as Contractor is for the acts and omissions of its own employees and agents. No provision(s) of this Agreement, nor of any contract between the Contractor and its subcontractors, shall be construed as creating any contractual relation between those subcontractors and Metro.

## **ARTICLE 11 – INSPECTIONS OF CONTRACTOR / RECORDS RETENTION**

### **11-1. Inspections.**

Contractor shall permit inspection of all facets of the work by Metro, Metro’s representatives, and all governmental authorities having jurisdiction over any parts of the work at all times. All inspectors shall be afforded all rights and courtesies granted to Metro. Any commands or directions issued by such inspectors shall not relieve the Contractor of any responsibility or obligation under this Agreement or of any liability associated with its operations. Contractor shall remain fully responsible for all injuries, accidents, and other mishaps associated with its operations.

Metro shall have the right to inspect and copy all records and documents, to interview any persons, and to review any evidence in Contractor's possession or control which may assist Metro in determining whether and by what amount 1) Contractor is entitled to reimbursement or increased payment under any applicable provision of this Agreement; or 2) Metro is entitled to credits or to make reduced payments to Contractor under any provision of this Agreement.

Metro shall also have the right to reasonably request any information it deems necessary to determine Contractor's ability to perform or to continue to perform this Agreement. Contractor shall comply with all such requests by Metro within ten (10) days of receipt of any such requests.

### **11-2 Records Retention.**

Unless otherwise provided herein, all documents, instruments and media of any nature produced by Contractor pursuant to this Agreement are work products and are the property of Metro, including, but not limited to, drawings, specifications, reports, scientific or theoretical modeling, electronic media, computer software created or altered specifically for the purpose of completing the Scope of Work, works of art and photographs. Unless otherwise provided herein, upon Metro's request, Contractor shall promptly provide Metro with an electronic version of all work products that have been produced or recorded in electronic media. Metro and Contractor agree that all work products are works made for hire and Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such work products.

Contractor and all of its subcontractors shall maintain all fiscal records relating to such contracts in accordance with generally accepted accounting principles. In addition, Contractor and subcontractors shall maintain any other records necessary to clearly document:

A. The performance of the Contractor, including, but not limited to, Contractor's compliance with contract plans and specifications, compliance with fair contracting and employment programs, compliance with Oregon law on the payment of wages and accelerated payment provisions; and compliance with any and all requirements imposed on the Contractor or subcontractor under the terms of this Agreement or subcontract.

B. Any claims arising from or relating to the performance of the Contractor or subcontractor under a public contract.

C. Any cost and pricing data relating to this Agreement.

D. Payments made to all suppliers and subcontractors.

Contractor and subcontractors shall maintain records for the longer period of 1) six years from the date of final completion of this Agreement to which the records relate; or 2) until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement.

Contractor and subcontractors shall make records available to Metro and its authorized representatives including, but not limited to, the staff of any Metro department and the staff of the Metro Auditor, within the boundaries of the Metro region, at reasonable times and places regardless of whether litigation has been filed on any claims. If the records are not made

available within the boundaries of Metro, the Contractor or subcontractor agrees to bear all of the costs for Metro employees, and any necessary consultants hired by Metro including, but not limited to, the costs of travel, per diem sums, salary, and any other expenses that Metro incurs, in sending its employees or consultants to examine, audit, inspect, and copy those records. If the Contractor elects to have such records outside these boundaries, the costs paid by the Contractor to Metro for inspection, auditing, examining and copying those records shall not be recoverable costs in any legal proceeding.

Contractor and subcontractors authorize and permit Metro and its authorized representatives, including, but not limited to, the staff of any Metro department and the staff of the Metro Auditor, to inspect, examine, copy and audit the books and records of Contractor or subcontractor, including tax returns, financial statements, other financial documents and any documents that may be placed in escrow according to any contract requirements. Contractor shall submit to Metro at least annually, and more often at Metro's request, copies of such financial records and tax returns as are submitted to the surety or banking institution furnishing Contractor's Performance and Labor and Materials Bonds or Letter(s) of Credit (see Article 14). Metro shall keep any such documents confidential to the extent permitted by Oregon law, subject to the provisions of the following paragraph.

Contractor and subcontractors agree to disclose the records requested by Metro and agree to the admission of such records as evidence in any proceeding between Metro and the Contractor or subcontractor, including, but not limited to, a court proceeding, arbitration, mediation or other alternative dispute resolution process.

Contractor and subcontractors agree that in the event such records disclose that Metro is owed any sum of money or establish that any portion of any claim made against Metro is not warranted, the Contractor or subcontractor shall pay all costs incurred by Metro in conducting the audit and inspection. Such costs may be withheld from any sum that is due or that becomes due from Metro.

The failure of the Contractor or subcontractor to keep or disclose records as required by this document or any solicitation document may result in disqualification as a bidder or proposer for future Metro contracts as provided in ORS 279B.130 and Metro Code Section 2.04.070(c), or may result in a finding that the Contractor or subcontractor is not a responsible bidder or proposer as provided in ORS 279B.110 and Metro Code Section 2.04.052.

## **ARTICLE 12-- INDEMNIFICATION**

Contractor agrees that for purposes of the Oregon Tort Claims Act (ORS 30.260 through 30.300) neither Contractor, nor its officers, agents and employees, nor any of Contractor's subcontractors of any tier or their officers, agents and employees are agents of Metro. Contractor, both for itself and its officers, agents, employees, as well as its subcontractors of any tier and all of their officers, agents and employees, will make no claim whatsoever against Metro for indemnification pursuant to ORS 30.260 to 30.300. In addition, Contractor hereby agrees to hold Metro harmless and indemnify Metro from any such claims.

In addition, Contractor shall indemnify, and hold Metro harmless from and against any and all claims, causes of action, demands, suits, damages, penalties, charges, judgments, liabilities, or losses of whatsoever character or kind (all hereinafter referred to as "claims") and all expenses arising from such claims including, but not limited to, attorneys' fees upon trial and upon appeal, and any and all costs, if such claims or expenses allegedly or actually arise or result from, directly or indirectly, or are in any way connected with: 1) the performance or nonperformance of any provision or requirement of this Agreement by Contractor, its officers, employees, subcontractors, agents or servants; 2) any of the acts or omissions of Contractor, its officers, employees, subcontractors, agents or servants at any transfer station; 3) the failure of Contractor, its officers, employees, subcontractors, agents, or servants to comply in any respect with the provisions and requirements of all applicable permits, licenses, laws, statutes, regulations, ordinances, codes, orders and all other legal requirements of federal, state, regional, county and local government authorities and agencies having jurisdiction over the relevant activities as is required by this Agreement; or 4) any release or emission, or threatened release or emission related to the waste occurring from the point in time that each load of waste is sealed until the disposal of such load of waste at the disposal site. The Contractor shall be solely responsible for all costs incurred from any release of solid waste, liquids or liquid wastes during transport and storage of such solid waste.

In addition, Contractor shall, upon demand of Metro, and at Contractor's sole cost and expense, defend and provide qualified attorneys acceptable to Metro in its sole discretion under service contracts acceptable to Metro to defend Metro, its officers, employees, agents and servants against any and all claims, causes of actions, suits, demands, damages, penalties, charges, liabilities, losses, awards of damages, or judgments, of whatsoever character or kind, arising or resulting from, directly or indirectly, or in any way connected with: 1) the performance or nonperformance of any provision or requirement of this Agreement by Contractor, its officers, employees, subcontractors, agents or servants; 2) any of the acts or omissions of Contractor, its officers, employees, subcontractors, agents or servants at or in connection with the Project; 3) the failure of Contractor, its officers, employees, subcontractors, agents, or servants to comply in any respect with the provisions and requirements of all applicable permits, licenses, laws, statutes, regulations, ordinances, codes orders and all other legal requirements of federal, state, regional, county and local government authorities and agencies having jurisdiction over the relevant activities as is required by this Agreement; or 4) any release(s) or emission(s), or threatened release(s) or emission(s) by any person(s), entity or entities occurring from the point in time that each load of waste is sealed until the disposal of such load of waste at the disposal site.

Contractor expressly agrees that it shall be held responsible for any damage attributed to its operations to any Metro-owned or privately-owned facilities including, but without limitation, equipment used in the loading and unloading of containerized waste. The Contractor shall repair or replace such equipment or provide recompense for any such damage at no additional charge to Metro in a timely manner.

In any and all claims against Metro, these indemnification obligations shall not be limited in any way by any limitation in the amount or type of insurance obtained by Contractor.

**ARTICLE 13 - INSURANCE**

**13-1. Contractor's and Metro's Liability Insurance**

A. General. The Contractor shall provide (from insurance companies acceptable to Metro, or through self insurance arrangements acceptable to Metro) the insurance coverage designated hereinafter and pay all costs therefore.

Before commencing work under this Agreement, Contractor shall furnish Metro with certificates of insurance specified herein (or indemnity letter and 1) certificated copy of self-insurance Bond in the amount of \$15,000,000 or 2) \$15,000,000 Letter of Credit if self-insured) naming Metro as an additional named insured and showing the type, amount, class of operations covered, effective dates and date of expiration of policies, and containing substantially the following statements:

1. This/These policy(ies) shall be considered as primary insurance and exclusive of any insurance carried by Metro and the insurance endorsed by this certificate shall be exhausted first, notwithstanding the fact that Metro may have other valid and collectible insurance covering the same risk.
2. This/These policy (ies) shall not be cancelled, reduced in coverage, nor materially altered until after sixty (60) days' written notice of such cancellation, reduction or alteration in coverage shall have been received by Metro.
3. No act on the part of the insured shall affect the coverage afforded to Metro under the insurance covered by this certificate.
4. This/These policy(ies) consist only of insurance on an occurrence basis, not on a claims made basis.

In case of any breach of any provision of this Article, Metro, at its option, may take out and maintain, at the expense of the Contractor, such insurance as Metro may deem proper and may deduct the cost of such insurance from any monies which may be due or become due the Contractor under this Agreement including funds held in retainage.

<b>Designated Insurance Requirements</b>			<b>Limits</b>
<b>1.</b>	<b>(a)</b>	Workers' Compensation covering all employees who are engaged in any work under the Contract Statutory (State/Federal) (including subcontractors' employees).	Statutory (State/Federal)
		The Contractor shall require its Workers' Compensation carrier to provide Metro with an endorsement for waiver of subrogation.	

Designated Insurance Requirements		Limits
	(b) U.S. Longshoremen and the Harbor Workers Act (USL+H) coverage covering all employees who are engaged in any applicable work under this Agreement.	Statutory
	(c) Federal Employees Liability Act (FELA) coverage, extended to include "Jones Act" -- i.e., captains and crews of vessels, covering all employees who are engaged in any applicable work under this Agreement.	
	Not less than	\$10,000,000
	(d) Employers' Liability including bodily injury caused by disease.	
	Not less than	\$1,000,000
2.	Commercial General Liability, and Protection and Indemnity, if applicable:	\$1,000,000 per occurrence /aggregate combined single limit bodily injury and property damage
	This insurance shall include contractual liability to cover the liability assumed by the Contractor under Article 8 of the Agreement.	
3.	Automobile Liability including Owned, Nonowned and Hired Vehicles:	
	(i) Bodily injury (including death)	
	(ii) Property damage	
	(i and ii coverage)	\$1,000,000 per occurrence/ aggregate combined single limit bodily injury and property damage
4.	Umbrella coverage	to achieve a total coverage of \$15 million

B. When activities of the Contractor are to be accomplished within a public or private right-of-way requiring special insurance coverage, Contractor shall conform to the particular requirements and provide the required insurance. Contractor shall include in its liability policy all endorsements that the said authority may require for the protection of the authority, its officers, agents, and employees. Insurance coverage for special conditions, when required, shall be provided by Contractor.



C. Contractor shall maintain the above insurance at all times until completion of this Agreement or until the termination date of this Agreement, whichever is later.

D. Maintenance of insurance by Contractor as specified in this Article shall constitute the minimum coverage required and shall in no way lessen or limit the liability or responsibility of Contractor under this Agreement and Contractor may carry, at its own expense, such additional insurance as he/she deems necessary.

E. Metro shall have the right, at its sole option, to require Contractor to place all of the aforementioned insurance coverages through such Master Policy as Metro may obtain if such would reduce the premiums for such coverages and Contractor agrees that Metro may deduct from this Agreement Sum the amount of the premiums payable thereon, or, at Metro's discretion, pay the same directly to the insurance carrier, and Contractor further agrees to comply with such regulations as Metro may issue from time to time to improve the administration of the Master Policy.

F. Pursuant to Article 7 and to the extent allowed by that section, Metro shall only reimburse Contractor for the actual increased cost of premiums which Contractor must pay to comply with insurance requirements not specified above which become effective after the effective date of this Agreement. No other reimbursement for costs associated with increased insurance requirements will be allowed under Article 7.

#### **ARTICLE 14 - CONTRACTOR'S PERFORMANCE BOND / LABOR & MATERIALS BONDS**

The initial term of the Performance and Labor and Materials Bonds or Letter(s) of Credit shall commence upon the execution of this Agreement. The amount of the Performance and Labor and Materials Bonds or Letter of Credit(s) shall be in the amount of \$2,000,000.

Not later than sixty (60) days prior to each irrevocable Letter of Credit or Performance and Labor and Materials Bonds expiration, Contractor shall execute and deliver to Metro Performance and Labor and Materials Bonds on the forms bound herewith, or an equivalent irrevocable Letter(s) of Credit acceptable to Metro, which shall secure and be conditioned upon the full, faithful and complete performance of this Agreement and prompt payment of all persons supplying labor and material for the performance of this Agreement and other protection to Metro, as provided in such Bonds or Letter(s) of Credit.

The surety or banking institution furnishing these Bonds or Letter(s) of Credit shall have a sound financial standing and a record of service satisfactory to Metro and shall have a rating of at least A, and be of the appropriate class for the relevant bond amount under Best's Rating System and shall be authorized to do business in the state of Oregon. The Attorney-in-Fact (Resident Agent) who executes these Bonds on behalf of the Surety must attach a notarized copy of her or his Power of Attorney as evidence of her or his authority to bind the Surety on the date of execution of each Bond.

Pursuant to the Contractor's commitments under Article 25 of Agreement, Contractor shall also enter into an agreement with its surety, and shall provide Metro with a copy of such agreement at any time that it must provide Metro with any bonds or letter(s) of credit pursuant to Section B of this Article, in which Contractor's Surety shall consent:

A. To accept jurisdiction of the courts of the state of Oregon for the purposes of commencing, conducting and enforcing arbitration proceeding pursuant to Article 25 of this Agreement.

B. To accept service of notice of the other party's intent to proceed with arbitration, and of any other step in connection therewith or enforcement thereof, if such notice is in writing and sent by certified letter addressed to said party and Contractor's Surety, and such notice shall have the same effect as if the party had been personally served within the state of Oregon.

C. That any decision of an arbitrator pursuant to Article 25 of this Agreement shall be final, binding and enforceable upon the Contractor's Surety and that proper venue for any judicial proceeding to enforce any decision or award made by such an arbitrator shall be exclusively in the county of Multnomah in the state of Oregon.

Contractor shall from time to time take such additional actions and furnish to Metro such additional documents and instruments which Metro reasonably requests to secure performance of Contractor's obligations under this Agreement. None of the requirements contained in this Article are intended to, nor shall they, in any manner limit or qualify the liabilities and obligations assumed by Contractor under this Agreement.

**ARTICLE 15 - METRO'S RIGHTS AND REMEDIES FOR  
CONTRACTOR'S DEFAULTS IN PERFORMANCE  
(INCLUDING PENALTIES FOR DELAYED LOADING)**

**15-1. Liquidated Damages.**

A. In the event of any default of this Agreement by Contractor which default, in the sole opinion of Metro, substantially impedes the normal operations of any Metro Transfer Station, Contractor shall have one hour to remedy the situation such that, in Metro's sole opinion, operations at such transfer station are no longer substantially impeded. If in Metro's sole opinion, the Contractor fails to remedy the substantial imposition found by Metro, Contractor shall pay Metro liquidated damages at the rate of \$6,000 per hour or portion thereof until Contractor has, in Metro's sole opinion, removed the substantial imposition to transfer station operations. For purposes of this Agreement, a circumstance that "substantially impedes" or constitutes a "substantial imposition" shall include, without limitation, any circumstance affecting the ability of customers to unload waste within twenty minutes of the arrival of such customer at any Metro Transfer Station.

B. If a default as described in the preceding paragraph continues for a period in excess of twenty-four (24) hours, Metro shall not recover liquidated damages for periods beyond

the initial twenty-four (24) hour period, but Metro shall be entitled to all other remedies for Contractor's continued default that this Agreement or the law provides or permits.

C. It is expressly understood and agreed that these amounts are not to be considered in the nature of a penalty, but because of the difficulties of proof of loss, the parties have determined that these amounts are a reasonable forecast of just compensation in light of the anticipated or actual harm which would be caused by a breach or default on Contractor's part. Metro may deduct such damages from any amount due or which may become due, or from funds held in retainage, or the amount of such damages shall be due and collectible from the Contractor or the Surety or banking institution within fifteen (15) days of service of notice by Metro that liquidated damages have been imposed. This remedy shall be in addition to, and not a waiver or surrender of, any other rights or remedies Metro may have under this Agreement or any provision or provisions of law.

Nothing in this Article, and no actions taken pursuant to this Article shall constitute a waiver or surrender of any rights, remedies, claims or causes of action Metro may have against Contractor or its Surety under any other provision of this Agreement or any provision(s) of law.

D. Metro's Rights and Remedies for Contractor's Default which result in Liquidated Damages: For each and every event of default by Contractor which default, in Metro's sole opinion, results in liquidated damages and if neither Contractor nor Surety, within twenty-four (24) hours after written notice of such default has been served upon both Contractor and Surety, cures such default or gives Metro reasonable assurances that the default will be promptly cured, Metro shall have the unconditional right to all of the following remedies to the extent permitted by law.

1. Equitable Remedies. For each and every default under this Article, Metro shall be entitled to all equitable remedies available to it including, but not limited to, injunctive relief and the taking possession and operation of any equipment or materials covered by Article 3.
2. Liquidated Damages. As an additional remedy for each and every default under Article 15, Metro is entitled to liquidated damages for the first fifteen (15) days of such default, as provided in Article 15.
- 3.. Actual Damages. For each and every event of default under Article 15 which lasts more than fifteen (15) days, Metro shall be entitled to recover its actual damages for the period of default beyond the fifteen (15) day period. Any disputes arising as to the amount of Metro's actual damages shall be resolved pursuant to arbitration under Article 25 of this Agreement.

### **15-2. Damages other than Liquidated Damages.**

For each and every event of default other than a default resulting in Liquidated Damages, if neither Contractor nor its Surety nor its Banking or Commercial Lending Institution, within thirty (30) days after written notice of such default has been served upon both Contractor and Surety, cures such default or gives Metro reasonable assurances that the default will be promptly cured, Metro shall have the unconditional right to one or more of the following remedies to the extent permitted by law:

A. Equitable Remedies. For each and every default under this Article, Metro shall be entitled to all equitable remedies available to it including, but not limited to, injunctive relief and the taking possession and operation of any equipment or materials covered by Article 3.

B. Actual Damages. As an additional remedy, for each and every default under Article 15, Metro shall be entitled to recover its actual damages during all periods of default. Any disputes arising as to the amount of Metro's actual damages shall be resolved by arbitration under Article 25. No liquidated damages remedy shall apply to defaults under this section.

C. Notice of Credit Default. Default by Contractor on any lending agreement with any lending institution utilized by Contractor shall be considered a default by Contractor under this Agreement. To the extent Contractor fails to cure a default under such lending agreement, under the terms for cure and in the time frame provided in such agreement, Metro shall have the right to terminate this Agreement. Contractor shall provide Metro, or require all of its lending institutions to provide directly to Metro, copies of all correspondence related to a loan default or alleged default under a lending agreement, upon receipt by Contractor or issuance by the lending institution, as the case may be.

**15-3. Additional Penalty Provisions.**

Contractor shall provide an empty container attached to the transfer station compactor and shall be ready to receive a load of solid waste when a load is ready. Failure to comply with this performance standard will be grounds for the imposition of penalties as described as described in this section. Likewise, if the Contractor exceeds container capacity of the staging area at either facility, Metro will have the right to impose the following penalties until the situation is remedied to Metro's satisfaction.

A. \$75 for each occurrence.

B. \$ 6 per minute after the first ten (10) minutes of each occurrence until the situation is corrected.

**ARTICLE 16 - METRO'S RIGHT TO SUSPEND OR TERMINATE AGREEMENT**

**16-1. Termination or Suspension of Contractor's Contract.**

For each and every event of default under Article 15-1A, which lasts longer than twenty-four (24) hours, Metro shall be entitled to terminate or suspend this Agreement in accordance with the provisions of this Article. Alternatively, for each and every event of default under Article 15-1A which lasts longer than thirty (30) days, Metro shall be entitled to terminate or suspend this Agreement immediately and without the necessity of notice to Contractor.

**16-2. Termination or Suspension of Contractor's Performance of this Agreement.**

For each and every event of default under Article 15-1B. which lasts longer than thirty (30) days, Metro shall be entitled to terminate or suspend Contractor's performance of this Agreement in accordance with Section 16-3. of this Article.

**16-3. Procedure for Termination or Suspension of this Agreement by Metro.**

A. To terminate or suspend this Agreement, Metro must notify in writing both Contractor and Contractor's Surety of Metro's intent to terminate or suspend this Agreement. Within ten (10) days of service upon Contractor of Metro's notice of intent to terminate or suspend this Agreement, Contractor shall either:

1. Cure any defaults in performance; or
2. Discontinue its work on this Agreement or such part thereof as Metro shall designate.

B. If Contractor does not cure any defaults within ten (10) days after service of the notice of intent to terminate or suspend this Agreement, Surety may, at its option, take over and assume full and complete performance of this Agreement or that portion thereof which Metro has ordered Contractor to discontinue, and may perform the same or may sublet the work or that portion of the work taken over by a contractor or contractors acting on behalf of Surety; provided, however, that the Surety shall exercise its option and begin performance of the work, if at all, within ten (10) days after Surety is served with a copy of the written Notice of Termination or suspension. The Surety shall be paid by Metro for all work performed by Surety in accordance with and subject to each and every term of this Agreement.

Contractor's Surety shall be subject to each and every term and condition of this Agreement.

C. If Contractor does not cure a default within the time allowed herein, and Contractor either does not have a surety or the surety elects not to exercise its option under this section, this Agreement shall terminate. For 90 days from the date Contractor ceases to provide service, and continuing subsequent termination, Contractor shall make available to Metro all tractors, trailer, and yard goats used or available for use in carrying out the Agreement at the time Contractor ceases to provide service. The provisions shall survive termination of this Agreement.

**16-4. Metro's Remedies if Contractor Becomes Insolvent, Dissolved, Bankrupt, Files for Bankruptcy, Makes a General Assignment for Creditors.**

The parties agree that if Contractor becomes insolvent, is dissolved, files for Bankruptcy, is adjudged bankrupt, or makes a general assignment for the benefit of creditors, or if a receiver is appointed for the benefit of its creditors, or if a receiver is appointed on account of its insolvency, such could impair or frustrate Contractor's performance of this Agreement. Accordingly, it is agreed that upon the occurrence of any such event, Metro shall be entitled to request of Contractor or its successor in interest, adequate assurance of future performance in accordance with the terms and conditions hereof. Failure of Contractor and Surety to comply with such request within ten (10) calendar days of service upon both Contractor and Surety of a

written request from Metro for such assurances shall entitle Metro to terminate or suspend Contractor's performance of this Agreement under Section 16-3 of this Article. To the full extent allowed by law, Metro shall not be bound to this Agreement by an insolvent Contractor's trustee or receiver.

**16-5. Procedures and Remedies for Termination Under Force Majeure.**

If an event or events of force majeure preclude the use of both Contractor's primary and back-up transport systems as described in Article 1B, then Metro shall have the right, in its sole discretion, to terminate this Agreement. Additionally, in the event that any single event of force majeure lasts longer than ninety (90) days, Metro shall have the right, in its sole discretion, to immediately terminate this Agreement. In the event that Metro chooses to terminate this Agreement under this section, Metro shall serve Contractor with written notice of such intent and shall reimburse Contractor for either: 1) all actual costs which Metro determines Contractor has incurred in performing this Agreement prior to service upon Contractor of the notice to terminate, plus an amount equal to ten percent (10%) of such costs less the total payments which Metro has paid Contractor prior to service of the Notice of Termination upon Contractor. It shall also be a condition precedent to any payments under this paragraph that Contractor fully demonstrate and document to Metro's satisfaction the costs Contractor actually incurred prior to receiving service of the Notice of Termination. Metro shall determine, subject to its accounting and budget limitations, the method and manner of any payment(s) which may include installment payments over an extended period of time which may extend beyond the termination or completion of this Agreement. Any such determination with regard to payments shall take into consideration Contractor's reasonable and actual financing costs.

**16-6. Procedures and Remedies for Metro Termination in the Event that Landfill Agreement is Terminated.**

In the event the agreement between Metro and Waste Management Disposal Services of Oregon for the disposal of waste at the Columbia Ridge Landfill is terminated, Metro shall have the right, in its sole discretion, to terminate this Agreement. Metro shall provide the Contractor written Notice of Termination under this section. In the event Metro exercises its right to terminate this Agreement under this section, Metro shall reimburse the Contractor for all actual costs which Metro determines Contractor has incurred in performing this Agreement prior to issuance of the Notice of Termination. It shall also be a condition precedent to any payment under this paragraph that Contractor fully demonstrate and document to Metro's satisfaction the costs Contractor actually incurred prior to receiving service of the Notice of Termination. Metro shall determine, subject to its accounting and budget limitations, the method and manner of any payment(s) which may include installment payments over a period of time that may extend beyond the termination or completion of this Agreement. Any such determination with regard to payments shall take into consideration, but not be bound by, Contractor's reasonable and actual financing costs.

**16-7. Procedures and Remedies for Metro Termination for the Convenience of the Government.**

Notwithstanding any provision to the contrary in this Agreement, Metro shall have the right at any time after the effective date of this Agreement to terminate the Agreement by providing sixty (60) days written notice of such termination to Contractor. In the event Metro exercises its right

to terminate this Agreement under this section, Metro shall reimburse the Contractor for all actual costs which Metro determines Contractor has incurred in performing this Agreement prior to issuance of the Notice of Termination. It shall also be a condition precedent to any payment under this paragraph that Contractor fully demonstrate and document to Metro's satisfaction the costs Contractor actually incurred prior to receiving service of the Notice of Termination. Metro shall determine, subject to its accounting and budget limitations, the method and manner of any payment(s) which may include installment payments over a period of time that may extend beyond the termination or completion of this Agreement. Any such determination with regard to payments shall take into consideration, but not be bound by, Contractor's reasonable and actual financing costs.

#### **16-8. Provision of Equipment to Metro.**

Notwithstanding any provision to the contrary in this Agreement, Contractor agrees that if this Agreement is terminated or if Contractor ceases to provide transport service as required herein, all equipment used in Contractor's solid waste transport operations shall immediately be made available to Metro at no additional cost and that the immediate provision of such equipment shall not be subject in any way to any 10-day cure of default provision of the Agreement, but shall be subject to any conditions of insurance, driver qualifications, licensing or other reasonable requirements made of Metro by the Contractor's primary equipment lien holder. Metro's right of use of the equipment shall terminate one year after such use commences, provided, however, that in no event shall Metro have any right of use of the equipment after December 31, 2019, unless Metro purchases the equipment from Contractor.

### **ARTICLE 17 -- CONTRACTOR'S RIGHT TO TERMINATE**

Should Contractor be unable to perform this Agreement by using either its primary or back-up transportation system for a period of sixty (60) days or more by 1) a public authority other than Metro; or 2) by Metro (if Metro is acting in violation of Contractor's rights under this Agreement) and either inability is through no fault of Contractor, then Contractor, upon seven (7) days' written notice to Metro may stop the work or terminate this Agreement and recover from Metro that portion of this Agreement's payments, less the aggregate of previous payments, allowable to this Agreement completed as of the date of termination, plus its demonstrated actual damages; however, in such event, Metro will make no payments to Contractor for any work done on this Agreement after the date of termination.

### **ARTICLE 18 -- ALLOCATION OF RISK/FORCE MAJEURE**

#### **18-1. Representations of Parties.**

Contractor acknowledges and warrants that it is fully acquainted with all aspects of the operations of the Metro transfer stations and all other conditions relevant to its performance of this Agreement, and has made all investigations essential to a full understanding of the difficulties which may be encountered in performing this Agreement.

Contractor acknowledges that Metro has not and does not warrant nor admit the correctness of any investigation, interpretation, deduction or conclusion relative to any condition or conditions of any transfer station or any other condition related to this Agreement. Contractor warrants that it has made and shall make its own deductions and conclusions as to any and all problems which may arise from such site conditions as they relate to this Agreement, and any other condition or requirement of this Agreement, and shall accept solely for itself full legal responsibility and liability for its performance of the Agreement.

## **18-2. Effect of Force Majeure on Obligations**

A. Metro's Obligations. In the event that Metro is rendered unable, wholly or in part, by the occurrence of a force majeure to carry out any of its obligations under this Agreement, then Metro's obligations, to the extent affected by such occurrence, shall be suspended during the continuance of such inability.

B. Contractor's Obligations. Contractor shall ensure that a back-up transport system is available for use in performing this Agreement should a failure of its primary system occur due to the occurrence of a force majeure. The back-up system shall be that system proposed by Contractor and accepted by Metro.

In the event that a force majeure precludes the use by Contractor of its primary transport system in carrying out this Agreement, Contractor shall put into active use its back-up transport system not more than 24 hours from the point in time that waste ceases to be transported by Contractor's primary system. In the event of any question as to precisely when waste ceases to be transported by Contractor's primary system, Metro's decision shall be final.

C. As consideration for putting its back-up system into active use in performing this Agreement, Metro shall pay Contractor pursuant to Article 8-1; however, the amount of any reduced cost in not operating the primary system shall be calculated pursuant to Article 8-2 and 8-3; and shall be subtracted from the amount due Contractor.

D. For purposes of this Article, "active use" shall mean the extent of operation of the back-up system necessary to comply completely with this Agreement including, but not limited to, the transport of all waste required to be transported by Contractor pursuant to this Agreement.

Contractor's active use of the back-up system shall be for the period during which such force(s) majeure continues and shall then cease and be replaced by the primary system.

E. In the event that a force majeure or forces majeure preclude the use by Contractor of both its primary and back-up transport systems, Contractor shall, at Metro's request, use its best efforts to make available to Metro alternative transport arrangements which would allow full performance of this Agreement. In the event that Metro requests an alternative system and Contractor makes available such a system, Contractor shall be paid in the same manner as it would be paid for the active use of the back-up system as described above.



### **18-3. Notice of Force Majeure**

In the event that either party intends to rely upon the occurrence of a force majeure to suspend or to modify its obligations, such party shall notify the other party in writing immediately, or as soon as reasonably possible, setting forth the particulars of the circumstances. Written notices shall likewise be given after the effect of such occurrence has ceased.

## **ARTICLE 19 -- CONTRACTOR'S ASSIGNMENT OF CONTRACTUAL OBLIGATIONS**

Contractor shall not assign any rights or obligations under or arising from this Agreement without the prior written consent of Metro. Contractor shall not assign any amounts due or to become due under this Agreement without prior written notice to Metro.

This Agreement is executed with a certain qualified party to perform the duties, tasks and obligations set forth herein. The delegation of any such duties will require the prior written consent of Metro and of the Surety. Any such delegation of duties will not relieve the Contractor or its Surety of any liability and/or obligation to perform. In the event of any delegation of a duty, the delegate shall assume full responsibility for performance of that duty without affecting Contractor's liability.

## **ARTICLE 20 – CONTRACTORS ASSIGNMENT TO METRO OF ANTITRUST RIGHTS**

Contractor, for consideration paid to the Contractor under this Agreement, does irrevocably assign to Metro an interest in any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future, including, at Metro's option, the right to control any such litigation on such claim for relief or cause of action, if Metro's interest, so assigned, exceeds fifty (50) percent of the total claim in a cause of action by reason of any violation of 15 USC 1-15 or ORS 646.725 or ORS 646.730, in connection with any goods or services provided to the Contractor by any person, which goods or services are used, in whole or in part, for the purpose of carrying out the Contractor's obligations under this Agreement. Metro's interest shall be a proportion of the total claim or cause of action equal to the percentage of the total claim proportional to the performance of this Agreement as measured against the total of Contractor's business affected by the violation.

In the event the Contractor hires subcontractors to perform any of the Contractor's duties under this Agreement, the Contractor shall require the subcontractor to irrevocably assign to Metro, as a third party beneficiary, any right, title or interest that has accrued or may accrue to the subcontractor by reason of any violation of 15 USC 1-15, ORS 646.725 or ORS 646.730, including, at Metro's option, the rights to control any litigation arising thereunder, in connection with any goods or services provided to the subcontractor by any person, in whole or in part, for the purpose of carrying out the subcontractor's obligations as agreed to by the Contractor in pursuance of the completion of this Agreement, in a like manner as provided in the above paragraph.

In connection with this assignment, it is an express obligation of the Contractor that it will take no action which will in any way diminish the value of the rights conveyed or assigned hereunder to Metro.

It is an express obligation of the Contractor to advise the General Counsel of Metro:

A. In advance, of its intention to commence any action on its own behalf regarding such claims for relief or causes of action.

B. Immediately, upon becoming aware of the fact that an action has been commenced on its own behalf by some other person or persons, of the pendency of such action.

C. The date on which it notified the obligor(s) of any such claims for relief or causes of action of the fact of its assignment to Metro.

Furthermore, it is understood and agreed that in the event that any payment under any such claim is made to the Contractor, it shall promptly pay over to Metro its proportionate share thereof, if any, assigned to Metro hereunder.

## **ARTICLE 21 -- CHANGE OF CONTRACTOR'S OWNERSHIP**

Any change in control of Contractor or the transfer of a controlling interest of Contractor shall require the prior written consent of Metro.

For purposes of this Article, the phrase "transfer of a controlling interest of Contractor" shall be interpreted to include, but not be limited to, the transfer of ten percent (10%) or more of the beneficial ownership of Contractor to or from a single entity. However, intracompany transfers, such as transfers between different subsidiaries or branches of the parent corporation of Contractor, shall not be construed as transfers of a controlling interest in Contractor, nor shall transfers required by operation of law be so construed.

If Metro approves a change in control of Contractor or a transfer of a controlling interest of Contractor, then Metro and the new ownership of Contractor shall execute a novation, requiring the new ownership of Contractor to assume all of the rights and duties of this Agreement and releasing the previous ownership of Contractor of all obligation and liability.

## **ARTICLE 22 -- PERMITS AND REGULATIONS**

Contractor shall obtain, maintain and pay for all permits, licenses, certificates, inspection fees and surcharges and other approvals required by law, both temporary and permanent. Any such fees shall be included in the prices proposed in Contractor's Proposal. The Contractor shall obtain any necessary business license required by law. Metro will cooperate fully in securing all permits that by law may be secured in the name of the property owner.

Contractor shall be liable for all fines or civil penalties imposed by any regulatory agency for violations of permits, laws or regulations caused or allowed by Contractor. Metro shall not be liable for, and shall not reimburse Contractor for, payment of any such fines or civil penalties.

### **ARTICLE 23 -- ROYALTIES AND PATENTS**

Contractor shall pay all royalties and license fees related to the performance of this Agreement. Contractor shall defend all suits or claims for any and all infringements of any patents which may occur in the performance of this Agreement and shall save Metro harmless from loss on account thereof; provided, however, that Metro shall be responsible for all such loss when a particular process or product is specified by it, unless Contractor shall have information that such particular process or product infringes a patent, in which event Contractor shall be responsible for loss on account thereof unless Contractor promptly and immediately provides such information to Metro.

### **ARTICLE 24 -- TAXES AND FEES**

As between Metro and Contractor, Contractor shall be responsible and liable for payment of all federal, state, regional, county and local taxes and fees, and surcharges of every form, which apply to any and all persons, entities, property, income, equipment, materials, supplies, structures, or activities which are involved in the performance of this Agreement including, but not limited to, any and all income taxes, real property taxes, excise taxes, sales and use taxes, and fees which arise in connection with this Agreement. Any such taxes and fees, or any increases in such taxes and fees, shall be the responsibility of the Contractor with no increase in compensation from Metro.

### **ARTICLE 25 -- ARBITRATION**

Both parties shall, in good faith, attempt to negotiate resolutions to all disputes arising out of this Agreement.

Subject to the conditions and limitations of this paragraph, any controversy or claim arising out of or relating to this Agreement which remains unresolved after negotiations under Paragraph 1 of this Article shall be exclusively settled by arbitration under the laws of the state of Oregon, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. All disputes shall be heard and decided by one arbitrator, and all arbitration proceedings shall be held in Portland, Oregon. However, all disputes concerning Metro's right to the equitable remedy of specific performance shall not be subject to arbitration, but shall be decided exclusively by a court of competent jurisdiction in Multnomah County, Oregon, under the laws of the state of Oregon.

Contractor agrees to consolidation of any arbitration between Metro and Contractor with any other arbitration involving, arising from or relating to this Agreement or otherwise involving the transfer, transport, collection or disposal of waste by Metro. In the event that Metro determines,

in its sole opinion, that the public interest requires a speedy resolution of any controversy or claim regardless of the amount, Metro shall have the option of electing resolution of the controversy or claim by the Expedited Procedures of the Commercial Arbitration Rules of the American Arbitration Association (Rules E-1 through E-10).

Each party hereto and the Contractor's Surety accept jurisdiction of the courts of the state of Oregon for the purposes of commencing, conducting and enforcing an arbitration proceeding pursuant to this Article. Each party hereto and the Contractor's Surety further agree to accept service of notice of the other party's intent to proceed with arbitration, and of any other step in connection therewith or enforcement thereof, if such notice is in writing and sent by certified letter addressed to said party and Contractor's Surety, and such notice shall have the same effect as if the party had been personally served within the state of Oregon.

Any decision of an arbitrator engaged under this Article shall be final, binding and enforceable upon both parties and the Contractor's Surety. The parties agree that proper venue for any judicial proceeding to enforce any decision or award made by an arbitrator under this Section shall be exclusively in the county of Multnomah in the state of Oregon.

#### **ARTICLE 26 -- ATTORNEY'S FEES**

In the event that a suit or action or arbitration is instituted to enforce any right granted herein, the prevailing party shall be entitled to, in addition to the statutory costs and disbursements, a reasonable attorney's fee to be fixed by the trial court; and on appeal, if any, similar fees in the appellate court to be fixed by the appellate court.

#### **ARTICLE 27 -- MINORITY, WOMEN AND EMERGING SMALL BUSINESS PROGRAM**

In the event that any subcontracts are to be utilized in the performance of this agreement, Contractors shall follow, to the maximum extent possible, the provisions of Metro Code Section 2.04.100, to encourage the use of minority, women and emerging small businesses (MWESB). If subcontracts or supply contracts are identified as potential candidates for MWESB use, Contractor shall coordinate any outreach efforts with Metro's Procurement Office. Contractor acknowledges Metro's strong commitment to provide business opportunities for MWESB firms.

Contractor shall not discriminate against any person or firm on the basis of race, color, national origin, sex, sexual orientation, age, religion, physical handicap, political affiliation, or marital status. Written approval by Metro shall be required in the event Contractor proposes to replace an MBE, WBE or ESB subcontractor or supplier. A good faith outreach effort to qualified MWESB firms shall be required of Contractor when selecting a replacement.

## **ARTICLE 28 -- HOURS OF LABOR FOR CONTRACTOR'S EMPLOYEES**

The provisions set out in Oregon Revised Statutes (“ORS”), Chapters 187, 279A, and 279B, as amended or superseded, including the latest applicable additions and revisions, and all applicable provisions of the Metro Code, are incorporated by reference as part of this Agreement as if set forth in full. In addition, specific requirements of certain of these ORS Sections are set out below. These provisions are applicable to this Agreement unless or until they are superseded by federal law. If any of the specific State law requirements set out below in this Article are amended or superseded, then Metro may, at its option, notify Contractor that such a change has occurred and that the new or amended provision is thereafter applicable to all work performed pursuant to this Agreement. In such event, Metro may, to the extent applicable, reduce payments to Contractor as provided in this Agreement.

Pursuant to ORS 279B.220, Contractor shall make payment promptly, as due, to all persons supplying Contractor labor or material for the performance of the work as provided in this Agreement. Contractor shall pay all contributions or amounts due the Industrial Accident Fund from Contractor or any subcontractor incurred in the performance of this Agreement. Contractor shall not permit any lien or claim to be filed or prosecuted against Metro on account of any labor or material furnished. Contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

Contractor specifically agrees that if Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person in connection with this Agreement as such claim becomes due, Metro may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to Contractor by reason of this Agreement. Metro’s payment of such a claim in the manner authorized by this Article shall not relieve Contractor or Contractor’s Surety from obligation with respect to any unpaid claims.

Pursuant to ORS 279B.020 and ORS 279B.235 Contractor must give written notice to employees who perform work under this Agreement of the number of hours per day and per week that employees may be required to work, as specified in this Article. Such notice must be provided either at the time of hire, before commencement of work, or by posting a notice in a location frequented by employees. Except as permitted by federal law or other state statutes or regulations:

A. No person shall be employed under this Agreement for more than ten (10) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, emergency or where the public policy absolutely requires it, and in such cases the employee shall be paid at least time and a half pay for all time worked in excess of ten (10) hours a day or in excess of forty (40) hours in any one week, whichever is greater; and

B. All persons shall be paid at least time and a half pay for all work performed under this Agreement on the legal holidays specified in a collective bargaining agreement, if applicable, or on the following annual legal holidays: New Year's Day on January 1, Memorial Day on the last Monday in May, Independence Day on July 4, Labor Day on the first Monday in September, Thanksgiving Day on the fourth Thursday in November, and Christmas Day on December 25. For purposes of this provision, each time a holiday falls on a Sunday, the succeeding Monday shall be recognized as a legal holiday, and each time a holiday falls on a Saturday, the preceding Friday shall be recognized as a legal holiday.

Pursuant to ORS 279B.230, Contractor shall promptly, as due, make payment to any person, copartnership, association or corporation, furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums that Contractor agrees to pay for such services and all moneys and sums that Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services. Contractor shall ensure that all subject employers working under this Agreement shall either comply with ORS 656.017 or be exempt employers under ORS 656.126.

#### **ARTICLE 29 -- PARTIES' REPRESENTATIVES AND NOTICES**

Contractor shall address all correspondence for Metro to Metro's designated Contract Manager, and shall secure written instructions from Metro's Contract Manager before proceeding with services affected by omissions, discrepancies, conflicts or duplications in the provisions of this Agreement.

Contractor shall provide the services of a competent Contractor's Representative for the term of this Agreement. Prior to performing services under this Agreement, Contractor shall notify Metro in writing of the name, title, address and telephone number of Contractor's Representative.

The Contractor's Representative shall represent Contractor for all purposes of this Agreement, and all directions, instructions, or notices given to the Contractor's Representative by Metro shall be as binding upon Contractor as if delivered personally to Contractor. The Contractor's Representative shall be readily available, shall have authority to furnish estimates on behalf of the Contractor, and shall otherwise have full authority to bind the Contractor.

#### **ARTICLE 30 -- NEWS RELEASES AND MEDIA RELATIONS**

Any and all news releases and interviews with news media representatives concerning the operations or facilities at MSS or MCS shall be scheduled and conducted by and through Metro.

Contractor shall not issue news releases, conduct interviews with news media representatives, or otherwise release or disclose to news media representatives any information concerning the operations or facilities at MSS or MCS without the prior consent of Metro. Contractor shall promptly notify Metro of the identity of any news media representative who requests disclosure of such information, and in no event shall such notice be provided more than one business hour

after Contractor has received such a request. Metro, in its sole discretion, shall determine the response to any such request for disclosure of information in accordance with applicable law.

Contractor's Spokesperson shall be available at Metro's request for interviews scheduled by Metro with news media representatives.

### **ARTICLE 31 -- MISCELLANEOUS PROVISIONS**

It is expressly understood and agreed that, by its execution of this Agreement, Metro does not waive or surrender any of its governmental powers.

No provision or provisions of this Agreement nor any authority granted by this Agreement is intended to create or result in any personal liability for any public official or employee or agent of Metro, nor shall any provision or provisions of this Agreement be construed to create any such liability. No approval given by Metro pursuant to this Agreement shall be construed to relieve Contractor of any of its obligations to perform this Agreement.

This Agreement shall be deemed to have been made in and shall be construed under the laws of the state of Oregon. Any and all disputes arising under this Agreement shall be decided under Oregon law. The parties agree that proper and exclusive venue for any and all actions under this Agreement or any subcontracts of any tier made pursuant to this Agreement shall be in the county of Multnomah, the state of Oregon, or if in federal court, the Federal District Court of Oregon.

Time limits stated in this Agreement are of the essence. No waiver of Agreement time limits or schedule dates is to be construed by Metro's failure to object to untimely performance under this Agreement. In any event, any waiver of such time limits or schedules shall not be construed as a waiver of any future time limits or schedules.

In the event any provision or clause of this Agreement is void, invalid, or unenforceable under any federal, state, regional or local laws, regulations or ordinances, the balance of this Agreement shall remain in effect and binding on the parties hereto.

Any written notice required or allowed under this Agreement shall be deemed to have been duly served if delivered in person to the individual, member of the firm, entity or an officer of the corporation for whom it was intended, or if delivered or sent by registered or certified mail to the last business address of the relevant person or party known to he/she who gives the notice. The date or time of service for purposes of all notices required or allowed under this Agreement shall be the time or date the relevant document was sent by mail or personally delivered to the proper address.

A waiver by either party of any breach of any provisions hereof shall not be taken or held to be a waiver of any succeeding breach of such provision or as waiver of any provision itself. No payment or acceptance of compensation for any period subsequent to any breach shall be deemed a waiver of any right or acceptance of defective performance. Where the condition to be waived is a material part of this Agreement such that its waiver would affect the essential bargains of the

parties, the waiver must be supported by consideration and take the form of a modification to the Agreement as provided for elsewhere in this section.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

CONTRACTOR

METRO

BY: \_\_\_\_\_

BY \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

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**SCOPE OF WORK**  
**Waste Transport Services Contract**

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# Scope of Work

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Metro Contract No. \_\_\_\_\_

## 1.0 GENERAL

This Scope of Work describes the technical responsibilities of the Contractor in performance of the Contract to transport mixed solid waste from Metro South Station (MSS) and/or Metro Central Station (MCS) to the Columbia Ridge Landfill (CRL) in Gilliam County, Oregon operated by Waste Management Disposal Services of Oregon (WMDS). To determine the full extent of the Contractor's responsibilities or any particular part of the work, the applicable information in the several parts of the Contract must be read together.

Performance of the work described herein will require the Contractor to interface with other Metro contractors. It is the Contractor's responsibility to coordinate its activities in a manner that maximizes the efficiencies of the Metro solid waste disposal system and minimizes disputes. Metro will act as the sole arbiter of any disputes arising amongst Metro's contractors.

## 2.0 OPERATING PLAN

Contractor shall be responsible for transporting all waste received at MCS and/or MSS each day that the transfer station operator designates for compaction and transport to the CRL. Waste volumes at each facility will fluctuate daily, weekly and monthly. Peak periods generally occur daily between 10:00 a.m. and 2:00 p.m. The Contractor must conduct its operations to accommodate these variations such that the operations of the transfer stations are not impeded and that all performance standards are met. Contractor and the transfer station operator shall meet as often as necessary to ensure these requirements are met.

Described below are the logistical responsibilities/constraints for the Contractor's activities at different points in the solid waste system that shall be incorporated into the Contractor's operations plan.

### 2.1 Transfer Station Operation

#### 2.1.1 On-site staging

Metro will provide up to four spaces at MCS and up to ten spaces at MSS for the staging of containers. All on-site equipment staging shall occur in these Metro designated staging areas. Maintenance activities will not be permitted on-site. No loaded container shall remain on-site more than 36 hours. Any spillage of waste or other materials shall be cleaned up immediately.

#### 2.1.2 Shuttle activities

The Contractor is responsible for shuttling the containers from the staging area to and from the compactors.

#### 2.1.3 Equipment exchange and inspection

Contractor is responsible for providing, coordinating and documenting a container inspection procedure prior to receiving a load (bale) of waste. The transfer station contractor shall be responsible for documenting damage caused during the loading process.

#### 2.1.4 Receiving the load

The Contractor is responsible for assisting the transfer station operator during the loading process such that the weight of the load is maximized, the waste is properly positioned within the container, and legal for transport. The Contractor is responsible for opening the container doors prior to connecting to the compactor. Containers must be attached to the compactors and a power unit (shuttle vehicle or tractor) at all times during the loading

## Scope of Work

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process. Once loading is complete, Contractor shall remove any waste obstructing the doors and close the doors of the container. A seal shall be installed on the rear door(s) of the container.

### 2.1.5 Custody of Waste

It is the responsibility of the Contractor to ensure the seal has been properly installed before the container leaves the staging area for transport to the CRL. Once the Contractor has verified that the seal is properly installed, the waste in the container is the responsibility of the Contractor until the seal is removed (broken) at the CRL, in accordance with the procedures of WMDS.

### 2.1.6 Weighing

Once loading is complete, the container must be moved by the Contractor to the Metro-designated scale, where an accurate weight ticket will be produced after data input by the Contractor's shuttle driver. Each transaction will produce a multiple copy ticket documenting the load and its weight. The load ticket shall serve as the load manifest for transport and disposal at the CRL. Contractor shall transport the manifest to the CRL.

If the container is over legal weight, the Contractor will move the container to an off-load area for payload adjustments by the transfer station contractor and then back to the scale for re-weighing. Contractor shall note on the manifest the corrected weights and that an adjustment occurred.

### 2.1.7 Equipment Tare Weights

The Contractor is responsible for providing labor and equipment to assist Metro in collecting new tare weights for the Contractor's equipment twice per year during the life of the Contract. In addition, the Contractor is required to report maintenance activity that would alter equipment tare weights by more than 100 lbs.

## 2.2 **Landfill Operations**

### 2.2.1 Entrance to the Landfill

The Contractor is responsible for following the WMDS/CRL entrance policy procedures to ensure proper coordination of site access and unloading activities.

### 2.2.2 Unloading Containers

Contractor is responsible for unloading the waste at the unloading area designated by WMDS and providing any equipment necessary to do so. WMDS must provide reasonable access and hours of operation<sup>1</sup> as necessary to permit the unloading of containers.

### 2.2.3 Coordination

Contractor is responsible for coordinating its activities with disposal operations conducted by WMDS at CRL. Metro will act as the arbitrator of any disputes between the parties.

### 2.2.4 Custody of Waste

The Contractor must provide a procedure for documenting that the containers have remained secure and sealed during transport to the landfill. Documentation must include exchange of custody between the Contractor and the landfill operator (WMDS), including the exchange of the transaction ticket for each load.

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<sup>1</sup> Operating hours at CRL are 7 a.m. to 4 p.m. weekdays.

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## **3.0 PERFORMANCE STANDARDS**

Below are performance standards for various aspects of the work. Generally, all contractor-furnished equipment shall be properly maintained in a safe working condition at all times. All equipment must be part of a continuous examination program that documents equipment repair needs and their completion. It is the intent of these standards to ensure that Contractor equipment is suitable for the arduous, heavy-duty service connected with solid waste transport.

Transfer tractors, shuttles, and containers shall be suitably painted and regularly cleaned so that they present an acceptable appearance in the opinion of Metro. All containers and vehicles used to weigh the loads shall be equipped with RFID tags provided by Metro.

### **3.1 Provision of Containers**

The Contractor must have an empty container attached to the compactor and ready to receive a load when the transfer station operator indicates a load is ready. Failure to comply with this performance standard will be grounds for the imposition of penalties as described in the Contract. Likewise, if the Contractor exceeds container capacity of the staging area at either facility as contained in 2.1.1 of this Scope of Work, Metro will have the right to impose penalties until the situation is remedied to Metro's satisfaction.

### **3.2 Road Legal Payload**

The Contractor will be required to haul any load that is determined to be a road legal load. Such determination will be based on a calculation performed when the loaded container is weighed per 2.1.6. The calculation will be based on the payload, equipment configuration and tare weights agreed to by Metro and the Contractor during execution of the Contract.

### **3.3 Container Performance Requirements**

Waste will be compacted at transfer stations by compacting equipment such as an SSI Model 4500 or equal, designed to produce efficient payloads. The compaction chamber measures seven feet by seven feet by thirty-four feet. Currently, bales are built to measure twenty-eight to thirty feet long, with some expansion on extrusion. Standard bale density targets are currently set to 1,200 lbs/cubic yard.

Containers shall be of the rear-load design capable of receiving an extruded load (bale) from the compactor. Each container shall be watertight and shall be designed, constructed, loaded, operated, secured and maintained so as to prevent the escape of waste, liquids, and odors, and to prevent the loss or spillage of wastes in the event of an accident. Each container shall be completely enclosed, rigid, and constructed of non-permeable material. Each container must be certified as meeting applicable ISO, FRA (if shipped by rail) and CSC standards and bear a plate showing certification compliance and/or inspection information.

Each container shall meet all applicable U.S. Department of Transportation specifications.

Containers shall be of standard construction with smooth interior walls, roof and floor capable of withstanding the extreme abuse expected from receiving compacted solid waste.

Containers provided must be consistent in dimensions and tare weight such that the transfer station operator can maximize the weight of each load without special adjustments or delay. Contractor shall be fully responsible for replacing any container equipment which does not meet these standards.

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### **3.4 Container Testing Requirements**

All containers utilized for this project shall be visually inspected after each unloading for damage on all sides, plus top, bottom, front, rear and shall have no visible holes, gaps, or structural damage affecting its integrity or performance. Containers that are damaged must be removed from use and fully repaired before being used again. Records of these activities must be kept and readily available for inspection by Metro staff.

Additionally, each container must be tested for water-tightness prior to acceptance from the container manufacturer. Testing shall include pumping a minimum 12 inches of water into the closed container, during which the container shall remain free from the escape of water. Such test waters shall be reused to the fullest extent possible to minimize the volume of waste water. Documentation of such testing shall be made available to Metro.

In addition, Metro may request the testing of any container it believes cannot meet the testing requirement at any time during the life of the contract. Contractor shall arrange and pay for such testing, and shall repair containers that do not meet the requirement.

### **3.5 Container Cleaning**

The Contractor shall clean the interior and exterior of containers as often as necessary to prevent problems of malodor, unsightliness, or attraction of vectors. This standard also requires the Contractor to regularly remove build-up of dirt and snow that may alter the hauling capacity of the container.

### **3.6 Power Unit Standard**

Trucks (tractors) and shuttle vehicles shall be uniform in appearance. Each power unit shall be equipped with a two-way radio capable of communicating with the Contractor's office and the appropriate personnel at the transport sites.

### **3.7 GPS Requirements**

All trucks, shuttle vehicles, trains and barges shall be equipped, at the Contractors' expense, with a real time GPS data (or similar) device such that Metro can, using any Internet connection, determine the location, travel path and current status of each piece of equipment. Any software access licenses or maintenance agreements will be provided by the Contractor.

### **3.8 Sustainable Practices**

Contractor shall maximize sustainable practices in conducting its activities. Examples of such practices include:

- Use of re-refined oil, lubricants and hydraulic fluids in equipment and rolling stock.
- Use of bio-based fuel for diesel operated equipment and vehicles or other low-polluting fuels and/or pollution control equipment minimizing emissions.
- Purchase of reused wood and other materials from the Rebuilding Center or use of Forest Stewardship Council-certified wood.
- Plastic lumber or Forest Stewardship Council-certified wood in place of treated wood.
- Minimum 30% post-consumer content recycled paper for all office use.
- Toilet tissue, paper towels, and napkins that meet minimum EPA post-consumer fiber standards.
- Reusable dishware, cups and utensils.

## Scope of Work

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- Metro recycled latex paint.
- A recycling system for paper, containers and other office activities.
- Duplexing whenever possible.
- Energy-efficient lighting (use of compact fluorescents).
- Use of remanufactured toner cartridges.
- Use of environmentally preferable cleaners .
- Use of storage containers, plastic and paper bags, and traffic management equipment with recycled content.

Contractor shall supply information during Metro's annual audit demonstrating compliance with these practices or upon request. Required sustainable practices shall be established through the proposal process.

### **4.0 NON- MCS/MSS CONTAINER STORAGE**

Staging areas used in the operation should comply with all laws. Loaded containers shall not stay in any such storage area longer than 48 hours. Storage areas should be clean in appearance and free of litter and debris, including spare equipment and tires.

### **5.0 CONTINGENCY PLANS**

#### **5.1 General**

90 days prior to start of Contract operations the Contractor will submit to Metro for approval, comprehensive plans for dealing with the following items. Plans must include a detailed time frame, sources for the implementation of the plan, and a description of replacement equipment.

##### **5.1.1 Work Stoppage**

Operating procedures in the event of a work stoppage by any of the Contractor's employees or subcontractors. Provided plan must include specific steps to remove waste from the transfer stations per the performance standards.

##### **5.1.2 Breakdown or Accident**

Procedures to continue the work in the event of breakdown or accident of any of the major equipment components directly involved in the loading, transport or unloading of waste controlled by the Contractor.

##### **5.1.3 Inclement Weather**

Procedures to continue work in the event of inclement weather, including identification of alternate routes to transport from the Metro facilities to the CRL.

#### **5.2 Back-Up System**

The Contractor shall submit to Metro for approval a comprehensive plan detailing the transportation back-up system which the Contractor will activate if events preclude the use of the primary system. The plan shall include, but not be limited to, the mode of transport, method of unloading and the length of time necessary to activate the back-up system. Equipment used in this back-up system must comply with the requirements contained in this Scope of Work.

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### 5.3 Emergency

Contractor will provide to Metro a comprehensive plan designed to minimize hazards (during storage and transit) to human health and the environment; damage to property; the interruption of waste transfer and/or traffic along transportation routes due to:

- A. Fires and explosions.
- B. Release of hazardous/unacceptable waste constituents.
- C. Release of any solid waste constituents.

The contingency plan must include:

1. A description of actions which transport personnel must take in response to A, B, and C above.

A description and location of equipment utilized to mitigate a spill or release, which shall include locating equipment at Metro transfer station staging sites .

2. Evidence of arrangements with local emergency response agencies setting forth what services will be rendered by each agency in the event of an emergency.

A description of the level of training required for any elements to be completed by the Contractor or non-government subcontractors.

The Emergency Contingency Plan in no way lessens the Contractor's full responsibility to comply with all applicable regulatory provisions for transporting or temporary staging of containers loaded with solid waste.

### 6.0 SAFETY AND EMERGENCY RESPONSE TRAINING PROGRAM

Contractor is responsible for the safety of his/her employees and must comply with all facility safety policies and procedures, including the emergency action plan. The Contractor will designate a staff member to serve as the transportation system safety coordinator, will coordinate training and ensure compliance with safety procedures at all locations.

If death or serious injuries or serious damages are caused by an accident related to this Contract, the accident shall be reported immediately by telephone or messenger to the Metro Solid Waste & Recycling Department. In addition, the Contractor must promptly report in writing to Metro all accidents whatsoever arising out of, or in connection, with the performance of the work, giving full details and statements of witnesses.

If a claim is made by anyone against the Contractor or any subcontractor as a result of any accident related to this Contract, the Contractor shall promptly report the facts in writing to Metro, giving details of the claim. All information reported regarding accidents shall be subject to the reporting requirements contained in the Contract.



## **BONDS**

*Provided for informational purposes only.  
Bonds are only required from the successful proposer.*



# Labor and Material Payments Bond

(NOTE: CONTRACTOR MUST USE THIS FORM, NOT A SURETY COMPANY FORM)

KNOW ALL MEN BY THESE PRESENT:

We the Undersigned \_\_\_\_\_ as PRINCIPAL and \_\_\_\_\_ a corporation organized and existing under and by virtue of the laws of the state of \_\_\_\_\_, and duly authorized to do surety business in the state of Oregon and named on the current list of approved surety companies acceptable on federal bonds and conforming with the underwriting limitations as published in the Federal Register by the audit staff of the Bureau of Accounts and the U.S. Treasury Department and which carries an "A" rating and is of the appropriate class for the bond amount as determined by Best's Rating System, as SURETY, hereby hold and firmly bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, unto METRO, as OBLIGEE, in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in lawful money of the United States of America, for the payment of that sum for the use and benefit of claimants as defined below.

The condition of this obligation is such that whereas the PRINCIPAL entered into a contract with METRO dated \_\_\_\_\_, 20\_\_\_\_, which contract is hereunto annexed and made a part hereof, for accomplishment of the project described as follows: \_\_\_\_\_.

NOW THEREFORE, if the PRINCIPAL shall promptly make payments to all persons, firms, subcontractors, corporations and/or others furnishing materials for or performing labor in the prosecution of the Work provided for in the aforesaid \_\_\_\_\_, and any authorized extension or modification thereof, including all amounts due for materials, equipment, mechanical repairs, transportation, tools and services consumed or used in connection with the performance of such Work, and for all labor performed in connection with such Work whether by subcontractor or otherwise, and all other requirements imposed by law, then this obligation shall become null and void; otherwise this obligation shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is as specified in ORS 279C.600.
2. The above-named PRINCIPAL and SURETY hereby jointly and severally agree with the OBLIGEE and its assigns that every claimant as above-specified, who has not been paid in full, may sue on this bond for the use of such claimant, prosecute the suit to final judgment in accordance with ORS 279C.610 for such sum or sums as may be justly due claimant, and have execution thereon. The OBLIGEE shall not be liable for the payment of any judgment, costs, expenses or attorneys' fees of any such suit.



# Labor and Material Payments Bond

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PROVIDED, FURTHER, that SURETY for the value received, hereby stipulates and agrees that all changes, extensions of time, alterations to the terms of the \_\_\_\_\_ or to Work to be performed thereunder or the Specifications accompanying the same shall be within the scope of the SURETY's undertaking on this bond, and SURETY does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the \_\_\_\_\_ or to the Work or to the Specifications. Any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Specifications shall automatically increase the obligation of the SURETY hereunder in a like amount, provided that the total of such increases shall not exceed twenty-five percent (25%) of the original amount of the obligation without the consent of the SURETY.

This obligation shall continue to bind the PRINCIPAL and SURETY, notwithstanding successive payments made hereunder, until the full amount of the obligation is exhausted, or if the full amount of the obligation is not exhausted and no claim is pending resolution, until such time as no further claims can be made pursuant to law with regard to the above-described project, by any claimant specified in ORS 279C.600.

If more than one SURETY is on this bond, each SURETY hereby agrees that it is jointly and severally liable for all obligations of this bond.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
 SURETY

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

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

\_\_\_\_\_  
 Street Address

\_\_\_\_\_  
 City, State ZIP

\_\_\_\_\_  
 Phone Number

\_\_\_\_\_  
 CONTRACTOR

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

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

\_\_\_\_\_  
 Street Address

\_\_\_\_\_  
 City, State ZIP

\_\_\_\_\_  
 Phone Number



# Performance Bond

---

**(NOTE: CONTRACTORS MUST USE THIS FORM, NOT A SURETY COMPANY FORM)**

KNOW BY ALL MEN BY THESE PRESENT:

We the undersigned \_\_\_\_\_ as PRINCIPAL (hereinafter called CONTRACTOR), and \_\_\_\_\_ a corporation organized and existing under and by virtue of the laws of the state of \_\_\_\_\_ duly authorized to do surety business in the state of Oregon and named on the current list of approved surety companies acceptable on federal bonds and conforming with the underwriting limitations as published in the Federal Register by the audit staff of the Bureau of Accounts and the U.S. Treasury Department and is of the appropriate class for the bond amount as determined by Best's Rating System, as SURETY, hereby hold and firmly bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, to pay to METRO as OBLIGEE (hereinafter called METRO), the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in lawful money of the United States of America.

WHEREAS, the CONTRACTOR entered into a contract with METRO dated \_\_\_\_\_, 20\_\_\_\_, which Contract is hereunto annexed and made a part hereof, for accomplishment of the project described as follows: \_\_\_\_\_

NOW, THEREFORE, the condition of this obligation is such that if the CONTRACTOR shall promptly, truly and faithfully perform all the undertakings, covenants, terms, conditions, and agreements of the aforesaid \_\_\_\_\_, METRO having performed its obligations thereunder, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Whenever CONTRACTOR shall be declared by METRO to be in default under the Contract Documents for the project described herein, the SURETY may promptly remedy the default, or shall promptly complete the \_\_\_\_\_ in accordance with the Contract Documents and the project Specifications. SURETY, for value received, further stipulates and agrees that all changes, extensions of time, alterations, or additions to the terms of the Contract or Specifications for \_\_\_\_\_ are within the scope of the SURETY's undertaking on this bond, and SURETY hereby waives notice of any such change, extension of time, alteration or addition to the terms of the \_\_\_\_\_ or to the Work or to the Specifications. Any such change, extension of time, alteration or addition to the terms of the \_\_\_\_\_ or to the Work or to the Specifications shall automatically increase the obligation of the Surety hereunder in a like amount, provided that such increase shall not exceed twenty-five percent (25%) of the original amount of the obligation without the consent of the Surety.



# Performance Bond

---

This obligation shall continue to bind the PRINCIPAL and SURETY, notwithstanding successive payments made hereunder, until the full amount of the obligation is exhausted.

No right of action shall accrue on this bond to or for the use of any person or corporation other than METRO or its heirs, executors, administrators, successors or assigns.

If more than one SURETY is on this bond, each SURETY hereby agrees that it is jointly and severally liable for obligations on this bond.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_  
 day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
 SURETY

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

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

\_\_\_\_\_  
 Street Address

\_\_\_\_\_  
 City State ZIP

\_\_\_\_\_  
 Phone Number

\_\_\_\_\_  
 CONTRACTOR

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

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

\_\_\_\_\_  
 Street Address

\_\_\_\_\_  
 City State ZIP

\_\_\_\_\_  
 Phone Number

**HISTORICAL TRANSPORT PAYMENTS/  
FUEL CONSUMPTION**

**Metro Waste Transport Payments\* and Fuel Usage**  
**Fiscal Year 2006-2007**

Month	Waste Transport **		Fuel ***	
	Loads	Cost	Gallons	Cost
Jul-06	1,491	\$574,348	87,289	\$211,711
Aug-06	1,609	\$619,803	96,371	\$266,426
Sep-06	1,549	\$596,690	89,546	\$200,832
Oct-06	1,543	\$594,379	88,105	\$168,691
Nov-06	1,543	\$594,379	89,835	\$207,855
Dec-06	1,472	\$567,029	88,866	\$214,266
Jan-07	1,522	\$602,712	88,607	\$181,961
Feb-07	1,393	\$551,628	82,501	\$173,825
Mar-07	1,577	\$624,492	91,953	\$198,700
Apr-07	1,544	\$611,424	89,497	\$205,373
May-07	1,707	\$675,972	98,176	\$223,436
Jun-07	1,530	\$605,880	88,398	\$197,704
<i>Totals</i>	<u>18,480</u>	<u>\$7,218,736</u>	<u>1,079,145</u>	<u>\$2,450,779</u>

\* In June 1999 Metro prepaid approx. \$6.56 million in expenses and received a unit price reduction of \$30 per load.

\*\* The data include loads transported from Metro South and Metro Central to the Columbia Ridge Landfill. Not included are 318 loads diverted to Riverbend during this period.

\*\*\* Metro currently purchases fuel directly. Metro's fuel cost reflects the government exemption from the Federal Fuel Tax of \$0.243 per gallon, or a savings of about \$14.09 per load.

**TONNAGE PROJECTIONS/  
HISTORICAL TONNAGE PATTERNS**



FINAL DRAFT

LONG RANGE METRO LANDFILL TONNAGE FORECAST  
(Revised)

Prepared by Financial Management & Analysis,  
Metro Solid Waste & Recycling

Prepared for the Metro Solid Waste  
Transportation Study Group

March 2007  
(Revised December 2007)

## FINAL DRAFT

### Summary of Revisions

This revised draft (December 2007) reflects changes made to the original Long Range Metro Landfill Tonnage Forecast produced in March 2007. The following is a summary of changes made since the publication of the original forecast:

- The model was re-estimated and re-calibrated using actual data through 2006, including new Oregon Department of Environmental Quality recovery and generation data published in *2006 Oregon Material Recovery and Waste Generation Rates Report (November 2007)*. The base year from which forecasts are made is therefore 2006, instead of 2005. Model predictions of Metro Central and Metro South landfill tonnage come within .73 and .36 points of actual landfill tonnage for the 2006 base year.
- The assumption of a tonnage diversion from Metro Central to Columbia Environmental was removed. The original model assumed that Columbia Environmental, a local transfer station, would open in 2008 with 23,000 tons diverted from Metro Central, followed by a ramp-up to a cap of 45,000 tons diverted per year by 2010. The diversion assumption was removed due to uncertainties in the opening of Columbia Environmental through the forecast horizon.
- Due to a 3 percent decrease in the regional recovery rate from 2005 to 2006, the assumption of meeting the state goal of a 58 percent recovery rate by 2011 was relaxed to 2013.
- The assumption of constant Metro Central and Metro South shares of regional delivery tonnage was changed to include modest increases in their proportions over time to keep pace with increasing waste generation.

## Purpose

The purpose of this analysis is to provide the Metro Solid Waste Transportation Study group with a “best estimate” long-range projection of landfill tonnage from the Metro transfer stations. Custom software was developed and is included with this report.

## Model Description

The forecasting model is based on one exogenous variable – population – and multiple parameters that convert population into waste quantities. The parameters are each projected independently using various assumptions. The suite of assumptions underlying each parameter projection forms the forecast scenario presented in this report.

A schematic and narrative description of the model is provided in Figure 1. The model parameters, assumptions and data sources that make up the forecast scenario are provided in Table 1.

Table 1 – Model Parameters, Assumptions and Data Sources

Parameter	Assumption	Data Source/Derivation & Rationale
Tri-County <sup>1</sup> Population	Compound growth at 1.44% annually from 1,569,170 in base year 2006.	1,569,170 is the 2006 certified mid-year Tri-county population estimate from PSU Center for Population Research; 1.44% is the implicit population growth rate using a population projection time series (3a. Population, 1995-2015) submitted by Metro’s Data Resource Center.
Generation Rate per capita	Compound growth at 1.3% annually from 3,436 pounds per person in base year 2006.	One half the historical growth rate during 1992 – 2006. <sup>2</sup>
Regional Recovery Rate	The state target of 58% <sup>3</sup> is met, but only by 2013; growth up to target is assumed linear.	Delay in meeting the target is based on delay in implementing key new programs. <sup>4</sup>

<sup>1</sup> The Metro watershed is comprised of Clackamas, Multnomah and Washington counties.

<sup>2</sup> Historical growth in the per-capita generation rate has been inflated by a variety of factors such as improved measurement methods over time. DEQ estimates that 20 to 50 percent of the apparent increase is due to such factors. [DEQ, *Solid Waste Generation in Oregon: Composition and Causes of Change*, February 2007]. The higher proportion was chosen here to be consistent with the users’ need for a mildly conservative projection.

<sup>3</sup> The statutory target is 64%, which includes up to 6 percentage points for waste prevention, reuse, and home composting. The 58% used for this study represents recovery through source-separation programs (including the bottle bill) and post-collection recovery. The state target is set forth in ORS 459A.010(6)(a).

<sup>4</sup> Metro has designed three new initiatives to help meet the 58% recovery target. The initiatives address source-separation of compostable organic waste, expanded recycling for businesses, and post-collection recovery of materials from dry waste. These new programs are scheduled to begin rolling out in January 2008 and January 2009 per written correspondence with Lee Barrett—too late to have the necessary impact by 2009.

FINAL DRAFT

Post Collection Recovery	Assume constant 3.6 points of the regional recovery rate is post collection recovery.	Historical.
Metro Central core delivery tonnage <sup>5</sup>	Assume marginal increases from 22.2% of regional core delivery tonnage <sup>5</sup> in base year 2006 to 25% by 2027.	22.6% is the base year 2006 proportion. The longer run assumption is that Metro will adjust tonnage caps at private facilities to accommodate growth over time, but will also see its own market share of waste increase slightly over the forecast horizon.
Metro Central tonnage diversion	None.	No additional diversions are known or assumed.
Metro South core delivery tonnage <sup>5</sup>	Assume marginal increases from 19.2% of regional core delivery tonnage <sup>5</sup> in base year 2006 to 24% by 2027.	Same basis as for Metro Central (above).
Metro South tonnage diversion	None.	No additional diversions are known or assumed.
Metro Central post-collection recovery	Constant rate of 4.4% of Metro Central core delivery tonnage <sup>5</sup> .	Actual 2006 rate is assumed to hold over time.
Metro South post-collection recovery	Constant rate of 5.7% of Metro South core delivery tonnage <sup>5</sup> .	Actual 2006 rate is assumed to hold over time.

**Landfill Tonnage Forecast**

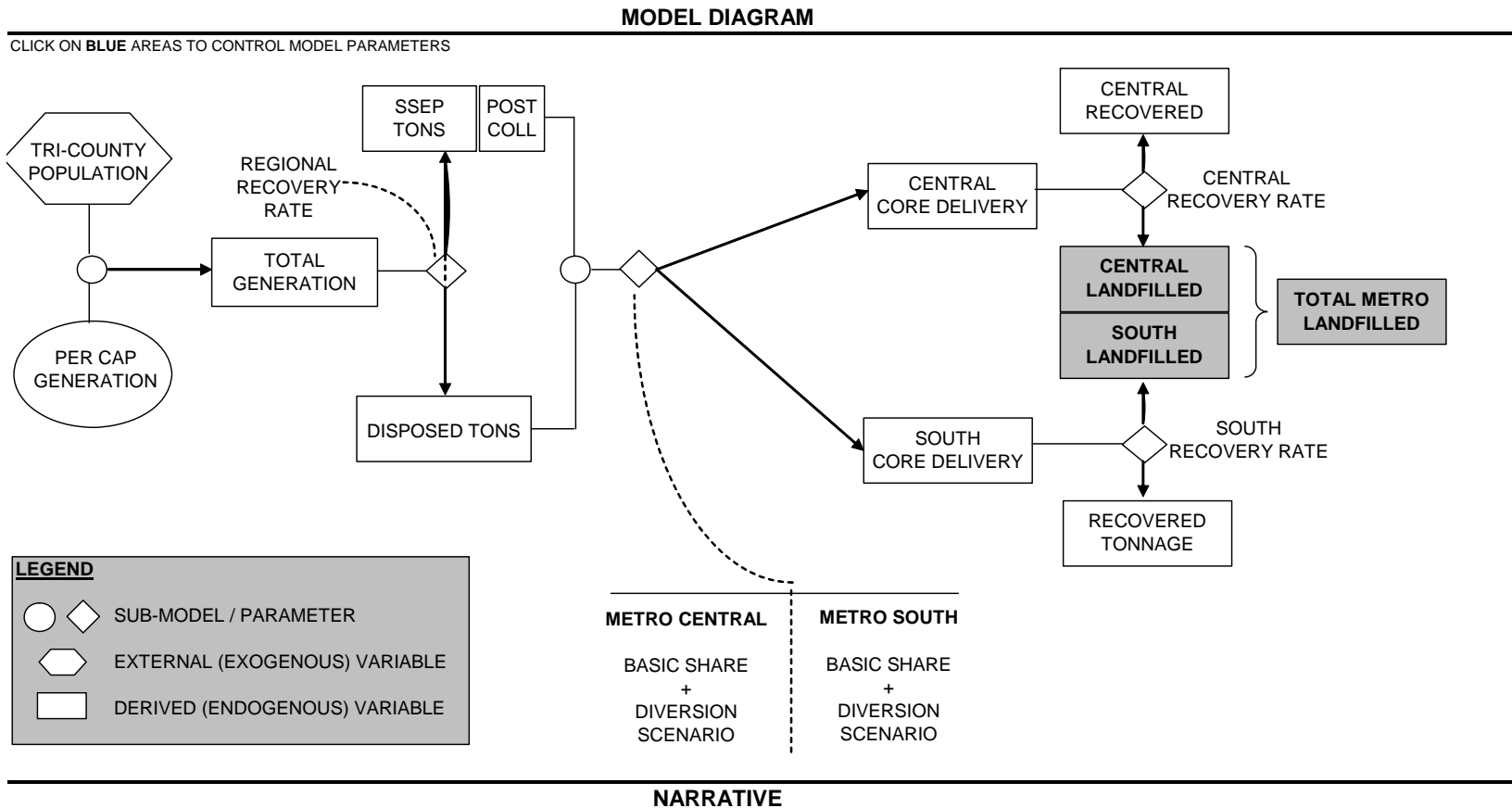
The scenario cited above projects landfill tonnage from Metro Central transfer station to begin at its CY2006 level of approximately 310,000 tons and rise to approximately 500,000 tons in 2026. At Metro South, the scenario projects a rise from CY2006 landfill tonnage of approximately 265,000 tons to approximately 475,000 tons in 2026.

Table 2 provides detail for the various waste quantities generated by the model in successive years, and Figure 2 depicts those quantities for the Metro transfer stations. It is important to note that some columns are hidden in Table 2. For example, the components of the regional recovery rate (the post-collection recovery and the other recovery rate points) and the Metro facility computed recovery tons are hidden. The full table may be viewed in the accompanying software.

---

<sup>5</sup> “Delivery tonnage” is defined as the amount of mixed solid waste that is accepted by disposal sites and solid waste facilities from haulers, businesses and the public. It excludes transfers of processed waste from facilities to landfills. “Core” tonnage is municipal solid waste (MSW) plus construction and demolition waste (C&D). Core tonnage excludes industrial process waste, special wastes and environmental clean-up media. In this model, “regional core delivery tonnage” is numerically equivalent to the tonnage of post-collection recovery plus disposal.

Figure 1 – Model Schematic and Narrative



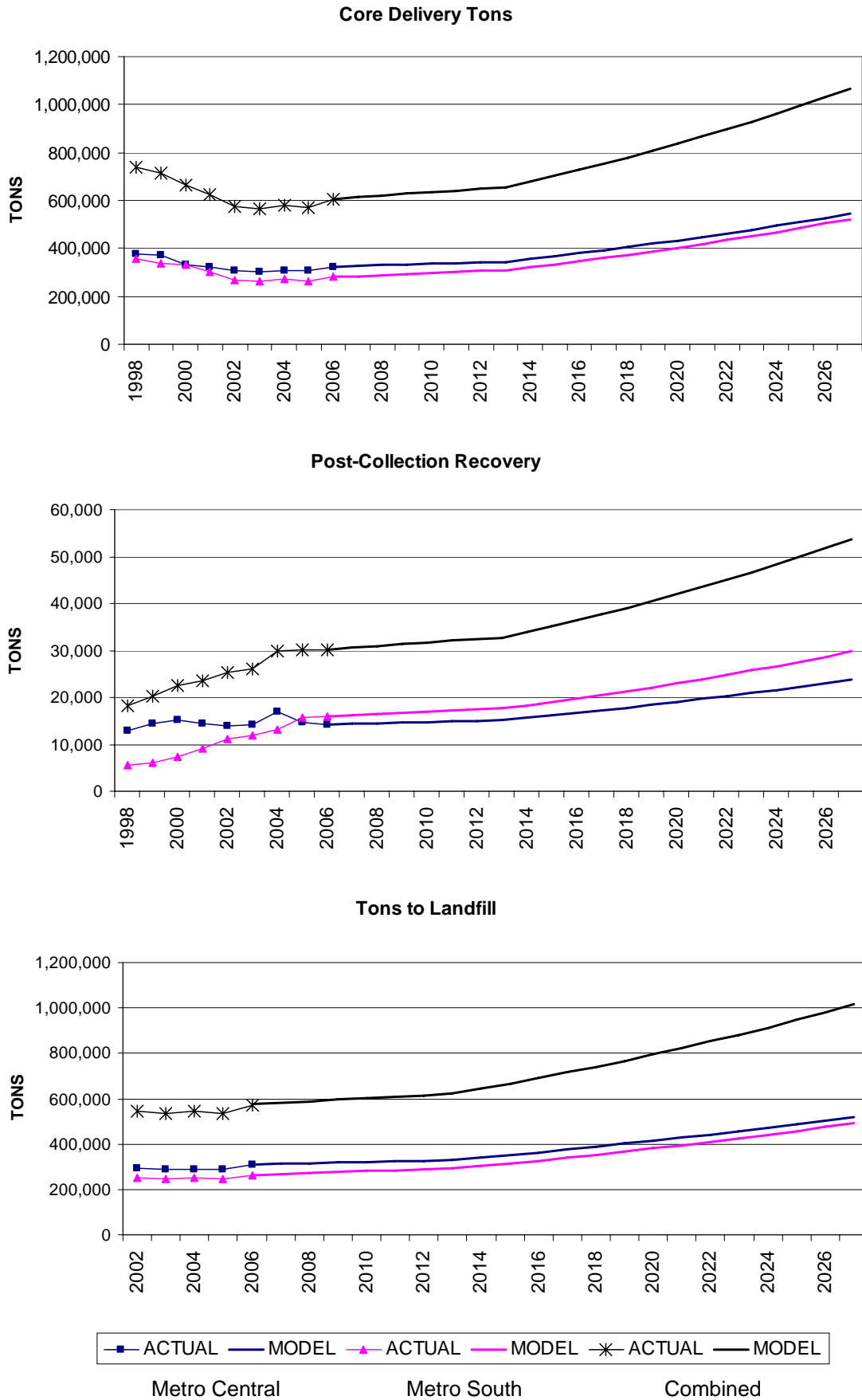
Regional population multiplied by per capita generation (in tons per person per year) yields total generation for the region, some of which is recovered while the remainder is disposed. Regional recovery includes source-separated recyclables, as well as materials that are removed from mixed waste at facilities ("post collection recovery"). The sum of post collection tons and disposal tons is numerically equivalent to the tonnage of mixed waste delivered to all solid waste facilities - a concept Metro terms "core delivery tons". Metro facilities' share of this delivery tonnage is a function of each facilities' historical base share plus potential future diversion scenarios such as the addition of Columbia Environmental to the solid waste management system. Finally, tonnage from each Metro facility destined to landfill is a function of each facilities' recovery rate.

FINAL DRAFT

Table 2 – Long Term Projections of Regional Generation, Recovery and Disposal

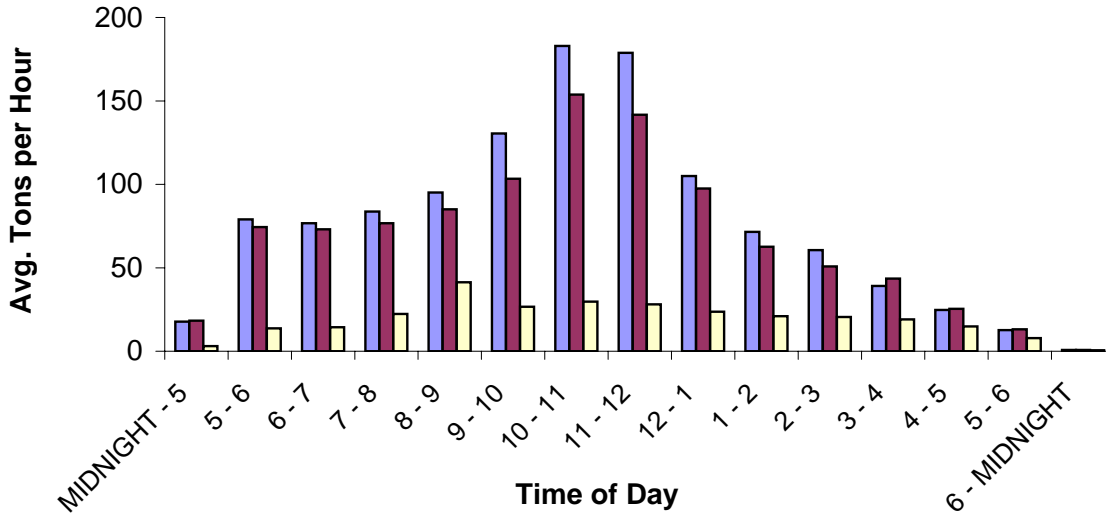
PARAMETERS		Generation					Metro Tonnage					
Year	Mid-Year Population	Rate (lbs/capita/yr)	Total (tons/year)	Recovery Rate	Tonnage		Incoming			Landfilled		
					Recovered	Disposed	Central	South	Total	Central	South	Total
2006	1,569,170	3,436	2,696,079	49.5%	1,334,400	1,361,679	323,996	280,474	604,470	309,801	264,496	574,297
2007	1,591,766	3,481	2,770,456	50.7%	1,404,877	1,365,579	327,420	285,085	612,505	313,075	268,844	581,919
2008	1,614,687	3,526	2,846,885	51.9%	1,478,227	1,368,658	330,694	289,579	620,273	316,206	273,082	589,288
2009	1,637,939	3,572	2,925,423	53.1%	1,554,555	1,370,868	333,805	293,942	627,747	319,180	277,197	596,377
2010	1,661,525	3,619	3,006,127	54.4%	1,633,969	1,372,158	336,738	298,159	634,896	321,984	281,173	603,158
2011	1,685,451	3,666	3,089,058	55.6%	1,716,582	1,372,476	339,478	302,213	641,692	324,605	284,997	609,602
2012	1,709,722	3,713	3,174,276	56.8%	1,802,509	1,371,768	342,011	306,089	648,100	327,026	288,652	615,678
2013	1,734,342	3,761	3,261,846	58.0%	1,891,870	1,369,975	344,319	309,768	654,086	329,233	292,121	621,354
2014	1,759,316	3,810	3,351,831	58.0%	1,944,062	1,407,769	355,860	321,799	677,659	340,269	303,467	643,736
2015	1,784,650	3,860	3,444,298	58.0%	1,997,693	1,446,605	367,776	334,259	702,035	351,663	315,217	666,880
2016	1,810,349	3,910	3,539,317	58.0%	2,052,804	1,486,513	380,079	347,161	727,240	363,426	327,385	690,811
2017	1,836,418	3,961	3,636,957	58.0%	2,109,435	1,527,522	392,781	360,521	753,302	375,571	339,983	715,555
2018	1,862,863	4,012	3,737,290	58.0%	2,167,628	1,569,662	405,894	374,354	780,247	388,110	353,028	741,138
2019	1,889,688	4,065	3,840,392	58.0%	2,227,427	1,612,964	419,432	388,675	808,107	401,055	366,533	767,588
2020	1,916,900	4,117	3,946,337	58.0%	2,288,876	1,657,462	433,407	403,502	836,909	414,418	380,516	794,934
2021	1,944,503	4,171	4,055,206	58.0%	2,352,019	1,703,186	447,835	418,851	866,686	428,214	394,990	823,204
2022	1,972,504	4,225	4,167,077	58.0%	2,416,905	1,750,173	462,729	434,740	897,469	442,455	409,974	852,429
2023	2,000,908	4,280	4,282,035	58.0%	2,483,581	1,798,455	478,104	451,186	929,290	457,157	425,484	882,640
2024	2,029,721	4,336	4,400,165	58.0%	2,552,096	1,848,069	493,975	468,210	962,184	472,332	441,537	913,869
2025	2,058,949	4,392	4,521,553	58.0%	2,622,501	1,899,052	510,358	485,829	996,186	487,997	458,152	946,150
2026	2,088,598	4,449	4,646,290	58.0%	2,694,848	1,951,442	527,268	504,064	1,031,332	504,167	475,348	979,516
2027	2,118,674	4,507	4,774,468	58.0%	2,769,192	2,005,277	544,724	522,935	1,067,659	520,858	493,145	1,014,002

Figure 2 – Projected Waste Quantities at the Metro Transfer Stations



## METRO CENTRAL TRANSFER STATION

Average Tons per Hour of Inbound MSW on    ■ MONDAY    ■ TUES-FRI    ■ SAT-SUN



### Avg Tons/Hour

	Monday	Tues-Fri	Sat-Sun
MIDNIGHT - 5*	18	18	3
5 - 6	79	74	14
6 - 7	77	73	14
7 - 8	84	77	22
8 - 9	95	85	41
9 - 10	131	103	27
10 - 11	183	154	30
11 - 12	179	142	28
12 - 1	105	98	24
1 - 2	72	63	21
2 - 3	61	51	20
3 - 4	39	44	19
4 - 5	25	25	15
5 - 6	13	13	8
6 - MIDNIGHT*	1	1	1

### Top 5 Tonnage Dates in 2006

Monday, July 10 (1,430 Tons)  
 Monday, April 24 (1,421 Tons)  
 Monday, July 17 (1,395 Tons)  
 Tuesday, December 26 (1,394 Tons)  
 Tuesday, November 14 (1,380 Tons)

### Top 5 Tonnage Weeks in 2006

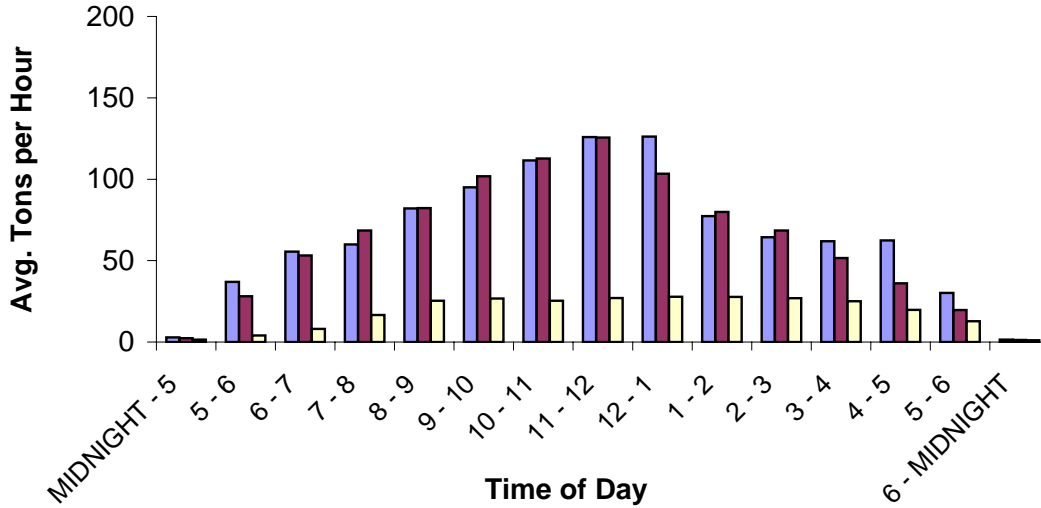
November 12 - 18 (6,873 Tons)  
 June 4 - 10 (6,742 Tons)  
 July 9 - 15 (6,719 Tons)  
 April 30 - May 6 (6,658 Tons)  
 April 23 - April 29 (6,610 Tons)

\* Average data represents the typical hour in this period



## METRO SOUTH TRANSFER STATION

Average Tons per Hour of Inbound MSW on    ■ MONDAY    ■ TUES-FRI    ■ SAT-SUN



	Avg Tons/Hour		
	Monday	Tues-Fri	Sat-Sun

	Monday	Tues-Fri	Sat-Sun
MIDNIGHT - 5*	3	2	1
5 - 6	37	28	4
6 - 7	56	53	8
7 - 8	60	68	17
8 - 9	82	82	25
9 - 10	95	102	27
10 - 11	112	113	25
11 - 12	126	126	27
12 - 1	126	103	28
1 - 2	77	80	28
2 - 3	64	68	27
3 - 4	62	52	25
4 - 5	62	36	20
5 - 6	30	20	13
6 - MIDNIGHT*	1	1	1

### Top 5 Tonnage Dates in 2006

- Tuesday, December 26 (1,257 Tons)
- Monday, June 5 (1,221 Tons)
- Friday, June 23 (1,200 Tons)
- Monday, July 17 (1,196 Tons)
- Monday, June 19 (1,170 Tons)

### Top 5 Tonnage Weeks in 2006

- June 18 - 24 (6,234 Tons)
- June 4 - 10 (6,207 Tons)
- July 16 - 22 (5,995 Tons)
- June 25 - July 1 (5,945 Tons)
- April 30 - May 6 (5,927 Tons)

\* Average data represents the typical hour in this period

**ANNUAL REPORT  
WASTE TRANSPORT SERVICES**



## ANNUAL REPORT

### WASTE TRANSPORT SERVICES AND MITIGATION OF TRUCK IMPACTS

FOR THE PERIOD OF

**JANUARY 1  
THROUGH  
DECEMBER 31, 2006**

Prepared by:  
Chuck Geyer and Courtney Dale  
Solid Waste and Recycling  
*Engineering & Environmental Services*

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**ANNUAL REPORT**

**WASTE TRANSPORT SERVICES**

**AND**

**MITIGATION OF TRUCK IMPACTS**

**FOR THE PERIOD OF**

**JANUARY 1 THROUGH DECEMBER 31, 2006**

Metro  
600 NE Grand Avenue  
Portland, OR 97232-2736  
(503) 797-1650

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## EXECUTIVE SUMMARY

Under contract with Metro, CSU transports solid waste from the Portland metropolitan area to the Columbia Ridge Landfill near Arlington, Oregon. A review of records kept by CSU, Metro, and the Oregon Department of Transportation (ODOT) indicates that CSU solid waste transport operations during 2006 were consistent and reliable. An audit of CSU dispatch logs and drivers' logs indicates substantial compliance with regulatory requirements, contract specifications, and mitigation of truck impact provisions of the 12-point agreement between Metro and the Automobile Club of Oregon (AAA).

During the period of January 1 through December 31, 2006, CSU transported a total of 571,095 tons of solid waste from Metro's transfer stations to the Columbia Ridge Landfill<sup>1</sup> (260,240 tons from Metro South Transfer Station, and 310,854 tons from Metro Central Transfer Station). A total of 18,604 loads, averaging 30.70 tons per load, was hauled during 2006. In 2005, the total tons of waste transported was 531,866 (246,511 tons from Metro South Transfer Station, and 285,355 tons from Metro Central Transfer Station). A total of 17,264 loads, averaging 30.81 tons per load, was hauled during 2005.

The costs for waste transport services in 2006 were as follows: Per-load payments to CSU totaled \$7,019,682, an average of \$377.32 per load or \$12.29 per ton. Total costs, including fuel, shuttle operations, overloads, weighing, parking, etc. were \$9,787,863 (8), an average of \$526.12 per load or \$17.14 per ton.

During 2006, CSU trucks traveled a total of 5.7 million miles hauling solid waste from Metro's transfer stations to the Columbia Ridge Landfill. CSU had one reportable accident related to the Metro transport contract. Six speeding tickets were issued to CSU drivers. No other traffic citations were issued. There were 57 overweight citations issued to CSU.

During the period of January 1, 2006 through December 31, 2006, ODOT conducted a total of 26 inspections of CSU vehicles. Inspection records show that CSU had 6 vehicle out-of-service violations for a vehicle out-of-service rate of 25%. The national industry average is 23.35%. CSU did not have any driver out-of-service violations. The national driver out-of-service rate is 6.61%.

CSU currently utilizes 34 tractors, 180 trailers, and ten shuttlecraft to perform its solid waste transport services. As of December 31, 2006, CSU employed 66 drivers, seven office personnel, and 20 shuttle operators, tipper operators, and maintenance personnel.

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<sup>1</sup> The tonnage, cost, and load figures includes loads delivered from Metro South and Metro Central to Riverbend Landfill. They are included in the calculations in the Executive Summary and the following page since the report was unable to separate fuel costs accurately. The table entitled "SOLID WASTE TRANSPORTED TO COLUMBIA RIDGE LANDFILL" contains data pertaining to only waste delivered to CRL.

PART I.  
**WASTE TRANSPORT SERVICES**

PROJECT HISTORY: On March 27, 1989, Metro contracted with Jack Gray Transport, Inc. (JGT) to provide for trucking of solid waste from the Portland metropolitan area to the Oregon Waste Systems, Inc. Columbia Ridge Landfill near Arlington, Oregon. Beginning January 2, 1990, the contract required JGT to transport to the Columbia Ridge Landfill all solid waste disposed at the Metro South Transfer Station, located in Oregon City. The duration of the Waste Transport Services Contract is a minimum of 20 years, with project completion expected to occur on December 31, 2009.

Initiation of JGT's trucking services coincided with the arrival of three new elements in the Metro disposal system: A new transfer station operator; a new method of waste consolidation (preload compactors); and a new regional landfill (Columbia Ridge Landfill in Gilliam County). Largely because of these new elements, operational coordination and experimentation typified the first six months of the contract. Innovative solutions to technical problems were achieved by Metro and the various contractors regarding such issues as the efficient loading of waste, compactor operations, equipment modifications, and necessary accounting controls. Operations since July 1990 have been characterized by consistent and reliable waste transport services.

On January 14, 1991, Metro Central Station, located at 6161 NW 61st Avenue in Portland, began operation and JGT began hauling solid waste from the facility to the Columbia Ridge Landfill. On April 1, 1991, the first load of residential garbage arrived at the Metro/Riedel Compost Facility, which was located at 5600 NE Columbia Boulevard. JGT hauled the residual from that facility to the Columbia Ridge Landfill. The compost facility closed in January 1992. In June 1994, JGT began hauling Forest Grove tonnage from Metro Central Station to the Columbia Ridge Landfill. Hauling of Forest Grove tonnage by JGT ended in March 1995.

In January 1998, Metro assigned the Waste Transport Services Agreement from Jack Gray Transport, Inc. to Specialty Transportation Services, Inc. (STS). On May 14, 2001, the Waste Transport Services Agreement was assigned from STS to CSU Transport, Inc. (CSU) by Change Order No. 26 to Metro Contract No. 900848.

Waste Quantities Transported: During the period of January 1 through December 31, 2006, CSU transported a total of 571,095 tons of solid waste to the Columbia Ridge Landfill, a total of 18,604 loads (averaging 30.70 tons per load). A summary of waste transported from Metro South and Metro Central transfer stations during 2006 is shown on page I-2. In 2005, CSU transported a total of 531,866 tons, a total of 17,264 loads, averaging 30.81 tons per load, was hauled during 2005.

Miles Traveled: CSU trucks traveled a total of 5,661,898 miles during 2006, hauling solid waste from Metro's transfer stations to the Columbia Ridge Landfill.

Cost of Waste Transport Services: Per-load payments totaled \$7,019,682 in 2006, an average of \$377.32 per load or \$12.29 per ton. Total costs, including fuel payments, fuel adjustments, shuttle operations, overloads, weighing, parking, and lease payments, were \$9,787,863, an average of \$526.12 per load or \$17.14 per ton.



**2006**  
**SOLID WASTE TRANSPORTED TO COLUMBIA RIDGE LANDFILL**

<u>Metro South Station</u>			<u>Metro Central Station</u>	
<u>Month</u>	<u>Loads</u>	<u>Tons</u>	<u>Loads</u>	<u>Tons</u>
Jan	597	18,409.15	805	24,852.01
Feb	556	17,094.41	728	22,417.66
Mar	670	20,615.97	842	25,897.32
Apr	674	20,715.41	767	23,522.08
May	815	24,952.65	906	27,754.39
Jun	825	25,281.52	831	25,541.41
Jul	701	21,382.49	790	24,244.78
Aug	762	23,222.44	847	26,113.60
Sep	726	22,155.52	823	25,270.22
Oct	713	21,839.80	830	25,574.57
Nov	681	20,952.71	862	26,468.08
Dec	633	19,443.90	839	25,716.89
<b>Totals</b>	<b>8,353</b>	<b>256,065.97</b>	<b>9,870</b>	<b>303,373.01</b>

TRANSPORT SAFETY: Inspections, safety equipment, traffic violations, accidents and weight compliance are important concerns of the transport operation. Each of these is addressed below.

Equipment Safety: The trucking industry is carefully regulated in the State of Oregon, principally by the Oregon Department of Transportation (ODOT), Motor Carrier Transportation Branch. ODOT monitors vehicle safety via structural inspections of trucks, and by auditing driver logs for compliance with safety regulations. During the period of January 1 through December 31, 2006, ODOT examined CSU vehicles at the various staging areas and at the Cascade Locks scaling station, as well as spot-checking driver logs on other, unannounced visits.

During the period of January 1, 2006 through December 31, 2006, ODOT conducted a total of 26 inspections of CSU vehicles. Inspection records show that CSU had 6 vehicle out-of-service violations for a vehicle out-of-service rate of 25%. The national industry average is 23.35%. CSU did not have any driver out-of-service violations. The national driver out-of-service rate is 6.61%.

Accidents: CSU vehicles traveled a total of 5,661,989 miles and had one reportable accident<sup>2</sup> in Oregon during 2006 related to the Metro transport contract. According to ODOT's Motor Carrier Crash Analyst, CSU was not at fault in the accident, and there were no injuries.

<sup>2</sup> See Appendix B for definition of "reportable accident."

Traffic Violations: During 2006, six speeding tickets were issued to CSU drivers. No other traffic citations were issued.

Truck and Trailer Information: CSU currently uses 34 tractors, 180 trailers, and 10 shuttle craft to perform waste transport and shuttle services involving Metro South Station, Metro Central Station, and the Columbia Ridge Landfill.

Contract Specification 10.2 addresses the physical appearance of the transfer tractors and trailers. CSU tractors are washed in Arlington. The trailers are washed at the Metro Central Transfer Station site using a portable washing system. The painting of the tractors and trailers meets Metro's standards.

A placard promoting waste reduction and recycling is affixed to the back of most of the CSU trailers. Some trailers have had the trailer doors replaced, and a new placard had not been attached by the end of the report period.

CSU trucks do not portray any visible indications that the vehicle cargo is solid waste. To the casual observer, the vehicles appear as common commercial truck transport.

Complaints Received from the Public: No complaints were received by Metro.

Splash and Spray Suppressant Devices: CSU complies with and exceeds Attachment 13 to OAR Chapter 734, Division 74, which specifies the required devices utilized in rainy weather by "Extended Weight" transporters. CSU exceeds these requirements by extending the splash-suppressant flaps an additional ten inches toward the ground on the tractor push axles.

Weight Compliance: The potential damage to Oregon's roadways, particularly I-84, is a concern of public officials and citizens. With the goal of preventing overloaded vehicles, the waste transport services contract was carefully written to avoid incentives to the Contractor to overload its vehicles. This aim was achieved mainly through paying the Contractor on a per-load basis, as opposed to payment based upon load weight. Conversely, the transfer station operations contracts contain an incentive clause to encourage the station operator to achieve the maximum possible waste bale weight without overloading vehicles. The transfer station operators are contractually required to correct overloads at the operator's expense. In this manner, it is Metro's goal to maximize the weight of each load, while minimizing the possibility of overloaded vehicles on Oregon's highways.

Each CSU truck/trailer combination features a specialized seven-axle design engineered to appropriately distribute loads of as much as 32 tons of solid waste. The trailers feature a "push axle", which is adjusted using pressurized air to balance the vehicle axles such that the axle combinations each bear the proper proportion of total vehicle and load weight.

The following overweight citations were issued to CSU during 2006:

<u>Date</u>	<u>Citation No.</u>	<u>Date</u>	<u>Citation No.</u>
1/9/2006	765362	3/22/2006	765940
1/9/2006	765366	3/31/2006	794097
1/10/2006	765376	4/13/2006	794255
1/10/2006	765377	4/17/2006	794295
1/11/2006	765390	4/17/2006	794282
1/11/2006	765394	4/17/2006	794286
1/12/2006	765401	4/18/2006	794311
1/12/2006	765403	4/24/2006	794344
1/12/2006	765404	5/10/2006	794485
1/13/2006	765411	5/18/2006	794562
1/13/2006	765413	6/8/2006	794712
1/13/2006	765414	6/16/2006	794754
1/16/2006	765423	6/26/2006	794826
1/18/2006	765440	6/27/2006	294957
1/19/2006	765456	7/25/2006	794984
1/23/2006	765472	8/8/2006	793094
1/23/2006	765473	10/6/2006	793560
1/24/2006	765494	10/12/2006	793610
1/27/2006	765520	10/17/2006	793651
1/27/2006	765521	11/17/2006	793909
1/27/2006	765523	11/18/2006	793924
1/30/2006	765641	11/20/2006	793928
2/27/2006	765703	11/22/2006	793976
3/9/2006	765796	12/4/2006	807055
3/9/2006	765804	12/4/2006	807173
3/9/2006	765805	12/11/2006	807120
3/10/2006	765810	12/13/2006	807161
3/10/2006	765811	12/29/2006	807280
3/10/2006	765813		

The appropriate location and the composition of the waste bale are important factors in determining compliance with ODOT's weight distribution regulations. Overloads do occur, despite the efforts of CSU shuttle drivers and the compactor operators to properly distribute the waste and load the trailers. The primary cause of the above overloads is a result of the loads shifting during transit, which overloads an axle group. To minimize the number of overloads that occur during transit, potential overloads are diagnosed at the transfer station, prior to being driven on public roads.

For every load, each axle combination is weighed at least once (more often if necessary) to ensure the load will comply with ODOT regulations. Loads found to be overweight are stored in the staging area until the end of the operations day, at which time sufficient waste is unloaded from the overloaded trailer back into the transfer station pit to bring the trailer within compliance. It is in the public interest for each load to contain the maximum possible weight (to reduce overall waste disposal costs) yet still comply with ODOT

weight regulations. Metro, CSU, and the transfer station operator, Allied Waste Industries of Oregon, Inc. worked cooperatively to achieve an effective balance between these goals.

During the report period, the waste transported to the Columbia Ridge Landfill averaged 30.70 tons per load.

The loading of waste bales from the compactors into the CSU trailers requires the respective equipment operators to be attentive and precise. Nonetheless, some damage to trailers has occurred, usually because of waste material rising out of the bale and striking the roof of the trailers.

CSU Employee Information: As of December 31, 2006, CSU employed 66 drivers (56 full-time and 10 part-time), seven office personnel, and 20 shuttle operators, tipper operators, and maintenance personnel.

STATUS OF STAGING AREAS: Efficient waste transport requires the use of staging areas. The following summarizes the status of CSU's staging areas:

Metro Central Station: CSU currently utilizes a primary staging area adjacent to the Metro Central Transfer Station. The staging area is leased from Burlington Northern and Santa Fe Railway Company and has a capacity of 80 trailers. The facility enables CSU to store overloaded trailers until they can be brought within legal road weight limits. In addition, the facility enhances CSU's flexibility in scheduling the flow of waste to the Columbia Ridge Landfill.

Metro South Station: CSU is currently utilizing ten trailer spaces adjacent to the Metro South Station. This enables CSU to store overloaded trailers until they can be brought within legal road weight limits.

Rufus: CSU currently utilizes a staging area in Rufus, approved by the Rufus City Council.

Arlington: After approval by the Arlington City Council, a staging facility was located, and is currently in use by CSU at the Columbia Ridge Landfill.

Columbia Ridge Landfill: A staging area for solid waste containers is a part of the land use permit received by Oregon Waste Systems, Inc. for the Columbia Ridge Landfill. CSU and Oregon Waste Systems have a contractual arrangement by which CSU utilizes the staging facility and has offices (including the dispatch radio headquarters) at the site. All loads from the other staging areas are consolidated at the site and unloaded during normal landfill operating hours. The empty trailers are then returned to the Metro South and Metro Central transfer stations.

CSU's current operations plan specifies that the typical driver's workday begins in Arlington. An empty trailer is transported by the driver to Metro South or Metro Central transfer station, where a loaded trailer is obtained and transported back to Rufus. An empty trailer is retrieved and returned to a transfer station, where another load of waste is obtained and transported back to the Columbia Ridge Landfill. Variations of this typical

workday are utilized by CSU to optimize scheduling of drivers and to achieve compliance with ODOT's driver hours-of-service regulations.

CHANGE ORDERS TO THE CONTRACT: As of December 31, 2006, 31 change orders have been executed to modify and improve services provided under the terms of the Waste Transport Services Contract. Each change order is summarized here:

Change Order No. 1: When the Waste Transport Services Bid Documents were written, it was expected that the Metro South Station Contractor would perform shuttle services. Metro staff later determined that it was more appropriate for JGT to handle its own equipment, to minimize damage and coordination difficulties between the two contractors. Via Change Order No. 1, Metro provided a staging area for JGT adjacent to Metro South Station on an unused section of the site. In exchange, the waste transport contractor provides the labor, materials and equipment necessary to shuttle the trailers to and from the waste compactors.

The Change Order provides limitations to the waste transport contractor's labor and equipment costs to perform the shuttle operations. If shuttle operations exceed 16 hours per day on weekdays, the contractor is reimbursed \$54.28 per hour (termed "shuttle overtime"). Change Order No. 1 was executed on July 12, 1990.

Change Order No. 2: This change order was executed to address two issues. First, the St. Johns Landfill was required to close by February 1991. Direct-haul disposal quantities were not anticipated to provide the amount of waste necessary to reach the final contours needed to achieve proper closure. In addition, Metro had an intergovernmental commitment to provide waste to the Marion County Waste-to-Energy Facility to offset waste shortages, which hamper efficient incinerator operations. Change Order No. 2 provided for diversion of waste from Metro South Station to St. Johns Landfill or Marion County and established the rate for reimbursement to JGT (\$4.75 per ton). Terms of this agreement required JGT to provide equipment different from the normal JGT vehicle configuration, specifically self-unloading trailers. Change Order No. 2 was executed on March 12, 1990 and expired December 31, 1990.

Change Order No. 3 was executed on May 4, 1990 and was substantially similar to Change Order No. 2. It addressed the continued need for Metro to divert minor amounts of waste to St. Johns Landfill and Marion County. The term of Change Order No. 2 was extended from July 1, 1990 through January 31, 1991.

Change Order No. 4: This Change Order provided for dust suppression in the temporary staging area at Metro South Station. The staging area previously had a gravel surface, which generated considerable dust during dry climatic conditions. Under the terms of this agreement, JGT provided for dust control, utilizing a subcontractor who applied a vegetable oil-based adherent to the gravel surface.

Change Order No. 5: Change Order No. 5 modified and established the calendar months that constitute the "base year" and subsequent years for purposes of achieving inflation-offsetting adjustments to the unit price (cost of loads to the Columbia Ridge Landfill).

This change order modified the inflation adjustment as provided for under terms of the original Contract.

Change Order No. 6: This change order extended the term of Change Order No. 4 through December 31, 1991.

Change Order No. 7 was similar in nature to Change Order No. 1. Via this change order, the responsibility for shuttling of transfer trailers to and from the waste compactors was shifted from the Metro Central Station Operator to the waste transport contractor. Metro pays contractor for the costs of equipment, labor, and materials necessary to provide the shuttling services at the Metro Central Station. Most of these expenses are reimbursed by the station operator, as these work items were originally in the Metro Central Station Construction and Operations contracts. This change order was executed January 13, 1991 and extends through the term of the original contract.

Change Order No. 8 required JGT to perform additional shuttle services at Metro Central, specifically to achieve accurate weighing/invoicing of the transport vehicles, until a dedicated loadout facility could be constructed. This agreement was executed January 14, 1991 and expired September 1991.

Change Order No. 9: Change Order Numbers 9 and 10 provided for the shuttle services necessary for operations at the Metro/Riedel Compost Facility. Change Order No. 9 addressed the purchase and mobilization of the equipment for the shuttle operations. This agreement was executed in April 1991, and expired when the compost facility ended operations in January 1992.

Change Order No. 10 was a Force Work Order which authorized JGT to provide the materials and labor necessary to perform shuttle operations at the Compost Facility, rent end-dump trailers, and transport residual to the Metro Central Station. This Order was delivered to JGT in May 1991, and expired when the Compost facility ended operations in January 1992.

Change Order No. 11: Effective September 10, 1991, the waste transport contractor shall be reimbursed for all weighing expenses incurred by them at the remote axle scale at Metro Central Station.

Change Order No. 12 made changes to the JGT Letter of Credit regarding renewal dates and allows the Letter of Credit amount to be reduced by the amount of funds in the retainage account. No expenditures are involved. Change Order No. 12 was dated January 30, 1992.

Change Order No. 13 provided for JGT to transport immature compost from the compost facility to the St. Johns Landfill. The term of the Change Order was February 18 to February 28, 1992.

Change Order No. 14 provides for a paved parking area near Metro Central Station. The term of this Change Order was February 1, 1994 to December 31, 2000.

Change Order No. 15: Metro will supply diesel fuel to the waste transport contractor for over-the-road vehicles in exchange for a reduced per-load rate. This Change Order's term is from April 20, 1994 to December 31, 2009.

Change Order No. 16: This order enabled JGT to haul Forest Grove tonnage from Metro Central Station to the Columbia Ridge Landfill. Term: June 1994 to December 31, 1994.

Change Order No. 17 transfers the responsibility for checking trailer seal numbers from Oregon Waste Systems to the waste transport contractor. Term: September 1994 to December 31, 2009. No expenditures are associated with this change order.

Change Order No. 18 extended the term of Change Order No. 16 to March 31, 1995.

Change Order No. 19 modifies Change Order No. 15. It provides a mechanism for the waste transport contractor to share in savings arising from increased fuel economy. Term: September 1995 to December 31, 2009.

Change Order No. 20: provided for transport of wood and other hog fuel waste from Metro South Station to Metro Central Station, where it was chipped into hog fuel. Term: August 5, 1996 to October 1, 1997.

Change Order No. 21: specifies that any change in control or the transfer of a controlling interest in stock ownership of Contractor shall require the prior written consent of Metro; Change Order No. 1 required Metro to provide a paved storage area for approximately 105 transport containers. Metro shall henceforth be required to provide a paved storage area for no more than 51 trailers at Metro South Station.

Change Order No. 22: This change order extended the termination date for services specified in Change Order No. 20 until the agreement between Metro and Waste Management of Oregon for operating Metro South Transfer Station expired. That agreement expired September 30, 1997.

Change Order No. 23 approves the assignment of the Waste Transport Services Agreement from Jack Gray Transport, Inc. to Specialty Transportation Services, Inc. (STS) and provides assurances that the assignment of the Agreement to STS will not have a negative impact on Metro's waste transport operations.

Change Order No. 24 provides that Metro prepay future fixed costs, resulting in a one-time payment; the per-load payment to be reduced by \$30. STS was to move most of their transport trailers off Metro property at Metro South Station, eliminating the annual shuttle cost, and allowing Metro to proceed with facility improvements.

Change Order No. 25 allows for a change of control and change of ownership of STS from Asche Transportation Services, Inc. to Churchill Environmental & Industrial Equity Partners, L.P. It also provides assurances that such changes of control and ownership will not have a negative impact on Metro's waste transport operations.

Change Order No. 26: This agreement bestowed Metro's consent to the assignment by STS to CSU Transport, Inc. of all obligations and duties of performance owed to Metro under and pursuant to the Waste Transport Services Agreement.

Change Order No. 27 provides Metro with a paved parking area near the Metro Central Transfer Station. Metro subleases 36 parking spaces from CSU for its facility employees and various vehicles and equipment. The parking area lease was authorized initially by Change Order No. 14, which expired December 31, 2000.

Change Order No. 28 approves the purchase of two shuttle vehicles for use at Metro Central Transfer Station. CSU shall acquire such vehicles by means of a lease-purchase option agreement. Such lease shall include the obligation to allow Metro, in the event of any default by contractor, to assume control of all such leased equipment for a period of one year following any default and termination of the lease or of the Waste Transport Services Agreement.

Change Order No. 29: Metro will reimburse CSU for the purchase and installation of diesel particulate filters for up to twelve of the tractors operated by CSU in the provision of transportation services under the Waste Transport Services Agreement, and diesel particulate filters or diesel oxidation catalyst devices for four shuttle vehicles used in solid waste transfer operations at the Metro Central and Metro South transfer stations.

Change Order No. 30: This change order modifies the security for release of retainage provisions found in Paragraph B.8.i. of Change Order No. 24. In lieu of the Irrevocable Letter of Credit, Contractor may provide a performance bond or other similar instrument of security, in a form acceptable to Metro, in the amount of \$1.3 million.

Change Order No. 31 reduces the number of parking spaces near the Metro Central Transfer Station leased to Metro by CSU and provides for continued parking through December 31, 2009. The number of parking spaces are reduced from 36 to 12. See Change Orders number 14 and 27 for additional information.

Change Order No. 32: The purpose of this change order is to modify the provisions for security instruments and associated remedies found in Paragraph B of Change Order No. 30, and to make other, mutually agreed-upon amendments regarding contract termination procedures.



PART II.  
**MITIGATION OF TRUCK IMPACTS**

**INTRODUCTION:** In March 1989, Metro and Jack Gray Transport, Inc. (JGT) entered into an agreement for the provision of waste transport services. The agreement, which provides for the transportation of solid waste from the Portland metropolitan area to the Columbia Ridge Landfill in Gilliam County, Oregon, contains provisions for mitigating the impacts of transporting waste. In early 1990, the Automobile Club of Oregon (AAA), Metro, and JGT entered into a 12-point agreement that required mitigation measures in addition to, as well as reiterating, those measures contained in the Waste Transport Services Contract.

In January 1998, Metro assigned the Waste Transport Services Agreement from Jack Gray Transport, Inc. to Specialty Transportation Services, Inc. (STS). On May 14, 2001, the waste transport agreement was assigned from STS to CSU Transport, Inc. (CSU). The 12 requirements of the AAA-Metro-JGT agreement now apply to CSU. This part of the annual report addresses the 12 requirements of the agreement.

**MITIGATION REQUIREMENTS**

1. Staging areas shall be located in areas outside or excluded from the Columbia River Gorge NSA (National Scenic Area).

**Action:** All staging areas are located outside the NSA. The locations are:

Metro South Transfer Station Oregon City, Oregon	Cottonwood Street Arlington, Oregon
Metro Central Transfer Station Portland, Oregon	Columbia Ridge Landfill Gilliam County, Oregon
Frosty's Truck Stop Rufus, Oregon	

2. Trucks shall stop at designated stopping points outside the Columbia River Gorge NSA, except in cases of emergency as indicated on Page 7 of the driver's handbook portion of the Operating Plan. Use of rest areas, turnouts, scenic vista points and state parks shall be limited to cases of emergency.

**Action:** CSU trucks stopped in the NSA 178 times during the period of January 1 through December 31, 2006. Stops were made for flat tires, mechanical and electrical problems, to put on tire chains, to assist other motorists, to wait while accidents were cleared, and for miscellaneous reasons. See Appendix A, "Audit of Dispatch Logs," for additional information.

3. Trucks shall operate twenty-four (24) hours a day. However, to the extent feasible, trucks shall not operate in the Columbia River Gorge NSA during the following times:

4:00 p.m. to 10:00 p.m. Friday afternoons in June, July, August and September.

Daylight hours on Saturdays in June, July, August and September.

All hours on Sundays in June, July, August and September.

Action: 4:00 p.m. to 10:00 p.m. Friday afternoons in June, July, August and September: It has not been feasible for CSU to suspend trips through the NSA from 4:00 p.m. to 10:00 p.m. Friday afternoons. CSU averaged 40 trips (both East and West bound) on Fridays (between the hours of 4:00 p.m. and 10:00 p.m.) in June, July, August and September 2006.

It has not been feasible to suspend trips because waste received on Fridays at the Metro South Transfer Station must be removed by the start of operations the following day, as per a condition of the permit issued by the City of Oregon City. Transfer vehicles removing this waste must make round trips to Gilliam County, unload, and return for more waste. Transport operations often take until after dawn on Saturdays to remove all the waste.

Action: Daylight hours on Saturdays in June, July, August and September: An average of nine trips occurred.

Action: All hours on Sundays in June, July, August and September: No trips occurred on Sundays during the reporting period.

4. CSU shall comply with Gilliam County's Waste Reduction Program and Specification 21.0 of the Waste Transport Services Contract by backhauling recyclables from Arlington to available recyclable markets.

Action: CSU has arranged for the transport of recyclables through Oregon Waste Systems, Inc., the landfill operator. Recyclables have been transported to market during this report period.

5. Per ODOT operation requirements, CSU trucks shall include splash and spray suppressant devices behind each wheel and rain suppressant side flaps on all non-turning axles.

Action: CSU has complied with ODOT requirements.

6. CSU shall comply with Specification 10.2, paragraph 2, of the Waste Transport Services Contract by utilizing containers that will not leak or release solid waste on roads.

Action: No citations were issued for leaking trailers in 2006. No citations have been issued for the release of waste on roads since the hauling contract commenced in January 1990. There have been two citations issued for leaking trailers since January 1990.

7. CSU shall comply with Specification 10.2, paragraph 4, of the Waste Transport Services Contract by maintaining tractors and containers suitably painted to present an acceptable appearance in the opinion of Metro, including reasonable promotion of waste reduction and recycling.

Action: CSU tractors are washed in Arlington. The trailers are washed at the Metro Central Transfer Station site using a portable washing system. The painting of the tractors and trailers meets Metro's standards. Metro designed a waste reduction and recycling sign for installation on the trailers. The sign has been installed on the rear doors of the trailers.

8. Monitoring of the Waste Transport Services Contract shall include monthly coordination meetings with a monthly report presented by CSU to discuss operational problems, complaints and any extraordinary occurrences per Specification 4.0 of the Waste Transport Services Contract. Monthly reports shall include written explanation of operational changes more than five (5) days during the month causing trucks to stop at points inside the Columbia River Gorge NSA or to operate during the hours indicated in Item 3, above.

Action: CSU has complied with the meeting and reporting requirements. No operational changes occurred that required trucks to stop in the NSA. See the discussion of Item 3 above for actions regarding hours of operation.

9. The public review process which has solicited public comment on the draft Operations Plan shall continue to review ongoing operations with mutually agreed-upon Gorge representatives in meetings once per year. Interested parties who request notice shall be notified of the time and place of the once per year public meetings. Metro shall prepare a report reviewing the past calendar year of operations for distribution at the meetings, which shall be available ten (10) days prior to the meeting. Metro shall conduct a six-month public review meeting if fifteen (15) or more individuals so request; a report reviewing the operations will be available ten (10) days prior to any such meeting. The location of all meetings shall alternate between Portland and the Columbia Gorge.

Action: Paragraph 9 of this mitigation agreement was amended in June 2004. Based upon the excellent transport record of the waste transport operator, and the fact that no representative of Oregon AAA (Automobile Club of Oregon) or Friends of the Columbia Gorge has attended the annual public meeting in the past ten years, and no member of the general public has attended the annual public meeting in the past seven years, it was proposed by Metro to amend the Agreement to eliminate the annual public meeting. Metro would continue to publish a written report each year regarding its solid waste transport operations.

On April 27, 2004, a Public Notice was sent to interested parties stating Metro's proposal to eliminate the annual public meeting. In addition, a Public Notice was printed in *The Oregonian* on May 7, 2004. Paragraph 9 was amended by Metro's Chief Operating Officer on June 14, 2004, after thirty days notice to interested parties. The amendment eliminated the annual public review meeting. The amendment provides that "each year Metro shall prepare and publish an annual report reviewing the solid waste transport operations for the past calendar year." There was no opposition to the amendment.

10. Metro shall conduct an annual audit of CSU dispatch logs to determine contractor compliance with regulatory requirements, contract specifications and mitigation of truck impact provisions. The audit shall include a determination of the reasons for operations outside these mitigation provisions as part of contract administration. This annual audit shall be reported to Metro Council as part of contract administration.

Action: Metro has conducted such an audit and the findings are shown in Appendix A of this report.

11. All mitigation of truck impact provisions for CSU shall be requirements for any subcontractor of CSU to the extent required by the Waste Transport Services Agreement.

Action: There are no subcontractors of CSU who are impacted by the mitigation provisions.

12. Proposed permanent amendments to these mitigation of truck impact provisions in Exhibit 12 of the Operation Plan may be approved by Metro's Executive Officer after thirty (30) days notice to interested parties who request such notice.

Action: Paragraph 9 of this mitigation agreement was amended on June 14, 2004. For details see Paragraph 9 above.

CG:gbc  
M:\rem\remdept\projects\Transport\project\Team Notes\Report2006\2006 ANNUAL RPT.doc  
Queue

## **Appendix A**

### **Audit of Dispatch Logs**

## AUDIT OF DISPATCH LOGS

Paragraph 10 of the Mitigation of Trucks Impact Agreement requires that:

"Metro shall conduct an annual audit of dispatch logs to determine contractor compliance with regulatory requirements, contract specifications and mitigation of truck impact provisions. The audit shall include a determination of the reasons for operations outside the mitigation provisions as part of contract administration".

Period Covered/Records Audited: This audit report is for the period of January 1 through December 31, 2006. In addition to auditing CSU dispatch logs, Metro audited CSU drivers' logs, as recommended by the Oregon Department of Transportation (ODOT), for drivers' hours and drivers' off time.

### FINDINGS:

Paragraph 2 of the Settlement Agreement states that trucks shall stop at designated stopping points outside the Columbia River Gorge National Scenic Area (NSA) except in cases of emergency. Emergencies are considered to include flat tires, mechanical problems, accidents, installation or removal of tire chains, and inspections. According to the audit, CSU trucks stopped in the NSA 175 times, as follows:

- 108 times for flat tires
- 9 times to put on tire chains
- 23 times for mechanical and electrical problems
- 21 times for closure of Highway I-84, to wait at accidents, and traffic
- 3 times for involvement in an accident
- 8 times to assist others
- 3 times for miscellaneous reasons (personal, etc.)

Paragraph 3 of the Agreement states that trucks shall operate twenty-four (24) hours a day. However, to the extent feasible, trucks shall not operate in the Columbia River Gorge NSA during the following times:

- 4:00 to 10:00 p.m., Friday afternoons in June; July; August and September.
- Daylight hours on Saturday in June, July, August and September.
- All hours on Sunday in June, July, August and September.

An audit of the CSU dispatch logs indicates that in 2006, an average of 40 trips occurred in the NSA on Fridays between 4:00 p.m. and 10:00 p.m.. One trip equals one-way: Westbound from Arlington to Portland, or Rufus to Portland; Eastbound from Portland to Rufus, or Portland to Arlington.

There was an average of nine trips in the NSA on Saturdays during daylight hours in the months of June, July, August and September. Daylight hours are considered to be 6:00 a.m. to 10:00 p.m. There were no trips in the NSA on Sundays during 2006.

Paragraph 6 of the Agreement states that CSU shall use containers which will not leak or release solid waste on the highways. No citations were issued for leaks or solid waste releases in 2006.

Drivers' Hours: Drivers are allowed to drive twelve hours per day. Drivers must be off duty at least eight hours. No violations of these regulatory requirements were found.

## SUMMARY

The audit of CSU dispatch logs and CSU drivers' logs indicates substantial compliance with regulatory requirements, contract specifications and mitigation of truck impact provisions of the settlement agreement.

## **Appendix B**

### **Inspection Information and Definitions**





# Oregon

Theodore E. Kaltrgeoski, Governor

February 28, 2007

Department of Transportation  
 Motor Carrier Transportation Division  
 350 Capitol Street, N.E.  
 Salem, OR 97301-2530

FILE CODE

METRO REGIONAL SERVICES  
 ENVIRONMENTAL SERVICES DIVISION  
 800 NE GRAND AVE  
 PORTLAND OR 97232-2736

ATTN: Chuck Geyer, Principal Solid Waste Planner

RE: 2006 Safety Information for CSU Transport Inc.

During calendar year 2006, we conducted 26 truck safety inspections of CSU Transport Inc. and identified 63 safety violations. A summary of those inspections and violations is attached. Please note that this summary is limited to CSU Transport Inc. inspections conducted within Oregon and the table below provides a comparison of this carrier's operation within Oregon to National Averages.

Inspection Category	Oregon Out of Service Inspections	Oregon Out of Service Rate	National Out of Service Rate
Driver Out of Service	0	0	6.61%
Vehicle Out of Service	6	25%	23.35%

At this time one federally recordable crash and one non-federally recordable crash reports are on file with the Department involving CSU Transport Inc. during 2006. If you have questions regarding truck crashes, please contact Jack Shepard, ODOT's Truck Crash Analyst, at 503-986-3507.

Please contact me if you need additional information.

Thomas M. Bradd  
 Safety Information Coordinator

Phone: (503) 378-4601  
 Fax: (503) 378-8815  
 Email: thomas.m.bradd@odot.state.or.us

**Oregon Department of Transportation  
Motor Carrier Transportation Division  
2006 Safety Inspection Summary of CSU Transport, Inc.**

Prepared for METRO Regional Services

Driver out

Date	Inspection	violations	Vehicle out	Driver out of service
January 11, 2006	ORAAAQ001473	2		
January 17, 2006	ORSPCU000243	3		
January 19, 2006	OR000S478911	2		
February 9, 2006	OR000S478917	1	Yes	
February 15, 2006	OR000S478789			
February 23, 2006	ORSPGB001208	1		
June 7, 2006	OR000S481080	1		
June 8, 2006	ORAAAQ001855	1		
June 9, 2006	OR000S493148	8	Yes	
June 9, 2006	OR000S493146	3		
June 9, 2006	OR000S493145	5		
June 27, 2006	OR000S478385			
June 29, 2006	ORAADJ001496	4	Yes	
July 6, 2006	ORSPCA001580	2		
July 12, 2006	ORAAAQ001965	6	Yes	
July 24, 2006	ORSPCA001601	2		
August 4, 2006	OR000S478050	1		
August 24, 2006	OR000S493813	6		
September 14, 2006	OR000S494525	1		
September 20, 2006	ORAASK002067	3	Yes	
October 9, 2006	OR000S463049			
October 24, 2006	ORAASG000784	3	Yes	
October 27, 2006	ORAAAQ002190	2		
October 31, 2006	ORAAAQ002217	1		
December 13, 2006	ORAASG000839	4		
December 20, 2006	ORSPGB001459	1		

Prepared February 28, 2007

**Oregon Department of Transportation  
Motor Carrier Transportation Division**

2006 Safety Violations by CSU Transport, Inc.

Prepared for METRO Regional Services

Violation

Vehicle violations

Driver Violations

Violation	Driver Violations	Vehicle Violations
11 hour rule violation (Driver Hours of Service)	3	
Brake-out of adjustment		1
Brake-reserve system pressure loss		1
Brakes (general)		9
Emergency warning devices not as required		1
Failing to use seat belt while operating CMV	1	
Following too close	1	
Frame accessories not bolted/riveted securely		1
Inadequate reservoir for air/vacuum brakes		5
Inoperable lamp (other than head/tail)		6
Inoperative/defective brakes		2
Inspection/repair and maint parts & accssries		4
Leaf spring assembly defective/missing		1
Local laws (general)	2	3
Log violation (general/form and manner)	2	
Oil and/or grease leak		2
Other		5
Size and weight		1
Speeding	6	
Stop lamp violations		3
Tire-flat and/or audible air leak		1
Tire-ply or belt material exposed		1
Wheel fasteners loose and/or missing		1

Prepared February 28, 2007

## INSPECTION INFORMATION AND DEFINITIONS

- The "Industry" classification is for all commercial transport within Oregon and registered with the Oregon Department of Transportation (ODOT).
- The "Out of Service" distinction is a percentage calculation based upon vehicles inspected by the ODOT that are not allowed to continue over-the-road transport until repairs are accomplished, divided by the total number of carrier's vehicle inspected.
- Definition of "Reportable Accident":

The term "reportable accident" means an occurrence involving a commercial motor vehicle operated on public highways by a motor carrier subject to the provisions of ORS Chapter 767, resulting in:

- a) Fatality: One or more persons killed in or outside the vehicle, or who died within 30 days as a result of the accident; or
- b) Injury: One or more persons injured as a result of the accident, and transported from the scene for medical treatment; or
- c) Tow-away: One or more vehicles disabled as a result of the accident, and towed from the scene.

## **Appendix C**

### **Letters to CSU**

THANK YOU

Designer Collection™  
AN AMERICAN CRESTED COMPANY  
DCTY 11/751  
© 1992, Inc.

Dear Sirs,

Thank you so much for the relationship to DSU. I appreciate it greatly. I am taking 16 hours this first quarter and so far I really like it here. Again, thank you for your help.

Sincerely,  
Brent King

Thank you,  
thank you,  
thank you...

Tender Thoughts

TET 8009S  
©AGC, Inc.

Dear CSU Transport Inc,

Thank you for the scholarship. It will come in handy to help pay for college this Fall.

...very much!

I really appreciate all the hard work and effort you guys do to help provide money for college bound students like myself. What would we do without people like you in our community? Thanks again for everything you do.

Sincerely,

Angela Hanson

WESTERN OREGON  
UNIVERSITY

December 19, 2006

CSU TRANSPORT INC  
17701 CEDAR SPRINGS LANE  
ARLINGTON OR 97812

Dear Ladies and Gentlemen:

Thank you very much for your scholarship support of a Western Oregon University student.

Your contribution is helping to make the dream of a college education a reality for this student.

Thank you again for your support.

Sincerely,



Leta Edwards  
Vice President for University Advancement

LE:dlc

Scholar.doc



**WHITE PAPER**  
**METRO SOLID WASTE TRANSPORTATION STUDY**  
**SECTIONS 4.3 AND 5**

---

*Final White Paper*

# Metro Solid Waste Transportation Study

Prepared for



**METRO**  
PEOPLE PLACES • OPEN SPACES

May 2007

Prepared by

**CH2MHILL**

CH2M HILL  
P.O. Box 91500  
Bellevue, WA 98009

In association with WIH Resources Group



## 4.3 Fuel Use and Emissions Estimates

### 4.3.1 Methodology

Different approaches were used to estimate emissions for each mode. Modeling emissions is complex and depends on a host of variables that cannot easily be specified in a planning-level analysis. For this study, modeling approaches that were used that were flexible enough to address the many combinations of modes, locations, and distances in the scenarios, yet rigorous enough to give good, planning-level estimates.

A discussion of the models used to estimate emissions for each mode follows.

#### Barge Fuel Use and Emissions

**Fuel Use.** Fuel use for barges was based on input from industry representatives and was assumed to be 75 gallons per hour. Metro was assigned a percent share of that fuel use based on its share of the cargo carried on that trip, which in 2010 was 41 percent for Scenarios 1a and 1b, and 20 percent for 1c. This percentage increases in future years proportional to increases in tonnage.

**CO<sub>2</sub> Emissions.** Information provided in *Emissions Facts: Average Carbon Dioxide Emissions Resulting from Gasoline and Diesel Fuel*, EPA420-F-05-001, February 2005, was used to calculate carbon dioxide (CO<sub>2</sub>) emissions of 10,084 grams per gallon of diesel fuel burned. This factor was used for both tugs and locomotives.

**NO<sub>x</sub> and PM Emissions.** Nitrogen oxides (NO<sub>x</sub>) and particulate matter (PM) emissions in grams per mile were calculated using the methodology from *Analysis of Commercial Marine Vessels Emissions and Fuel Consumption Data*, EPA420-00-002, February 2000. (EPA Emissions Study). In this document, an emission rate in grams per kilowatt-hour (g/kW-hr) is calculated using the fractional load and defined coefficients shown in equation 1:

$$\text{Emission rate (ER)} = a (\text{Fractional Load})^x + b \quad (1)$$

To determine emissions in grams per mile, the emission rate is multiplied by mode specific power and the annual hours of travel then divided by the annual miles as in equation 2.

$$\text{Emissions} = \text{ER} * \text{Mode specific (kW)} * \text{Time (hours)} / \text{Distance traveled (miles)} * \text{Metro share of tow (41\% in Scenario 1a in 2010)} \quad (2)$$

Mode specific power is the rated horsepower in kilowatts of the tug multiplied by the fractional load the tug is operating. In the SR 47 document, cruising is defined as 80% load; slow cruising is defined as 40% load.

Estimated NO<sub>x</sub> and PM emissions in grams per mile from the EPA Emissions Study (calculated for Scenario 1a) are shown below.

<b>Mode of Operation</b>	<b>NO<sub>x</sub> (grams/mile)</b>	<b>PM (grams/mile)</b>
EPA Commercial Marine Cruise	1,100	27
EPA Commercial Marine Slow Cruise	566	14

The CH2M HILL project team estimates that barge operations could be characterized as 90 percent “Marine Cruise” and 10 percent as “Slow Cruise”. This results in NO<sub>x</sub> emissions of 1,047 g/mile and PM emissions of 26 g/mile.

On May 10, 2004, EPA finalized the Clean Air Nonroad Diesel Rule. This rule requires the sulfur content of marine diesel and locomotive fuel to drop from its current level of approximately 3,000ppm to 500ppm (low sulfur diesel) in June 2007 and 15ppm (ultra low sulfur diesel, ULSD) in June 2012. The reduction in sulfur levels will reduce PM and NO<sub>x</sub> emissions from diesel engines currently in operation. EPA estimates that low sulfur diesel will result in a 10-15% reduction in PM emissions compared to existing non-road diesel fuel, and using ULSD will result in an additional 5-10% reduction in PM emissions<sup>2</sup>. For the purposes of this study, the midpoints of these ranges are used, and the phase-in to ULSD is assumed to begin in 2013 (i.e., rounding to the first full year of operation).

Reducing the sulfur content of fuel will also reduce NO<sub>x</sub> emissions somewhat. There is less information available about the relationship between sulfur in fuel and NO<sub>x</sub> emissions. Based on a review of available literature<sup>3</sup>, this study assumes that using low sulfur diesel will result in a 10% reduction in NO<sub>x</sub> emissions, and using ULSD will result in an additional 5% reduction in NO<sub>x</sub> emissions.

These adjustments are made to both marine and locomotive diesel consumption estimates. The emissions estimates used in this study for the barge mode for various time periods follow.

<b>Mode of Operation</b>	<b>NO<sub>x</sub> (grams/mile)</b>	<b>PM (grams/mile)</b>
2010-2012 (Low Sulfur Diesel)	916	23
2013-2019 (Ultra Low Sulfur Diesel)	847	22

Additional calculations used to prepare these emission rates are shown in Appendix C.

<sup>2</sup> *Finding Strategies that Work: Advanced Pollution Controls for Commuter Locomotives*. Lucy Edmonton, EPA New England. January 26, 2006.

<sup>3</sup> See for example the London and California examples in: *International Experience On Ultra Low Sulfur Diesel and Biodiesel*. Michael P. Walsh. Hong Kong Environmental Protection Department Motor Vehicles Emissions Group. January 24, 2000; and *Diesel Health Impacts and Recent Comparisons to Other Fuels*. Diane Bailey, Natural Resources Defense Council, DEER Conference, San Diego, CA, August 2002.

**Proposed EPA Rule<sup>4</sup>.** EPA is proposing to adopt more stringent standards for marine diesel engines and locomotives that would have three main effects. First, existing locomotive engines would be affected when they are remanufactured. These standards would take effect as soon as certified remanufacture systems are available (as early as 2008), but no later than 2010 (2013 for Tier 2 locomotives). EPA is also requesting comment on similar requirements for certain existing marine diesel engines when they are remanufactured.

Second, EPA is proposing near-term emission standards, referred to as Tier 3 standards, for newly-built locomotive and marine engines. These standards would reflect the application of technologies to reduce engine-out PM and NO<sub>x</sub> emissions and would phase in starting in 2009.

Third, EPA is proposing long-term emissions standards, referred to as Tier 4, for newly-built locomotives and marine diesel engines. These standards are based on the application of high-efficiency catalytic after treatment technology and would phase in beginning in 2014 for marine diesel engines and 2015 for locomotives. These standards are enabled by the ULSD that is required to be made available to non-road shippers beginning in 2012. These marine Tier 4 engine standards would apply to commercial marine diesel engines above 800 hp and recreational marine diesel engines above 2,000 hp. The proposal would result in PM reductions of about 90 percent and NO<sub>x</sub> reductions of about 80 percent from engines meeting these standards, compared to engines meeting the current standards. The proposed standards would also yield sizeable reductions in emissions of HC, CO, and other air toxics.

### Rail Fuel Use and Emissions

Based on input from industry representatives, rail fuel use was assumed to be 6,000 gallons total for three locomotives per round trip for a 6,000 foot train. Fuel use was adjusted so that every 1 percent reduction in tonnage results in a 0.33 percent reduction in fuel use.

NO<sub>x</sub> and PM emissions from the use of locomotives were calculated using the methodology from EPA's *Technical Highlights, Emission Factors for Locomotives*, EPA420-F-97-051, December 1997. Emission factors vary according to the age of the locomotive with Tier 0 standards applying to locomotives originally manufactured between 1973 and 2001, Tier 1 standards applying to locomotives manufactured from 2002 through 2004 and Tier 2 standards applying to locomotives manufactured in 2005 and later.

The average age of the locomotives was assumed to be 10 years each year of the 2010-2019 project. Therefore, Tier 0 standards were used for the first year of the project; Tier 1 standards were used for the years 2011 through 2013 and Tier 2 standards were used for the remaining years.

Equation 3 presents the calculation of NO<sub>x</sub> and PM emissions in grams per mile:

$$\text{Emissions (NO}_x \text{ and PM)} = F \times \text{EF} / M \quad (3)$$

Where

F = annual fuel consumption, gallons

<sup>4</sup> <http://www.epa.gov/otaq/regs/nonroad/420f07015.htm>

EF = Emission factor (gram per gallon, g/gal)

M = annual miles traveled

As discussed above for barge emissions, a reduction in emissions from the use of low sulfur diesel and ultra low sulfur diesel was applied. The low sulfur diesel adjustment was applied to Tier 0 and Tier 1, and the ultra low sulfur diesel adjustment was applied to Tier 2. Emission factors are presented in Exhibit 4-5.

EXHIBIT 4-5  
Locomotive Emission Factors – Grams Per Gallon

Tier	NO <sub>x</sub>	PM
0	155.8	6.0
1	121.6	6.0
2	83.4	3.1

### Truck Fuel Use and Emissions

Based on the project team's knowledge of trucking operations and information about Metro's existing system, the following fuel economy was assumed for different types of trucks:

- Long-haul with new engines: 5.5 mpg
- Drayage with new engines: 4.5 mpg
- Leased trucks during lock closures: 5.0 mpg

NO<sub>x</sub>, PM and CO<sub>2</sub> emissions from the use of trucks were calculated using the Freight Logistics Environmental and Energy Tracking Performance Model (FLEET). The model is available at [http://www.epa.gov/smartway/smartway\\_fleets\\_software.htm](http://www.epa.gov/smartway/smartway_fleets_software.htm). Inputs included number of trucks, payload, vehicle class, fuel consumption and idling hours.

The FLEET model accounts for the mandated changes in truck technology and for the use of ultra-low sulfur diesel in 2007. Additional inputs include truck model year and the year emissions are to be calculated. The model does not account for upgrades to engines in 2010. These upgrades affect NO<sub>x</sub> emissions. NO<sub>x</sub> emissions were reduced by 80 percent consistent with EPA estimates.

## 4.3.2 Fuel Use and Emissions Results

### Emissions in Grams per Mile

Emissions in grams per mile for all transportation links in the scenarios are shown in Exhibit 4-6. (This exhibit and all subsequent exhibits are shown at the end of this section.)

### Total Fuel Use and Emissions, 2010-2019

Estimated fuel use and emissions for each scenario are shown graphically in Exhibits 4-7 to 4-10, and in tabular form in Exhibit 4-11. As shown, the scenarios with a barge line-haul (1a, 1b, 4a) have significantly lower fuel and CO<sub>2</sub> emissions compared to the other

scenarios. The all truck scenario, Scenario 3 would result in the lowest PM and NO<sub>x</sub> emissions.

### **Emissions in the Columbia River Gorge Scenic Area**

As discussed in a variety of publications including the *Columbia River Gorge Visibility Project, 2006 Annual Report*, Oregon Department of Environmental Quality, Southwest Clean Air Agency, September 12, 2006, there is heightened sensitivity about air pollution that is causing visibility and other concerns in the Columbia River Gorge Scenic Area. In response, diesel fuel use and NO<sub>x</sub> emissions in the Scenic Area were estimated for the scenarios as shown in Exhibit 4-12. Because of a lack of available emissions data, diesel fuel use was used as a proxy for SO<sub>x</sub> emissions.

### **Likely Effects from EPA Proposed Marine Diesel and Locomotive Standards**

Should they be adopted as law, the proposed EPA marine diesel and locomotive standards would result in a phase in of much cleaner operating diesel engines. As discussed above, remanufactured engines would be required to have improved emissions performance at some point between 2008 and 2010, and after 2014 (marine diesel) and 2015 (locomotive), all new engines would be required to include emissions reduction technologies similar to those about to take effect on trucks that would result in a projected reduction of 90 percent of PM emissions and 80 percent of NO<sub>x</sub> emissions. Thus, there would be some potential for regulatory action or the initiative of barge and rail companies that would result in a substantial improvement in emissions performance during the life of the Metro contract.

PM and NO<sub>x</sub> emissions estimates using marine diesel and locomotive engines that meet the emissions performance outlined in the proposed EPA standards are shown in Exhibits 4-13 and 4-14. Under these circumstances, barge and truck would have similar PM emissions, but the all-truck scenario (Scenario 3) would still have substantially lower NO<sub>x</sub> emissions than the other scenarios.

### **Uncertainty Associated with Emissions Estimates**

Considerably more research has been done to model emissions from trucks than has been done for barge and rail. In addition, emissions are inherently difficult to estimate because they depend on many factors such as fuel sulfur content, engine loading, wind, currents, tare weights, and aerodynamic drag. Specifically, in the case of barging, water depth, engine power, and draft all have unique effects on emissions. Additionally EPA standards for emissions for trucks are much more stringent than that for the barge and railroad industry. These uncertainties should be recognized when making conclusions made based on the estimates provided in this report.



EXHIBIT 4-6  
Emissions Outputs

Truck Movement	Scenario	Engine	Grams per Mile		
		Year	CO2	PM	NOx
1. Truck - Current System	0	2002	1,900	0.26	11.17
2. Truck - Current System in Gorge	0	2002	1,900	0.26	11.17
3. Truck - drayage, new with 2007 compliant engines	1a	2010	2,238	0.08	0.69
4. Truck - drayage trucks, lock closure (new engines)	1a	2010	2,014	0.08	0.73
5. Truck - leased fleet trucks during lock closure	1a	2004	2,014	0.25	7.00
6. Truck - leased fleet trucks during lock closure	1a	2013	2,014	0.08	0.73
7. Trucks Through Gorge - drayage trucks, lock closure	1a	2010	2,014	0.08	0.73
8. Trucks Through Gorge - leased fleet trucks, lock closure	1a	2004	2,014	0.25	7.00
9. Trucks Through Gorge - leased fleet trucks, lock closure	1a	2013	2,014	0.08	0.73
10. Tugs 2010-12	1a	Age 20	43,754	23.13	915.78
10A. Tugs 2013-19	1a	Age 20	43,754	21.97	847.09
11. Tugs	1a	New 2014	43,754	2.31	183.16
12. Truck - drayage, new with 2007 compliant engines	1b	2010	2,238	0.08	0.73
13. Truck - drayage trucks, lock closure (new engines)	1b	2010	2,014	0.08	0.73
14. Truck - leased fleet trucks during lock closure	1b	2004	2,014	0.25	7.00
15. Truck - leased fleet trucks during lock closure	1b	2013	2,014	0.08	0.73
16. Tugs 2010-12	1b	Age 20	46,281	24.71	968.36
16A. Tugs 2013-19	1b	Age 20	46,281	23.47	895.73
17. Tugs	1b	New 2014	46,281	2.47	193.67
18. Truck - drayage, new with 2007 compliant engines	2a	2010	2,238	0.08	0.73
19. Locomotives - Tier 0, 2010	2a	Age 10	188,571	110.00	2,996.00
19. Locomotives - Tier 1, 2011-13	2a	Age 10	188,571	110.00	2,339.00
19. Locomotives - Tier 2, 2014-19	2a	Age 10	188,571	58.00	1,724.00
20. Locomotives	2a	New 2015	188,571	11.00	599.20
21. Truck - drayage, new with 2007 compliant engines	2b	2010	2,238	0.08	0.73
22. Locomotives - Tier 0, 2010	2b	Age 10	188,571	110.00	2,996.00
22. Locomotives - Tier 1, 2011-13	2b	Age 10	188,571	110.00	2,339.00
22. Locomotives - Tier 2, 2014-19	2b	Age 10	188,571	58.00	1,724.00
23. Locomotives	2b	New 2015	188,571	11.00	599.20
24. Truck - drayage, new with 2007 compliant engines	2c	2010	2,238	0.08	0.73
25. Locomotives - Tier 0, 2010	2c	Age 10	165,378	96.00	2,627.00
25. Locomotives - Tier 1, 2011-13	2c	Age 10	165,378	96.00	2,052.00
25. Locomotives - Tier 2, 2014-19	2c	Age 10	165,378	51.00	1,512.00
26. Locomotives	2c	New 2015	165,378	9.60	525.40
27. Truck - long-haul, new with 2007 compliant engines	3	2010	1,831	0.08	0.73
28. Truck Through Gorge - long-haul, new engines	3	2010	1,831	0.08	0.73
29. Truck - drayage, new with 2007 compliant engines	4a	2010	2,238	0.08	0.73
30. Truck - long-haul, new with 2007 compliant engines	4a	2010	1,831	0.08	0.73
31. Truck - drayage trucks, lock closure (new engines)	4a	2010	2,014	0.08	0.73
32. Truck - leased fleet trucks during lock closure	4a	2004	2,014	0.25	7.00
33. Truck - leased fleet trucks during lock closure	4a	2013	2,014	0.08	0.73
34. Tugs 2010-12	4a	Age 20	21,343	11.39	446.58
34A. Tugs 2013-19	4a	Age 20	21,343	10.82	413.09
35. Tugs	4a	New 2014	21,343	1.14	89.32
36. Truck - drayage, new with 2007 compliant engines	4b	2010	2,238	0.08	0.73
37. Truck - long-haul, new with 2007 compliant engines	4b	2010	1,831	0.08	0.73
38. Locomotives - Tier 0, 2010	4b	Age 10	161,344	94.00	2,563.00
38. Locomotives - Tier 1, 2011-13	4b	Age 10	161,344	94.00	2,002.00
38. Locomotives - Tier 2, 2014-19	4b	Age 10	161,344	50.00	1,475.00
39. Locomotives	4b	New 2015	161,344	9.40	512.60

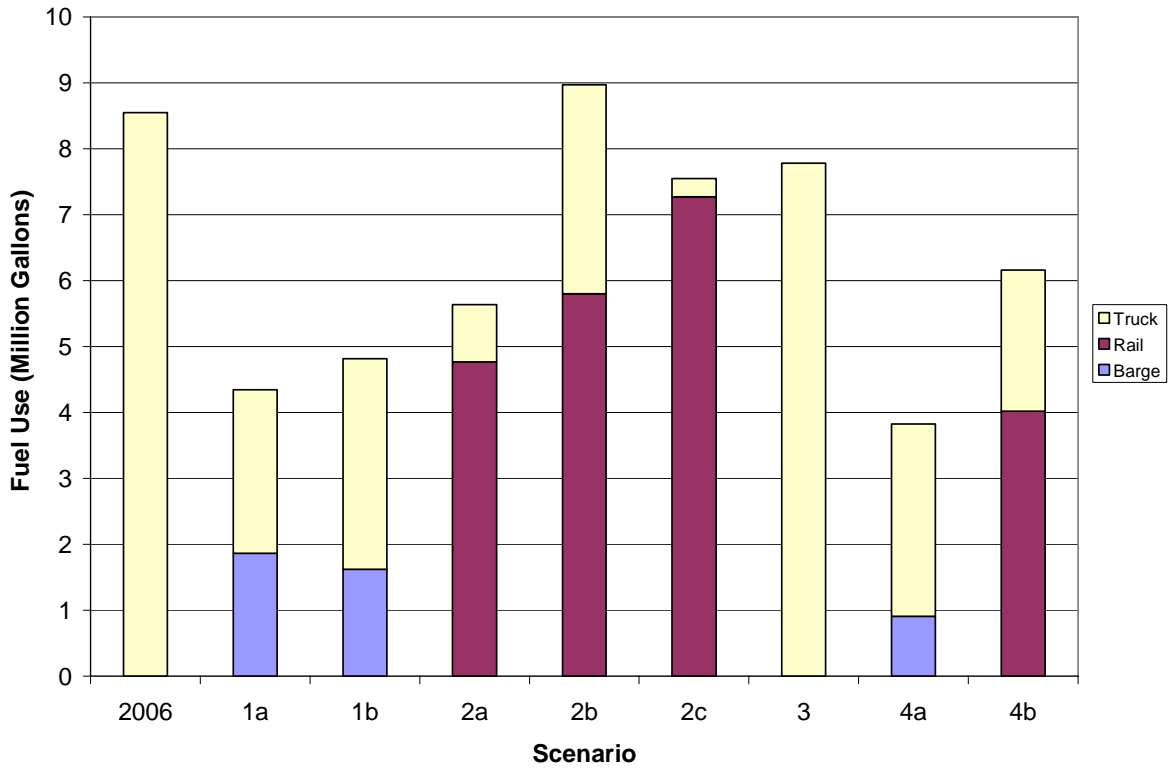


EXHIBIT 4-7  
 Estimated Fuel Use (mgal)  
 PV2010-2019

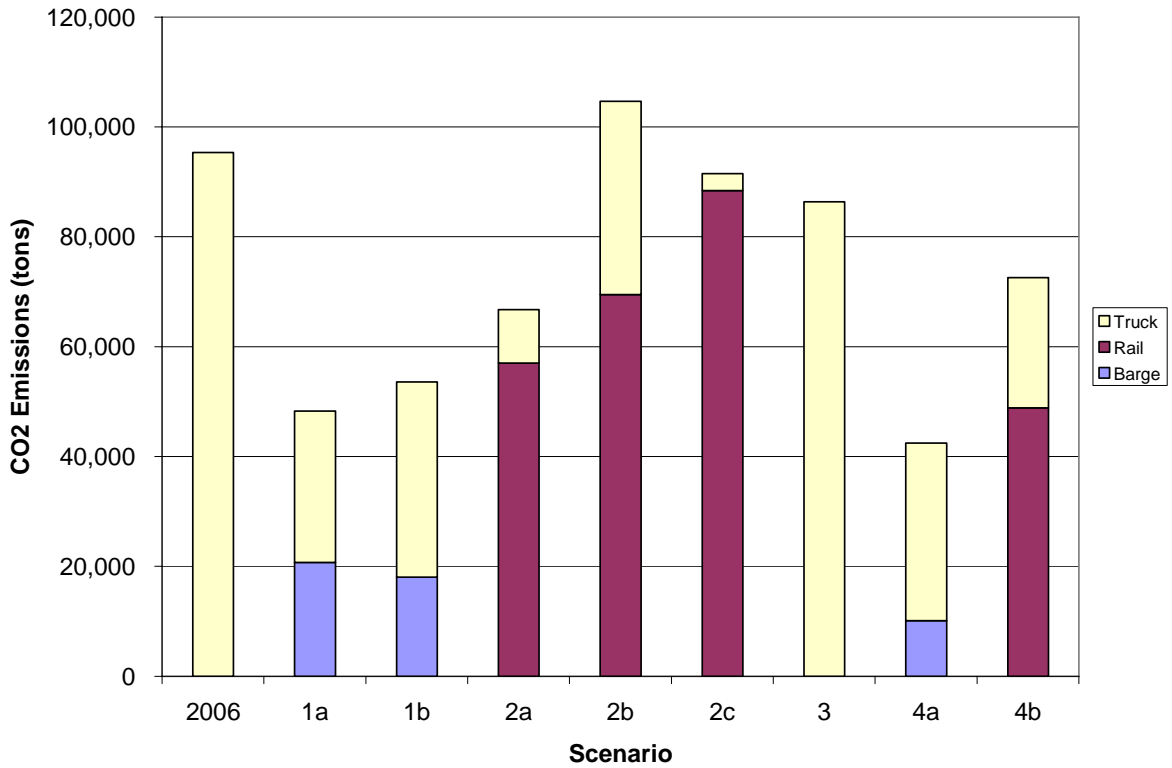


EXHIBIT 4-8  
 Estimated CO<sub>2</sub> Emissions (tons)  
 PV 2010-2019

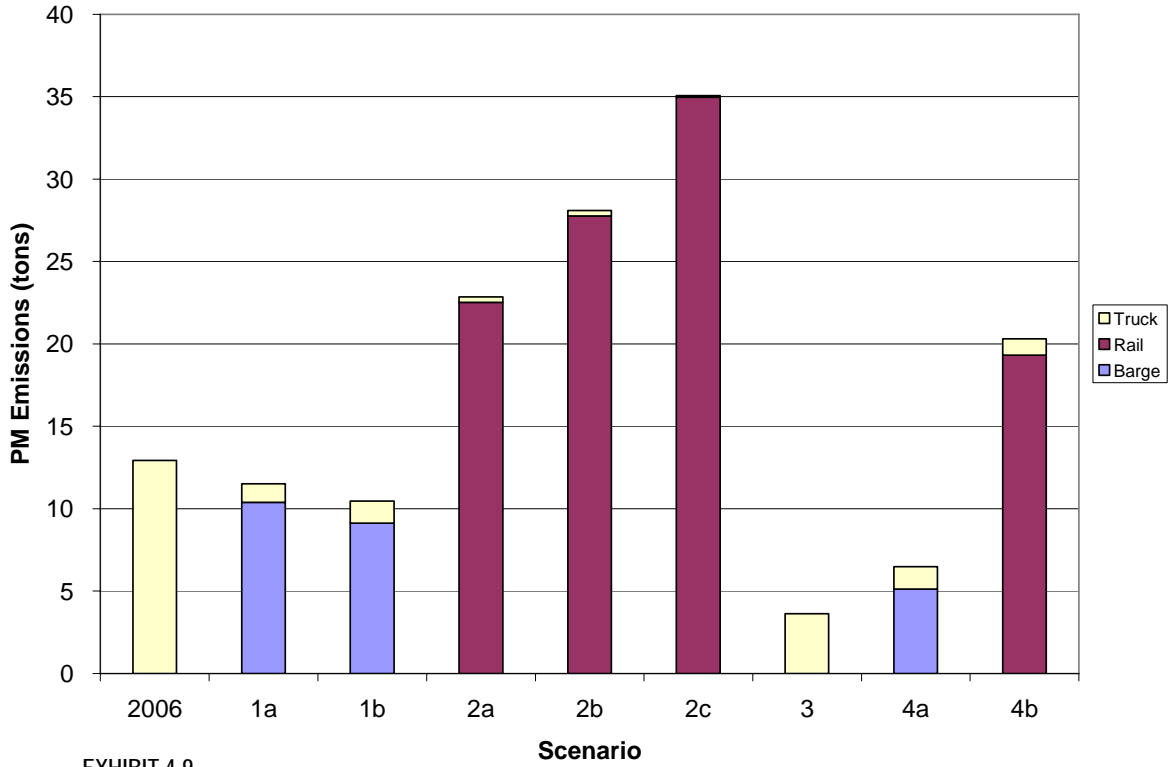


EXHIBIT 4-9  
Estimated PM Emissions (tons)  
PV 2010-2019

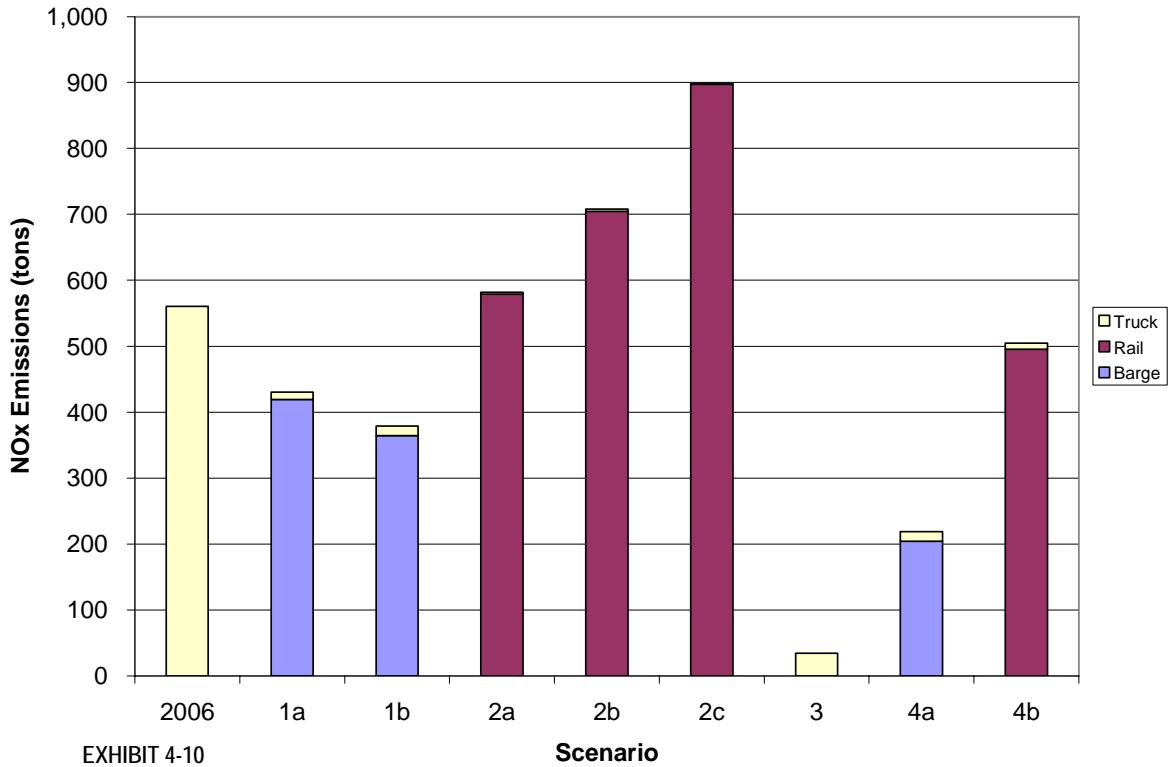


EXHIBIT 4-10  
Estimated NO<sub>x</sub> Emissions (tons)  
PV 2010-2019

EXHIBIT 4-11  
Fuel Use and Emissions Summary

	Present Value, Operations from 2010-2019			
	Fuel (Gallons)	Emissions (tons)		
		CO2	PM	NOx
<b>Total</b>				
Current System	8,549,621	95,347	12.9	560.6
Scenario 1a - Barge:T2 (west) and Willow Creek (east)	4,343,051	48,237	11.5	430.5
Scenario 1b - Barge Northern Portland (west) and Willow Creek (east)	4,817,262	53,561	10.5	378.7
Scenario 2a - Rail: T2 (west) and CRL (east)	5,634,355	66,709	22.9	582.1
Scenario 2b - Rail: T2 (west) and Port of Morrow (east)	8,969,528	104,636	27.8	708.1
Scenario 2c - Rail: Portland Rail Yard and Metro South (west) and CRL (east)	7,548,842	91,478	34.9	898.1
Scenario 3 - Truck Haul Similar to Current System	7,780,479	86,364	3.6	34.5
Scenario 4a - Barge from Central (T2-Willow Creek) and Truck from South	3,823,356	42,454	6.5	218.8
Scenario 4b - Rail from Central (T2-CRL) and Truck from South	6,159,217	72,542	20.3	504.7
<b>Barge</b>				
Current System	0	0	0.0	0.0
Scenario 1a - Barge:T2 (west) and Willow Creek (east)	1,866,350	20,746	10.4	419.0
Scenario 1b - Barge Northern Portland (west) and Willow Creek (east)	1,622,913	18,040	9.1	364.3
Scenario 2a - Rail: T2 (west) and CRL (east)	0	0	0.0	0.0
Scenario 2b - Rail: T2 (west) and Port of Morrow (east)	0	0	0.0	0.0
Scenario 2c - Rail: Portland Rail Yard and Metro South (west) and CRL (east)	0	0	0.0	0.0
Scenario 3 - Truck Haul Similar to Current System	0	0	0.0	0.0
Scenario 4a - Barge from Central (T2-Willow Creek) and Truck from South	910,415	10,120	5.1	204.3
Scenario 4b - Rail from Central (T2-CRL) and Truck from South	0	0	0.0	0.0
<b>Rail</b>				
Current System	0	0	0.0	0.0
Scenario 1a - Barge:T2 (west) and Willow Creek (east)	0	0	0.0	0.0
Scenario 1b - Barge Northern Portland (west) and Willow Creek (east)	0	0	0.0	0.0
Scenario 2a - Rail: T2 (west) and CRL (east)	4,763,950	57,047	22.5	578.9
Scenario 2b - Rail: T2 (west) and Port of Morrow (east)	5,801,001	69,465	27.8	704.9
Scenario 2c - Rail: Portland Rail Yard and Metro South (west) and CRL (east)	7,270,774	88,391	34.9	897.1
Scenario 3 - Truck Haul Similar to Current System	0	0	0.0	0.0
Scenario 4a - Barge from Central (T2-Willow Creek) and Truck from South	0	0	0.0	0.0
Scenario 4b - Rail from Central (T2-CRL) and Truck from South	4,021,263	48,810	19.3	495.3
<b>Truck</b>				
Current System	8,549,621	95,347	12.9	560.6
Scenario 1a - Barge:T2 (west) and Willow Creek (east)	2,476,701	27,492	1.1	11.5
Scenario 1b - Barge Northern Portland (west) and Willow Creek (east)	3,194,348	35,521	1.3	14.5
Scenario 2a - Rail: T2 (west) and CRL (east)	870,405	9,662	0.3	3.2
Scenario 2b - Rail: T2 (west) and Port of Morrow (east)	3,168,527	35,171	0.3	3.2
Scenario 2c - Rail: Portland Rail Yard and Metro South (west) and CRL (east)	278,068	3,087	0.1	1.0
Scenario 3 - Truck Haul Similar to Current System	7,780,479	86,364	3.6	34.5
Scenario 4a - Barge from Central (T2-Willow Creek) and Truck from South	2,912,941	32,334	1.4	14.5
Scenario 4b - Rail from Central (T2-CRL) and Truck from South	2,137,954	23,732	1.0	9.3

## EXHIBIT 4-12

## Summary of Fuel Use and Emissions in the Columbia River Gorge Scenic Area

	Present Value, Operations from 2010- 2019	
	Fuel (Gallons)	Emissions NOx
<b>Total</b>		
Current System	4,668,543	306.1
Scenario 1a - Barge:T2 (west) and Willow Creek (east)	3,482,960	223.6
Scenario 1b - Barge Northern Portland (west) and Willow Creek (east)	3,870,355	238.0
Scenario 2a - Rail: T2 (west) and CRL (east)	4,763,950	326.9
Scenario 2b - Rail: T2 (west) and Port of Morrow (east)	5,801,001	326.9
Scenario 2c - Rail: Portland Rail Yard and Metro South (west) and CRL (east)	4,077,529	503.1
Scenario 3 - Truck Haul Similar to Current System	4,249,379	18.8
Scenario 4a - Barge from Central (T2-Willow Creek) and Truck from South	2,750,924	114.3
Scenario 4b - Rail from Central (T2-CRL) and Truck from South	5,963,181	288.3
<b>Barge</b>		
Current System	0	0.0
Scenario 1a - Barge:T2 (west) and Willow Creek (east)	3,212,451	221.1
Scenario 1b - Barge Northern Portland (west) and Willow Creek (east)	3,397,985	233.8
Scenario 2a - Rail: T2 (west) and CRL (east)	0	0.0
Scenario 2b - Rail: T2 (west) and Port of Morrow (east)	0	0.0
Scenario 2c - Rail: Portland Rail Yard and Metro South (west) and CRL (east)	0	0.0
Scenario 3 - Truck Haul Similar to Current System	0	0.0
Scenario 4a - Barge from Central (T2-Willow Creek) and Truck from South	1,567,049	107.8
Scenario 4b - Rail from Central (T2-CRL) and Truck from South	0	0.0
<b>Rail</b>		
Current System	0	0.0
Scenario 1a - Barge:T2 (west) and Willow Creek (east)	0	0.0
Scenario 1b - Barge Northern Portland (west) and Willow Creek (east)	0	0.0
Scenario 2a - Rail: T2 (west) and CRL (east)	4,763,950	326.9
Scenario 2b - Rail: T2 (west) and Port of Morrow (east)	5,801,001	326.9
Scenario 2c - Rail: Portland Rail Yard and Metro South (west) and CRL (east)	4,077,529	503.1
Scenario 3 - Truck Haul Similar to Current System	0	0.0
Scenario 4a - Barge from Central (T2-Willow Creek) and Truck from South	0	0.0
Scenario 4b - Rail from Central (T2-CRL) and Truck from South	4,021,263	279.7
<b>Truck</b>		
Current System	4,668,543	306.1
Scenario 1a - Barge:T2 (west) and Willow Creek (east)	270,509	2.5
Scenario 1b - Barge Northern Portland (west) and Willow Creek (east)	472,370	4.2
Scenario 2a - Rail: T2 (west) and CRL (east)	0	0.0
Scenario 2b - Rail: T2 (west) and Port of Morrow (east)	0	0.0
Scenario 2c - Rail: Portland Rail Yard and Metro South (west) and CRL (east)	0	0.0
Scenario 3 - Truck Haul Similar to Current System	4,249,379	18.8
Scenario 4a - Barge from Central (T2-Willow Creek) and Truck from South	1,183,875	6.4
Scenario 4b - Rail from Central (T2-CRL) and Truck from South	1,941,918	8.6

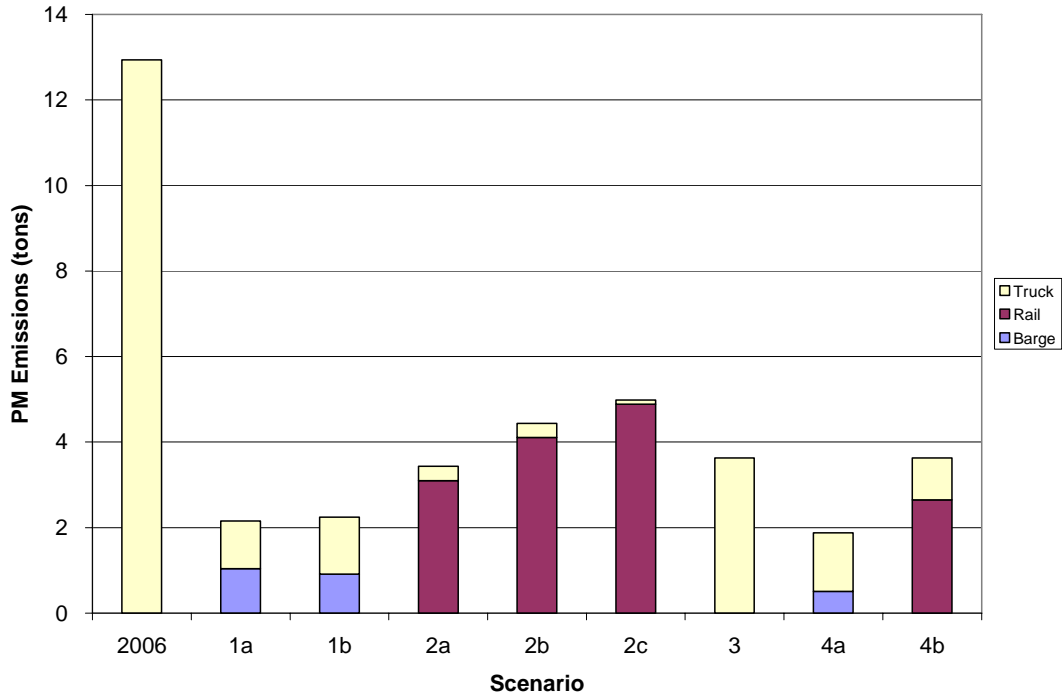


EXHIBIT 4-13  
 Estimated PM Emissions under Proposed EPA Marine Diesel and Locomotive Standards (tons)  
 PV 2010-2019

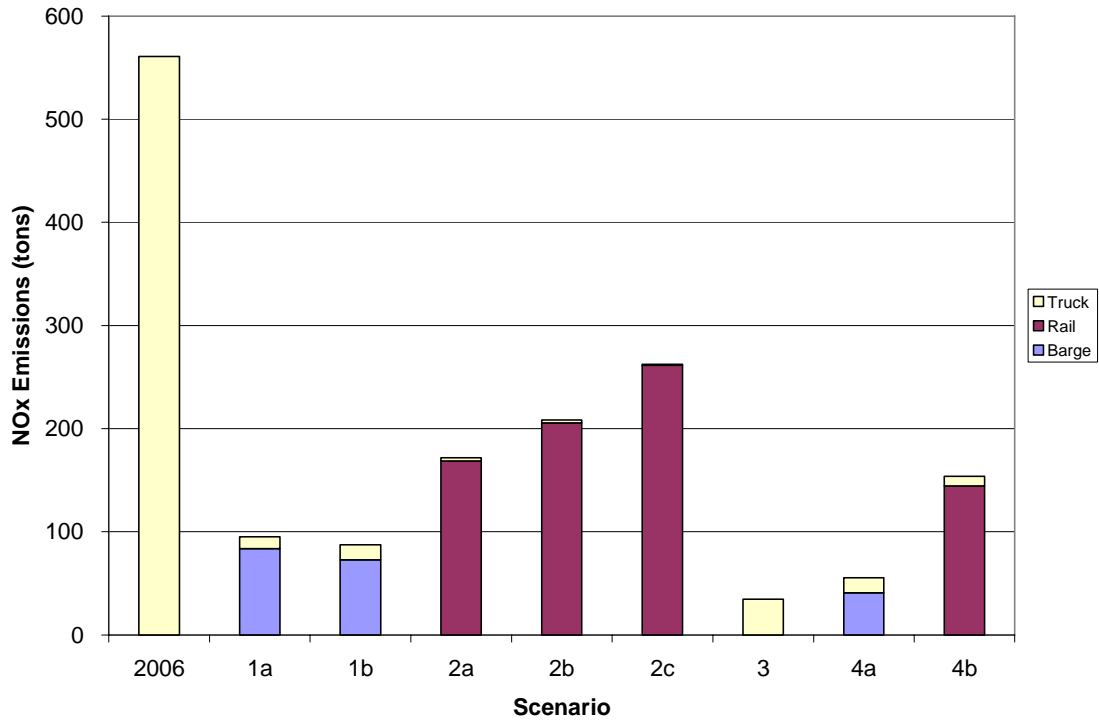


EXHIBIT 4-14  
 Estimated NO<sub>x</sub> Emissions under Proposed EPA Marine Diesel and Locomotive Standards (tons)  
 PV 2010-2019



## SECTION 5

# Value Modeling of Scenarios

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A value modeling methodology (multi-criteria decision analysis) was used to evaluate the cost, environmental, socioeconomic, and operational aspects of each scenario. Value modeling is a method of evaluating how well a series of options rate against a chosen set of objectives. It is a particularly useful tool when important non-monetary values and objectives exist, stakeholder input must be considered, and clear documentation of methods and results is important. The value modeling approach consists of the following six elements:

- Establish the decision goal
- Identify and specify fundamental objectives
- Develop performance measures to assess project performance against objectives
- Add technical detail to the performance measures, and assign scores to the performance measures
- Assign weights to the objectives
- Calculate value scores and conduct sensitivity analysis

## 5.1 Council Values and Objectives Hierarchy

In establishing the objectives for this analysis, Metro Council Goals and Objectives and Critical Success Factors and the values established for the Metro disposal system were reviewed. The following were thought to be particularly relevant to this analysis:

### **Goal and Objective 2. Environmental Health**

2.3 The region's waste stream is reduced, recovered, and returned to productive use, and the remainder has a minimal impact on the environment

2.4 Metro is a model for sustainable business practices

### **Metro Critical Success Factors**

1. Metro sets a standard of fiscal prudence, integrity, transparency and accountability that is emulated by others

1.3 Metro programs are sustainably supported at an appropriate level and are right-sized in relation to their benefits

### **Disposal System Values**

Environmental sustainability

Ensure reasonable, affordable rates



The project team worked with Metro staff and developed a hierarchy of objectives that forms the foundation of the value modeling approach. Exhibit 5-1 presents the objectives hierarchy used in this analysis. As shown there are various “levels” in the hierarchy in which lower levels help define or describe the meaning of the upper level objectives. The two first level, or fundamental objectives are Metro’s cost values and its non-cost values. The next level under non-cost values includes three second-level objectives: environmental, socioeconomic, and operations; there are no second-level objectives associated with cost. Also listed are various third and fourth level objectives that clarify Metro’s objectives further.

EXHIBIT 5-1  
Objectives Hierarchy

Decision Context: Evaluate various transportation scenarios to provide insight into ways of structuring Metro’s pending procurement process for solid waste transportation services.

1. Metro Cost Values (Minimize long-term life-cycle cost)
2. Metro Non-Cost Values
  - 2.1 Environmental
    - 2.1.1 Minimize use of non-renewable fuel and harmful air emissions
      - PM
      - NO<sub>x</sub>
      - Greenhouse gases (CO<sub>2</sub>)
    - 2.1.2 Minimize impacts in CR Gorge National Scenic Area
      - Non-renewable fuel (proxy for SO<sub>x</sub>)
      - NO<sub>x</sub>
      - Potential for impacts other than emissions
  - 2.2 Socioeconomic
    - 2.2.1 Minimize impacts to neighborhoods
      - Facility proximity effects (noise, traffic)
      - Traffic and associated emissions
    - 2.2.2 Enhance regional freight movement
      - Likelihood of a regional freight hub or terminal that leads to economic growth
      - Minimizes truck trips in congested roadways in Metro Area during peak traffic periods
    - 2.2.3 Enhance relationships with Gilliam County partners
      - Provides jobs
      - Supports development of transportation infrastructure
  - 2.3 Operations (Flexibility, Reliability, Risk)
    - 2.3.1 Has flexibility to respond to future changes in disposal and transfer
      - Metro South
      - Attract new wastes
      - Respond to new fuels and/or emission technologies
    - 2.3.2 Reliable, consistent, timely service throughout contract
    - 2.3.3 Manages risk that can not be mitigated
      - Likelihood of waste release to environment
      - Consequence of waste release to environment
      - Ability to provide backup service during emergency outage
      - Not influenced by potential fishery and dam issues
      - Relatively insensitive to fuel price increases

## 5.2 Performance Measures and Scoring

Performance measures were developed for each objective that was identified by the project team for measurement. The performance measures and descriptions of constructed scales are shown in Exhibit 5-2. The constructed scales are qualitative measures in which the best feasible outcome rates a 5, and the worst conceivable outcome rates a 1.

Exhibit 5-3 shows how well each scenario was judged to meet each objective. Results reported in Section 4 were used to score cost and emissions measures, and the project team met to assign scores to the constructed scales. The rationale for the constructed scale scores for each scenario is documented in Appendix D.

## 5.3 Weighting

CH2M HILL and a Metro staff working group prepared an initial assessment of the relative importance of each objective in accordance with the Metro Council's stated values. The initial objectives hierarchy and weights were presented to the Metro Council Liaison's for this project, then to the full Council at a study session on March 20, 2007. In response to feedback from the Council, the hierarchy and weights were revised to reflect the weights shown in Exhibit 5-4.

During the work session it was agreed that the sensitivity of the results should be tested for relative weights on cost of 30, 60, and 90.

EXHIBIT 5-2  
Performance Scales

				Description of 1-5 Performance Scales					
Objectives Hierarchy		Performance Measure	Best	Worst	5	4	3	2	1
1. Metro Cost Values		Planning-level 2010 Costs in million 2007\$	\$10.0	\$20.0	Estimated Costs				
2. Metro Non-Cost Values									
2.1 Environmental									
2.1.1 Minimize use of non-renewable fuel and harmful air emissions									
	PM10	Tons	3.5	40.0	Estimated PM Emissions				
	NOx	Tons	30	950	Estimated NOx Emissions				
	Greenhouse gases (CO2)	Tons	40,000	110,000	Estimated CO2 Emissions				
2.1.2 Minimize impacts in CR Gorge National Scenic Area									
	Non-renewable fuel (proxy for SO2)	million gallons			Estimated Fuel Use				
	NOx	Tons			Estimated NOx Emissions				
	Potential for impacts other than emissions	1-5 scale	5	1	Few issues of concern		Some issues of concern		A number of issues of concern
2.2 Socioeconomic									
	2.2.1 Minimize impacts to neighborhoods	1-5 scale	5	1	All truck travel is on routes currently used by Metro transportation contractor	New facility in industrial zone and/or some new truck travel on routes that pass by properties zoned industrial or commercial; impact of additional truck traffic on those streets is small			New facility likely to result in organized opposition and/or some new truck travel on routes that are zoned commercial or residential; impact of additional truck traffic on those streets is noticeable and mitigation may be required
	2.2.2 Enhance regional freight movement	1-5 scale	5	1	Scenario includes a terminal with barge and rail access; no increase in truck trips on congested roadways during peak traffic periods	Scenario includes a terminal with barge or rail access; no increase in truck trips on congested roadways during peak traffic periods	Scenario includes a terminal with barge or rail access; some increase in truck trips on congested roadways during peak traffic periods	Part of Metro's waste would be handled at a multi-modal terminal with some increase in truck trips on congested roadways during peak traffic periods, or no change from current system	No multi-modal terminal and an increase in truck trips on congested roadways during peak traffic periods
	2.2.3 Enhance relationships with Gilliam County partners	1-5 scale	5	1	Employment for Gilliam County workers likely to be similar or greater than in current contract		Employment for Gilliam County workers likely to be noticeably less, but contract supports development of new infrastructure in Gilliam County		Few opportunities for Gilliam County infrastructure or jobs
2.3 Operations (Flexibility, Reliability, Risk)									
	2.3.1 Has flexibility to respond to future changes in disposal and transfer	1-5 scale	5	1	Maximum possible flexibility for foreseeable future changes				Very inflexible for one or more potential future changes
	2.3.2 Reliable, consistent, timely service throughout	1-5 scale	5	1	Track record of reliable, consistent, and timely service in region and no major constraints to this continuing throughout the contract	Track record of reliable, consistent, and timely service in region, but some challenges related to potential service interruption throughout the contract			Concerns exist with current and likely future operations that could result in noticeable increased cost to Metro, challenges to staff and/or impacts to customers at transfer stations
	2.3.3 Manages risk that can not be mitigated	1-5 scale	5	1	Not highly exposed to listed unmitigable risks		A moderate level of exposure to unmitigable risks exists		A relatively high level of exposure to unmitigable risks exists

EXHIBIT 5-3  
Decision Scores

			Decision Scores								
Objectives Hierarchy			Scale	Scenario						4a	4b
				1a	1b	2a	2b	2c	3		
1. Metro Cost Values			2010 in mill. 2007\$	\$13.0	\$13.0	\$15.6	\$18.3	\$14.8	\$12.2	\$12.7	\$16.5
2. Metro Non-Cost Values											
	2.1 Environmental										
	2.1.1 Minimize use of non-renewable fuel and harmful air emissions										
		PM	PV 2010-19, tons	11.4	10.6	22.9	27.8	34.9	3.6	6.3	20.3
		NOx	PV 2010-19, tons	430.6	378.6	582.1	708.1	898.1	34.5	219.0	504.7
		Greenhouse gases (CO2)	PV 2010-19, tons	48,237	53,561	66,709	104,636	91,478	86,364	42,454	72,542
	2.1.2 Minimize impacts in CR Gorge National Scenic Area										
		Non-renewable fuel	PV 2010-19, mgal.	3.5	3.9	4.8	5.8	4.1	4.2	2.8	6.0
		NOx	PV 2010-19, tons	223.7	237.9	326.9	326.9	503.1	18.8	114.4	288.3
		Potential for impacts other than emissions in Columbia River Gorge National Scenic Area	1-5 scale	3.5	3.5	3.5	3.5	3.5	2.0	3.0	3.0
	2.2 Socioeconomic										
	2.2.1 Minimize impacts to neighborhoods		1-5 scale	4.0	4.0	4.0	4.0	2.0	5.0	4.5	4.5
	2.2.2 Enhance regional freight movement		1-5 scale	4.0	4.5	3.0	3.0	2.5	2.0	3.5	2.5
	2.2.3 Enhance relationships with Gilliam County partners		1-5 scale	3.5	3.0	1.0	2.5	1.0	5.0	4.0	3.0
	2.3 Operations (Flexibility, Reliability, Risk)										
		2.3.1 Has flexibility to respond to future changes in disposal and transfer	1-5 scale	3.0	3.0	3.0	3.0	2.0	4.0	3.5	3.5
		2.3.2 Reliable, consistent, timely service throughout contract	1-5 scale	3.0	3.0	2.0	2.0	2.0	5.0	4.0	3.0
		2.3.3 Manages risk that can not be mitigated	1-5 scale	2.0	2.0	3.0	3.0	3.0	4.0	3.0	3.5

EXHIBIT 5-4

Weights Assigned to Objectives

Objectives Hierarchy		Weights				Percent Weight <sup>a</sup>
		Level 1	Level 2	Level 3	Level 4	
1. Metro Cost Values		60%				60.0%
2. Metro Non-Cost Values		40%				
	2.1 Environmental		40%			
	2.1.1 Minimize use of non-renewable fuel and harmful air emissions			70%		
	PM				50%	5.6%
	NOx				25%	2.8%
	Greenhouse gases (CO2)				25%	2.8%
	2.1.2 Minimize impacts in CR Gorge National Scenic Area			30%		
	Non-renewable fuel (proxy for SO2)				55%	2.6%
	NOx				35%	1.7%
	Potential for impacts other than emissions				10%	0.5%
	2.2 Socioeconomic		10%			
	2.2.1 Minimize impacts to neighborhoods			50%		2.0%
	2.2.2 Enhance regional freight movement			25%		1.0%
	2.2.3 Enhance relationships with Gilliam County partners			25%		1.0%
	2.3 Operations (Flexibility, Reliability, Risk)		50%			
	2.3.1 Has flexibility to respond to future changes in disposal and transfer			25%		5.0%
	2.3.2 Reliable, consistent, timely service throughout contract			60%		12.0%
	2.3.3 Manages risk that can not be mitigated			15%		3.0%

<sup>a</sup>The percent weights are applied to the scores (Exhibit 5-3) in a weighted averaging process. An example calculation of the percent weights follows:  
 PM weight is 5.6%, which is 40% \* 40% \* 70% \* 50%

## 5.4 Results

The performance scales and weights were entered into Criterium Decision Plus software to compile the results. The results of the value model analysis are shown in Exhibit 5-5. As shown, Scenarios 3 (trucking with new, low emission engines) and 4a (barge from Central and truck from South) are the scenarios that best meet this representation of Metro's values. The other two barge scenarios, 1a and 1b, also score relatively high.

Exhibit 5-5 also provides some insight into the reasons for this result. Scenarios 3 and 4a perform well on all the main cost and non-cost values, in particular Scenario 3 scores best in operations performance and is similar in cost to Scenarios 4a, 1a, and 1b. Most scenarios are fairly similar in environmental performance.

Exhibit 5-6 provides an additional view of how the scenarios scored on the sub-elements of the three non-cost values.

Exhibits 5-7 to 5-9 show how the scenarios perform as the relative weight assigned to cost changes from 30 percent to 60 percent to 90 percent. As shown, the rank ordering of scenarios is quite stable regardless of the weight assigned to cost: there is no change in the ordering of the four highest rated scenarios. The only changes in rank order occur between the rail options (2a, 2b, 2c, 4b): Scenario 4b scores best when cost is assigned a 30 percent weight and Scenario 2c scores best when cost is assigned a 90 percent weight.

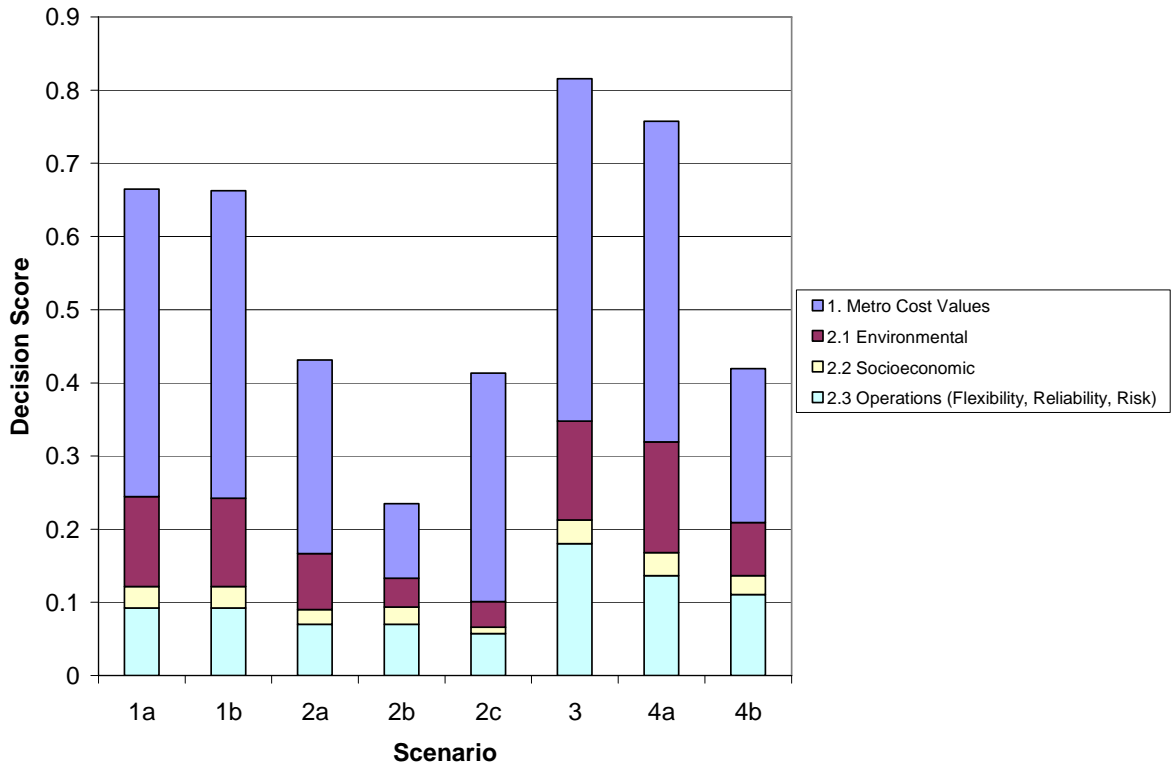


EXHIBIT 5-5  
Value Model Results

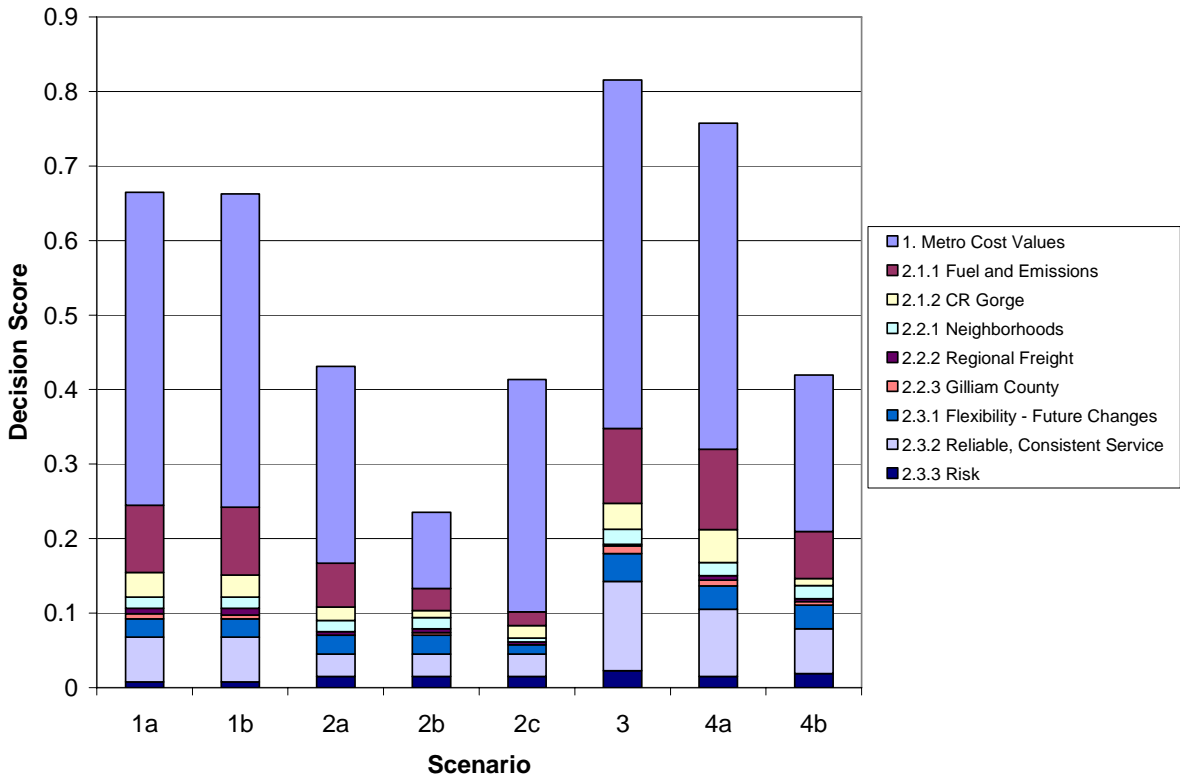
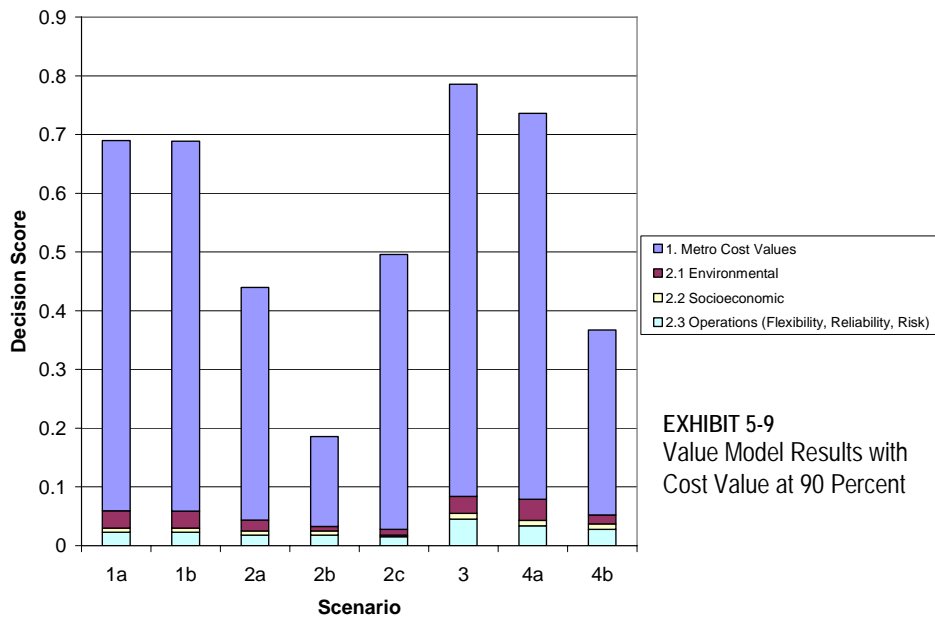
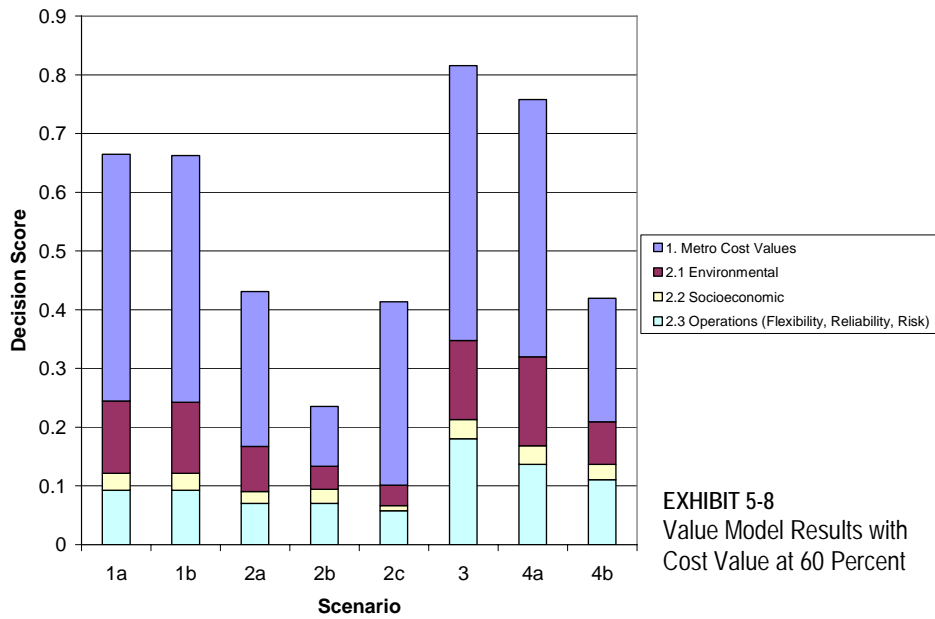
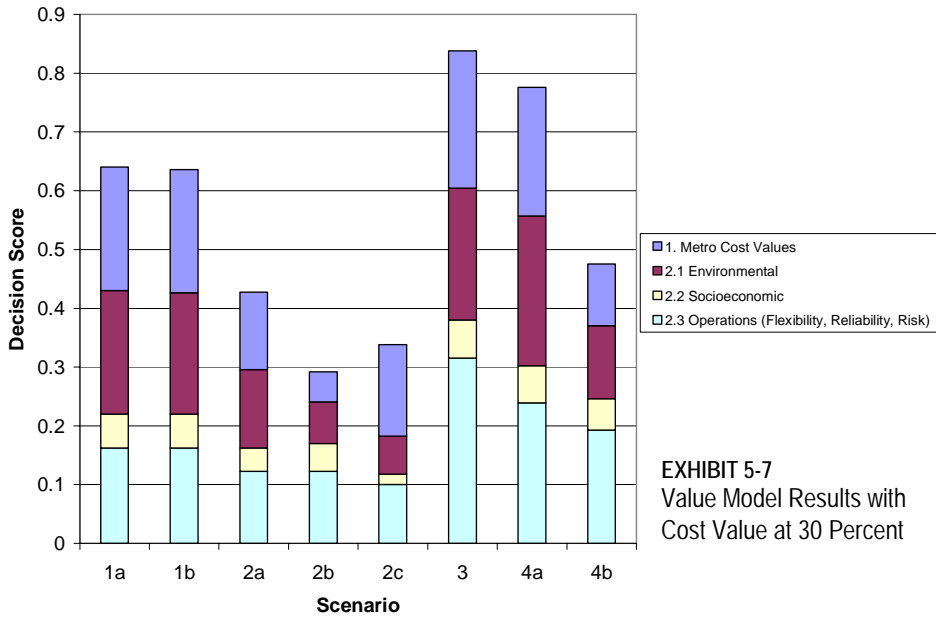


EXHIBIT 5-6  
Additional Value Model Results





# **INFORMATION ON METRO COMPACTION EQUIPMENT**



METRO

600 NE Grand Ave.  
Portland, OR 97232-2736

February 15, 2007

To Prospective Transportation Contractors

RE: Metro Waste Transport Contract

A number of firms have requested information regarding the dimensions of the existing trailers used to currently perform waste transport services for Metro. Attached is a drawing, together with some supplemental information presented below. It should be noted that the height of trailers has increased over time from that shown in the drawing. Information regarding compactors is also presented in this communication.

The following information is supplemental to the drawing of a loaded truck and trailer.

The compactors at Metro facilities create a bale of waste that is 7' wide by 7' tall and can vary in length up to a maximum length of 34'. The length of the bale can be shortened as desired or needed; 29.5 to 31 feet is average depending on the time of day (mornings are typically shorter than at night). Currently the typical bale weighs 30.7 tons.

Waste bales will ravel (slough from the top down) and expand, as they are loaded. There is 1 to 4 feet of raveling at the front of a bale and 2 to 3 feet in the rear, depending on the type of material in the bale and how dense the bale was compacted. The bales will also expand 6 to 12 inches depending on material type. There are a number of factors that affect the expansion and raveling of the bales- type of material, moisture content, size of particles, etc. Metro South is able to break material up by driving over it with a dozer and the dust suppression system at that station adds moisture to dusty loads. This produces more consistent bales that at Metro Central, which does not have a dozer or large a dust suppression system.

The existing trailers back up to the compactor; the rear deck of the trailer goes under the front of the compactor approximately 36-inches. The front throat of the compactor extends about 28-inches into the trailer. The compactor is capable of pushing the bale of waste 7-feet 2-inches into the trailer (waste will , however, slough back as the compactor ram is retracted). With 4' of raveling in the front, a 34' bale could be pushed all the way to the front of a 45' trailer by the compactor ram. The front of the bale is usually pushed to within 1 to 2 feet of the front of the trailer, depending on the density/center of gravity (denser bales are not pushed in as far). The rear of the bale is usually 2 to 3 feet from the doors after loading.

Four of the five Metro compactors are equipped with programmable controllers that allow the operator to set the density and length of the bale. Due to the nature of the waste (it is heterogeneous in nature), it is difficult to be exact in controlling density, or center of gravity, within the bale.

#### Compactors

Attached is a drawing of one of the compactors in use at the Metro Central transfer station. It is one of the four single bale compactors in use. The height to the bottom of the chamber is 59 1/4". The outside dimension is 86 11/16" each way.

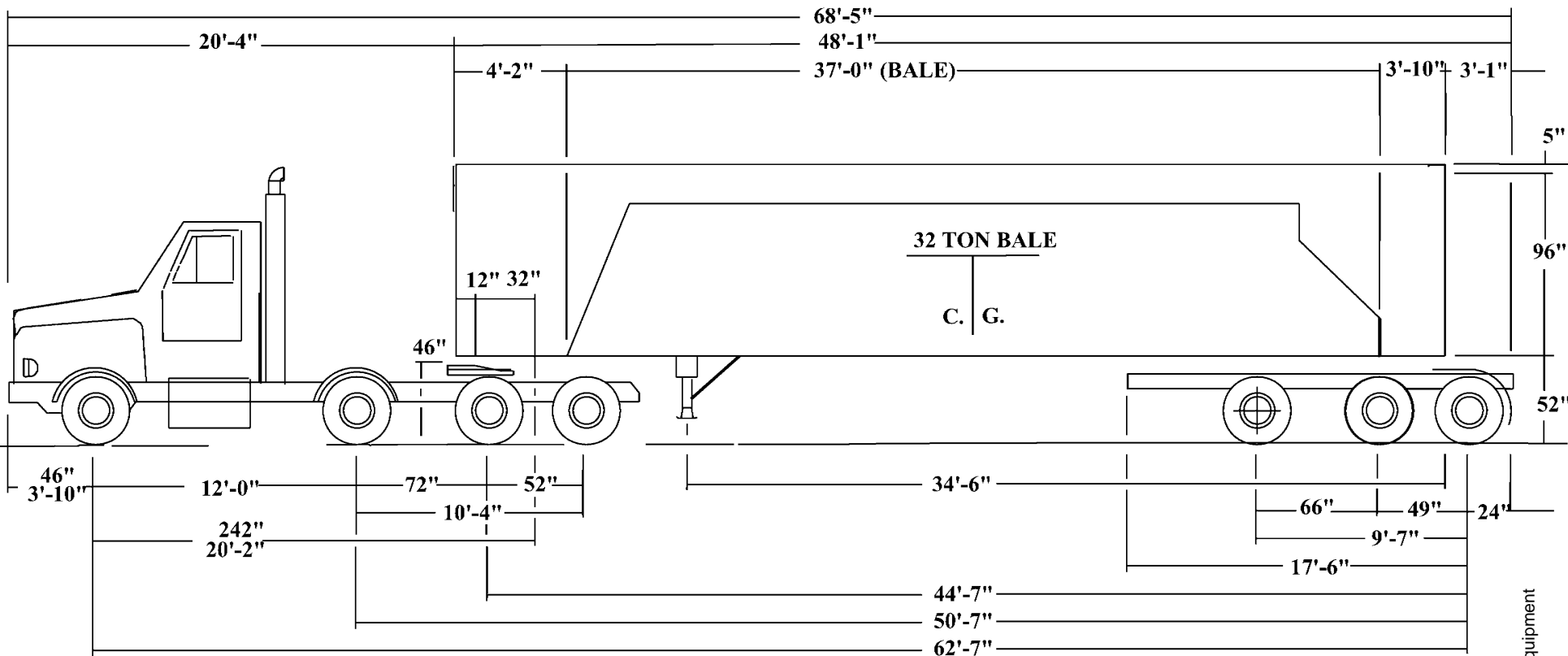
To obtain full drawings of the compactors, or additional information regarding either the trailers or compactors, contact Metro's Engineering Manager- Paul Ehinger at [ehingerp@metro.dst.or.us](mailto:ehingerp@metro.dst.or.us) or 503-797-1789.

Chuck Geyer  
Metro Waste Transport Options Study PM

CG:gbc  
Enclosures: Trailer drawing, Compactor drawing  
M:\rem\remdept\projects\Transport\project\Vendor Notes\vendor letter February 15.doc  
Queue

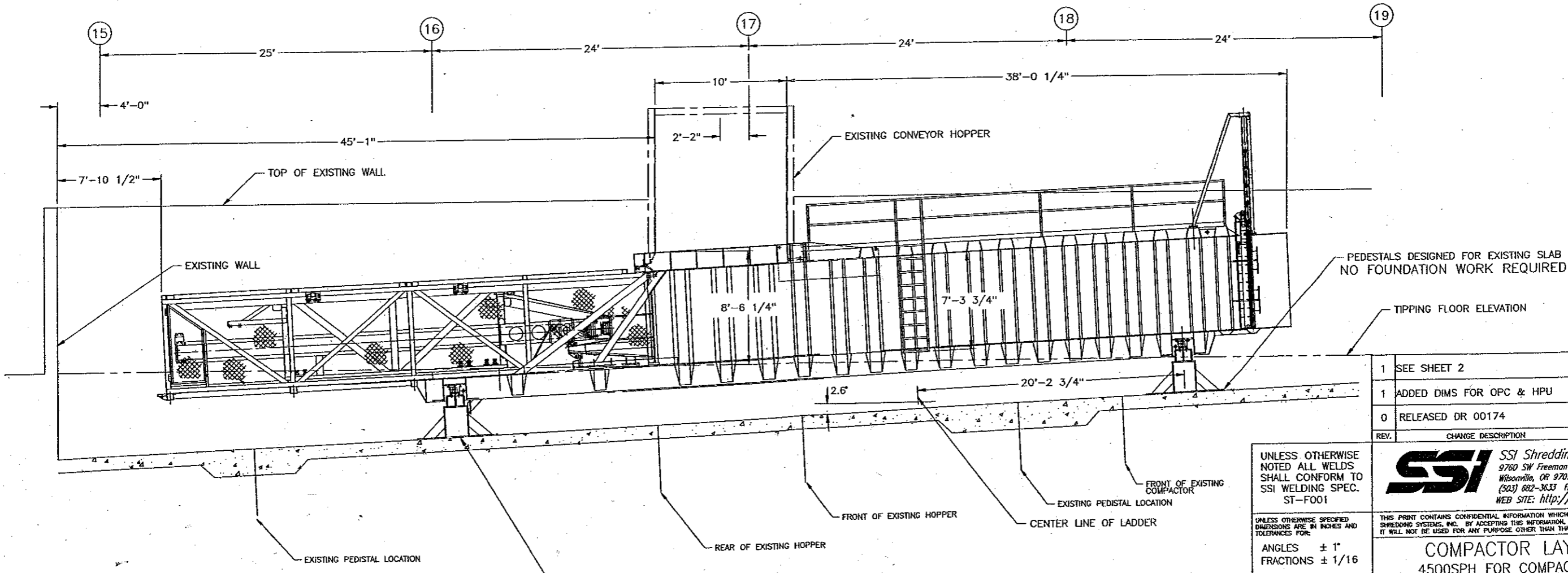
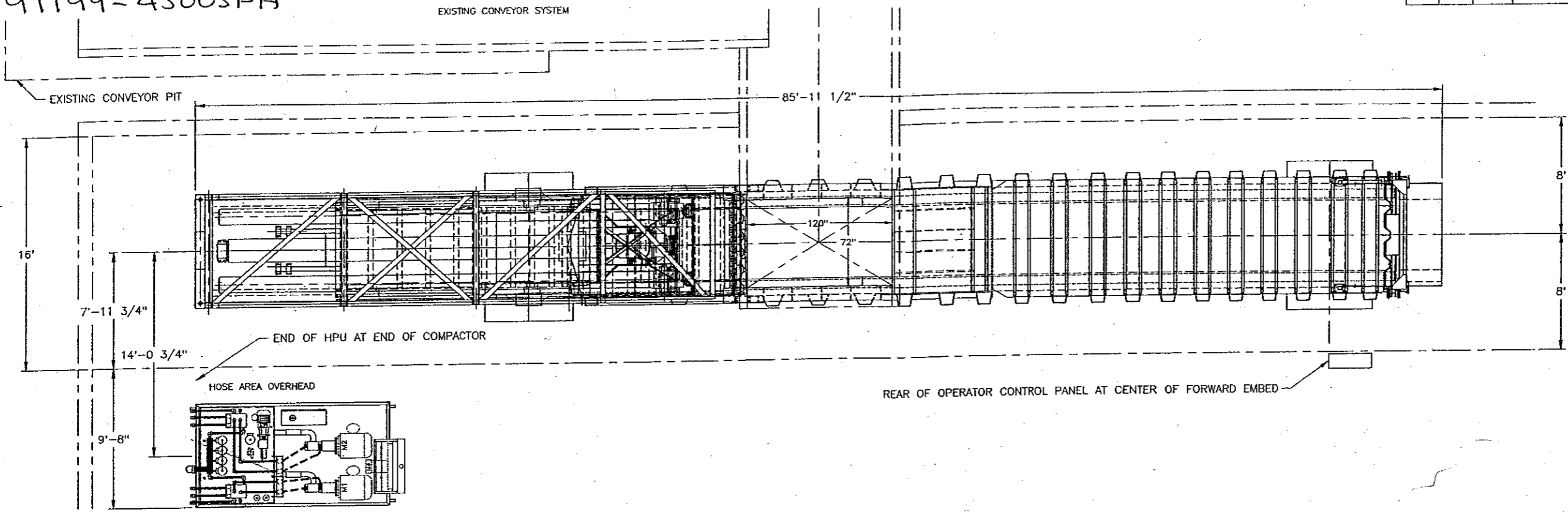
# Jack Gray (45 ft. semitrailer )

APPROVED BY TOM BRADD FOR OVER-WEIGHT PERMIT ON JUNE 23, 1989



**METRO CENTRAL # 1**  
**91199-4500SPH**

ITEM NO.	QTY.	FAB CODE	MFG CODE	MATERIAL
----------	------	----------	----------	----------



1	SEE SHEET 2	1/01	DM	DM
1	ADDED DIMS FOR OPC & HPU	8/00	DM	DM
0	RELEASED DR 00174	3/20/00	DM	DM
REV.	CHANGE DESCRIPTION	DATE	DRAWN	APPR.

UNLESS OTHERWISE NOTED ALL WELDS SHALL CONFORM TO SSI WELDING SPEC. ST-F001

UNLESS OTHERWISE SPECIFIED DIMENSIONS ARE IN INCHES AND TOLERANCES FOR:

ANGLES ± 1°  
 FRACTIONS ± 1/16

2 PL DEC. ± 0.03  
 3 PL DEC. ± 0.005

REF. DWG. ASSY. DWG. MODEL 4500 SPH

WEIGHT 186,000

DATE 3/20/00

DRAWN BY D MILLER

SCALE 1"=48'

DATE October 2007

DRAWING NUMBER 80-2534-D

PAGE 3 OF 3

REV. 2

**SSI Shredding Systems, Inc.**  
 9760 SW Freeman Drive  
 Wilsonville, OR 97070-9286 USA  
 (503) 682-3633 FAX (503) 682-1704  
 WEB SITE: <http://www.ssiworld.com>

THIS PRINT CONTAINS CONFIDENTIAL INFORMATION WHICH IS THE PROPERTY OF SSI SHREDDING SYSTEMS, INC. BY ACCEPTING THIS INFORMATION, THE BORROWER AGREES THAT IT WILL NOT BE USED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT IS LOANED.

**COMPACTOR LAYOUT**  
**4500SPH FOR COMPACTOR #1**

**COLUMBIA RIDGE LANDFILL  
ENTRANCE POLICIES / CONTACT INFORMATION**

DRAFT

September 13, 2007

Mr. Chuck Geyer  
Principal Planner  
Metro- Solid Waste & Recycling  
600 NE Grand Ave  
Portland, OR 97232-2736

RE: Facilities Available to Metro's Waste Transport Contractor

Dear Mr. Geyer,

I am writing this letter to describe the service and areas Waste Management Disposal Services of Oregon (WMDS) is willing to provide to Metro's successful transportation bidder at our Columbia Ridge Landfill & Recycling Center (CRL).

Currently, the tipping operation for Metro's waste volume is performed exclusively by the Transport Contractor, CSU. We feel we can find some efficiency for both Metro's unloading operation, and our own unloading operation if we combine our tipping operations and CSU's together. Our plan would be to purchase an additional tipper, and staff it with an operator and helper. We would then open up our three tippers, giving Metro trucks the option of tipping from any of the four available tippers. This should help with the congestion issues that occur on the CSU tipper from time to time. WMDS would be able to provide this service for \$.50/ton (assuming no significant fluctuations in tonnage). The transportation contractor will continue to be responsible for delivering the trailers/containers to the tipper deck.

In addition, WMDS will continue to provide the existing trailer staging area that accommodates approximately 200 trailers, and the pole building that CSU has been using to thaw containers. This building will be available only when thawing is necessary (anticipated to be one or two weeks per year on average). Performance of truck or equipment maintenance will not be allowed in this building. The transporter will be responsible for any necessary upkeep, or maintenance of both the staging area and thaw building, along with any necessary fuel or utilities. We will expect the transporter to conduct their operations on our site in both a safe and compliant manner. This includes adherence to our company policies and procedures, and compliance with any external agencies' requirements (OSHA, ODEQ, EPA, etc.). It is not likely we will need to relocate the staging area or pole building during the contract term, but we reserve the right to do so if our business warrants.

We will also continue to allow 24 hr access to the trailer staging area, seven days a week. Our gate is typically staffed from 6:00 AM to 9:00 PM. During these hours all trucks will be expected to stop and exchange information with the gate clerk. During the hours our gatehouse is closed, a separate procedure will be developed to ensure proper accounting of all loads.

Every load entering the site must have an unbroken seal (placed on the load at the transfer station). This seal will be removed at the landfill, and the number will be communicated to WMDS personnel. The loads from the staging area will only be unloaded during LF operating hours. Typically, operations begin at 6:00 AM and conclude eight to ten hours later. Current operations run five days/week, Monday thru Friday. Operating hours and schedule sometimes vary based upon volume demands and other factors.

Any bidder to Metro should assume no further support facilities or operations will be provided by WMDS. If you have any questions regarding this matter, please feel free to give me a call at (541) 454-3307. We appreciate the excellent relationship we have had with Metro and CSU over the life of this contract, and look forward to continuing this partnership as we move into the future with a new transport operation.

Sincerely,

WASTE MANAGEMENT DISPOSAL SERVICES OF OREGON

Will Spears  
Site Manager

cc: Cal Palmer

**CONTACT INFORMATION FOR  
PORT OF PORTLAND AND PORT OF ARLINGTON**



Jeff Krug  
Port Of Portland – T- 2 Manager  
Tel: 503-944-7218  
Cell: 503-789-1501  
Email: Jeff.Krug@Portofportland.Com  
Web: www.Portofportland.Com

Gene Leverton, Principal (Contact For Port Of Arlington)  
Tel: 503-281-3851  
Fax: 503-281-8196  
Leverton and Associates  
3144 N.E. 17th Avenue  
Portland, Oregon 97212  
leverton@imagina.com

## **CSU – BNSF AND RUFUS LEASES**

March 15, 2005

Baunach Enterprises, Inc.  
PO Box 26  
Rufus, OR 97050

Re: Lease for parking spaces

Dear Luella:

Our contract with Metro requires any lease arrangements we may have to include a provision that should CSU Transport default on the contract with Metro, that Metro would be provided the right to have that lease assigned to them under which Metro would assume all the obligations of CSU under that lease.

We are requesting that Baunach Enterprises agrees to the following:

In the event that CSU Transport, Inc. defaults under their existing Waste Hauling Contract with Metro and Metro assumes the operations of CSU Transport, Inc., under such Contract, Metro will be permitted to obtain an assignment of the lease between Baunach Enterprises and CSU, provided that said Assignment meets the approval of Baunach and Metro agrees to assume all of the obligations of CSU Transport, Inc. under the lease.

Please indicate your acceptance of the Metro assignment rights by signing both originals in the space provided below. After signing, please return one original to us and retain the other original for you records.

Sincerely,



Michael Benden  
President - CSU Transport, Inc.

Agreed to and accepted by:

  
Baunach Enterprises, Inc.



4-5-05  
Date

ASSIGNMENT

THIS AGREEMENT, made this 14TH day of MAY, 2001 among **THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY**, a Delaware corporation, hereinafter called Lessor, **SPECIALTY TRANSPORTATION SERVICES, INC.**, an Illinois corporation, hereinafter called Assignor, and **CSU TRANSPORT, INC.**, a Minnesota corporation, hereinafter called Assignee:

Whereas, Lessor and Assignor are parties to certain leases as shown on Exhibit "A" attached hereto and made a part hereof.

Assignor and Assignee desire that Assignor's interest in said leases be assigned to Assignee and that Lessor consent thereto.

NOW THEREFORE, the parties hereto, in consideration of their mutually-dependent promises, hereby agree as follows:

1. For a valuable consideration, the receipt of which by Assignor is acknowledged, Assignor sells, assigns, transfers and sets over to Assignee all of Assignor's interest in and under said leases, as the same may have heretofore been amended or modified and as the same may be hereby modified and amended.

2. Assignor understands and agrees that Assignor shall indemnify and hold harmless Lessor from any suit or claim growing out of any damages alleged to have been caused, in whole or in part, by (i) Assignor's use or occupation of the premises, (ii) an unhealthful, hazardous or dangerous condition caused by, contributed to, or aggravated by Assignor's presence on and use of the premises or (iii) Assignor's violation of any laws, ordinances, regulations or requirements pertaining to solid or other wastes, chemicals, oil and gas, toxic, corrosive, or hazardous materials, air, water (surface or groundwater) or noise pollution, and the storage, handling, use or disposal of any such material. Assignor shall bear the expense of all practices or work, preventative or remedial, which may be required because of the condition or use of the premises, by Assignor or those claiming by, through or under Assignor, during Assignor's occupancy. Assignor expressly agrees that the indemnification and hold harmless obligations and obligations pertaining to environmental matters, removal of improvements and restoration of the premises contained within the Lease shall survive assignment of said lease to Assignee. Assignor agrees that statutory limitation periods on actions to enforce these obligations shall not be deemed to commence until Lessor discovers any such health or environmental impairment, and Assignor hereby knowingly and voluntarily waives the benefits of any shorter limitation period.

3. Assignee hereby accepts said assignment and agrees to be bound by and to abide by each and every of the terms and conditions of said leases and hereby expressly assumes all liability for and agrees to pay to said Lessor all moneys which may be now or hereafter due or payable to it under the terms of said leases, including payment of any rentals and taxes now due and unpaid by Assignor.

4. Assignee shall use the premises covered by said assignment for the exclusive purpose of TRUCK AND TRAILER STAGING AND PARKING AREA.

5. Lessor consents to the assignment from Assignor to Assignee, provided that such consent shall not be construed as consent to any further assignment of said leases.

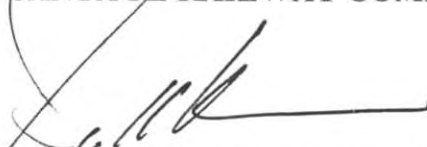
6. This agreement shall be effective as of MAY 14, 2001.

7. Prior to completion of this assignment a processing fee of TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$250.00) shall be paid to Lessor.

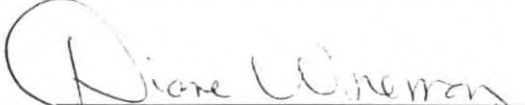
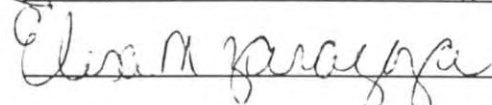
IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written.

**THE BURLINGTON NORTHERN AND  
SANTA FE RAILWAY COMPANY**

By:

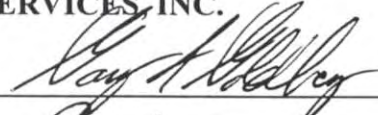
  
\_\_\_\_\_  
DIRECTOR DISPOSITIONS  
STATIONARY CEMENT SERVICES  
ATTORNEY-IN-FACT FOR BNSF

Witnesses to execution by Assignor:

  
\_\_\_\_\_  
  
\_\_\_\_\_

**SPECIALTY TRANSPORTATION  
SERVICES, INC.**


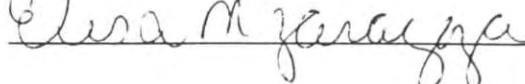
By:

  
\_\_\_\_\_

Title:

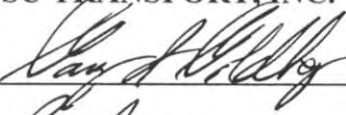
  
\_\_\_\_\_

Witnesses to execution by Assignee:

  
\_\_\_\_\_  
  
\_\_\_\_\_

**CSU TRANSPORT, INC.**

By:

  
\_\_\_\_\_

Title:

  
\_\_\_\_\_

EXHIBIT "A"  
LEASES TO BE ASSIGNED TO (CSU TRANSPORT, INC.)

<u>LEASE NO.</u>	<u>DATE</u>	<u>CITY, COUNTY AND STATE</u>	<u>LESSEE</u>	<u>PURPOSE</u>
501,022	2/1/98	WILLBRIDGE, MULTNOMAH COUNTY, OREGON	SPECIALTY TRANSPORTATION SERVICES, INC.	TRUCK AND TRAILER STAGING AND PARKING AREA

**THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY**

**INDEFINITE TERM LEASE**

**LAND**

501022

THIS LEASE made this 1ST day of FEBRUARY, 1998, between **THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY**, a Delaware corporation, hereinafter called "Lessor", and **SPECIALTY TRANSPORTATION SERVICES, INC.**, an Illinois corporation, whose post office address is 10214 NORTH MT. VERNON ROAD, SHANNON, IL 61028, hereinafter called "Lessee",

WITNESSETH:

In consideration of the covenants hereinafter contained to be kept and performed by Lessee, Lessor hereby leases to Lessee upon the terms and conditions hereinafter set forth the following described Property ("Property") situated in the City of WILLBRIDGE, County of MULTNOMAH, State of OREGON:

As shown OUTLINED IN RED on attached print marked Exhibit "A", dated JANUARY 1, 1998 and made a part hereof.

1. This Lease shall commence on FEBRUARY 1, 1998, and may be terminated by either party, at any time, by serving at least thirty (30) days' written notice of termination upon the other party, and upon expiration of the time specified in such notice, this Lease and all rights of Lessee shall absolutely cease. Upon any such termination, Lessor shall retain as a charge for use of the Property, a minimum sum equal to three (3) months rental, and any excess unearned portion of the annual rental paid in advance shall be refunded to Lessee.

2. Lessee shall use and occupy said Property for the sole and exclusive purpose of A TRUCK/TRAILER STAGING AND PARKING AREA. Lessee shall respond to Lessor's reasonable inquiries regarding the use or condition of the Property, and Lessor may enter the Property at reasonable times to check on same.

3. (a) Lessee shall pay rent of FORTY SIX THOUSAND NINE HUNDRED AND THIRTY FIVE AND NO/100 DOLLARS (\$46,935.00), as rental for said Property, payable ANNUALLY IN ADVANCE. Lessor reserves the right to change rental rates as conditions warrant. Billing or acceptance by Lessor of any rental shall not imply a definite term or otherwise restrict either party from canceling this Lease as provided herein. Either party hereto may assign any receivables due it under this Lease, provided, however, such assignments shall not relieve the assignor of any of its rights or obligations under this Lease.

(b) Commencing on the first annual rental anniversary date and continuing on all succeeding annual anniversaries, the base rental shall be adjusted in accordance with the changes in the Consumer Price Index indicated in the column for Urban Wage Earners and Clerical Workers, U.S. city average (hereinafter called the "Index"), published by the Bureau of Labor Statistics, U.S. Consumer Price Index from the base index number

(i.e., the index number current on the date of this Lease, or the index number from the preceding year, whichever is more current) to the current index number.

If publication of the Consumer Price Index shall be discontinued, the parties hereto shall thereafter use in its place comparable statistics on the cost of living for Urban Wage Earners and Clerical Workers, as they shall be computed and published by an agency of the United States or by a responsible financial periodical of recognized authority then to be selected by the Lessor.

(c) The rental shall be subject to further revision annually or at discretion of Lessor to adjust same to a fair market value basis.

(d) Lessee acknowledges that Lessor utilizes the rental collection system involving direct deposit of monies received through financial institution selected by Lessor, which precludes Lessor's ability to exercise rejection of a rental payment before Lessee's check is cashed. Lessee agrees that as a condition of Lessor granting this Lease, Lessee hereby waives any right it may have under law to force continuation of this Lease due to Lessor having accepted and cashed Lessee's rental remittance. Lessor shall have the option of rejecting Lessee's payment by refunding to Lessee the rental amount paid by Lessee, adjusted as set forth in this Lease, and enforcing the termination provisions of this Lease.

**(e) Payment of rental specified herein is subject to a late payment charge of one and one-half percent (1.5%) per month (18% per annum), or such lesser amount permitted by law, on balance past due over thirty (30) days. This shall also apply to any balance due under paragraph 9 hereof.**

4. Lessee shall pay to Lessor \_\_\_N/A\_\_\_ and No/100 Dollars (\$\_00.00\_) as a security deposit for the faithful performance of all the terms and conditions of this Lease. In no event shall Lessor be obligated to apply the security deposit to rents or other charges in arrears or to damages for failure to perform the terms and conditions of this Lease by Lessee. Application of the security deposit sum to the arrears of rental payments or damages shall be at the option of Lessor, and the right to possession of the Property by Lessor for nonpayment of rent or for any other reason shall not in any event be affected by this security deposit. The security deposit shall be returned to Lessee when this Lease is terminated, according to the terms of this Lease, if not applied toward the payment of rent in arrears or toward the payment of damages suffered by Lessor by reason of any breach of the terms and conditions of this Lease by Lessee. In no event is any security deposit amount to be returned until Lessee has vacated the Property and delivered possession to Lessor. The security deposit will draw no interest. In the event that Lessor repossesses the Property because of default of Lessee or because of a failure by Lessee to comply with the terms of this Lease, Lessor may apply the security deposit to all damages suffered to the date of repossession and may retain the balance of the security deposit to apply to damages that may accrue or be suffered thereafter by reason of the default or breach of Lessee. Lessor shall not be obligated to hold the security deposit in a separate fund, but may mix the deposit with other funds of Lessor.

5. If access to and from the Property shall be required by use of Lessor's property adjacent to the Property, such use is granted on a non-exclusive basis. Lessor shall have the right to designate the location or route to be used. For the purpose of this Lease, access, whether specifically defined or not, is included under the definition of Property. Lessee understands and agrees that Lessor shall apply all of these terms to any property adjacent to the Property which Lessee may occupy just as though the property had been specifically described herein.

**6. LESSOR DOES NOT WARRANT ITS TITLE TO THE PROPERTY NOR UNDERTAKE TO DEFEND LESSEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT**



**OF QUIET ENJOYMENT IS MADE.** This Lease is made subject to all outstanding rights or interests of others. If the Property is subsequently found to be subject to prior claim, this Lease shall terminate immediately on notice to that effect from Lessor. Lessee accepts this Lease subject to that possibility. In case of eviction of Lessee by anyone, other than Lessor, owning or claiming title to or any interest in Property, Lessor shall not be liable to Lessee for damage of any kind or to refund any rental paid hereunder, except to return the proportionate part of any rental paid in advance.

7. Lessor reserves to itself, and others, right of access to its adjoining property and the right to construct, maintain, and operate trackage, fences, pipelines, signal and communication facilities, telegraph, telephone, power, or other transmission lines, or appurtenances or facilities of like character, upon, over, across, or beneath the Property, without payment of any sum for any damage, including damage to growing crops, occasioned thereby. The foregoing rights, (except the right of access, which is unconditional), shall not be exercised in a manner that unreasonably interferes with Lessee's use of the Property.

8. It is understood that Lessee has inspected the Property and takes it "AS IS, WHERE IS", and "WITH ALL FAULTS". Lessor is not obligated by this Lease to make any changes, removals, or repairs of any kind nor to construct any fences. Lessee shall use the Property only in the manner described in Section 2 hereof, and shall not construct or place on the Property any advertising billboards, structures, additions, or improvements not described herein, or plant or remove trees and shrubbery, except with express prior written permission of Lessor, and at Lessee's sole risk and cost.

9a) In addition to the rent, Lessee shall pay all taxes, utilities, and other charges which may become due or be levied against the Property, against Lessee, against the business conducted on the Property or against improvements placed thereon during the actual term hereof, even though such taxes, license fees or other charges may not become due and payable until after cancellation of this Lease. Lessee agrees that Lessor shall not be required to furnish to Lessee any of the above services. If this is a transfer of an existing lease, Lessee must make arrangements with the present Lessee for payment of any delinquent and current taxes. If such arrangements are not made, Lessee agrees to pay all such taxes. If Lessor should make any such payments, Lessee shall reimburse Lessor for all such sums.

b) Should the Property be subject to special assessment for public improvements in the amount of Five Hundred Dollars (\$500.00) or less, Lessee shall promptly reimburse Lessor the amount in full. Should the assessment exceed Five Hundred Dollars (\$500.00), the rental herein shall be increased by twelve (12) percent per annum of the total.

c) In case of nonpayment of rental, taxes, or other charges, the same shall, until paid, constitute a lien on any buildings or other property owned by Lessee on the Property, foreclosable according to law. Lessee shall not remove said buildings or property until said rental, taxes, or other charges are paid, unless directed to do so by Lessor.

10a) Lessee shall not place, or permit to be placed, any material, structure, pole or other permanent or temporary obstruction within 8-1/2 feet laterally of the center line or within 24 feet vertically from the top of the rail of any track or such greater clearances as may be required by Lessor or Federal Railroad Authority requirements. If, by statute or order of public authority, greater clearances shall be required, Lessee shall strictly comply with such statute or order.

**b) IF, ON APPLICATION BY LESSEE, EITHER OR BOTH THE LATERAL AND VERTICAL CLEARANCES ARE PERMITTED TO BE REDUCED BY ORDER OF COMPETENT**

**PUBLIC AUTHORITY, LESSEE SHALL STRICTLY COMPLY WITH THE TERMS OF ANY SUCH ORDER, AND INDEMNIFY AND HOLD HARMLESS LESSOR, REGARDLESS OF ANY NEGLIGENCE OF LESSOR, FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, EXPENSES, COSTS AND JUDGMENTS ARISING OR GROWING OUT OF LOSS OF OR DAMAGE TO PROPERTY OR INJURY TO OR DEATH OF PERSONS OCCURRING, DIRECTLY OR INDIRECTLY, BY REASON OF SUCH REDUCED CLEARANCE.**

c) Lessor's continued operations with knowledge of an unauthorized reduced clearance shall not constitute a waiver of the foregoing covenants of Lessee or of Lessor's right to recover for resulting damages to property or injury to or death of persons.

11. Lessee shall not permit the existence of any nuisance on the Property; shall keep the same in clean and safe condition and free of any explosive, flammable or combustible material which would increase the risk of fire, except such material necessary to Lessee's business; shall not handle or store any potentially dangerous or toxic materials or hazardous materials; and shall not permit the accumulation of junk, debris or other unsightly materials. Lessee shall at its sole expense keep the Property and any improvements in good repair. Further, Lessee shall comply with all federal, state, local, and police requirements, regulations, ordinances and laws respecting the Property and activities thereon. Lessee shall not permit to exist on the Property any treatment, storage or disposal facility, as those terms are defined by the Federal Resources Conservation and Recovery Act.

12a) Lessee shall not create or permit any condition on the Property that could present a threat to human health or to the environment. Lessee shall indemnify and hold harmless Lessor, regardless of any negligence of Lessor, from any suit or claim growing out of any damages alleged to have been caused, in whole or in part, by an unhealthy, hazardous, or dangerous condition caused by, contributed to, or aggravated by Lessee's presence on and use of the Property or Lessee's violation of any laws, ordinances, regulations, or requirements pertaining to solid or other wastes, chemicals, oil and gas, toxic, corrosive, or hazardous materials, air, water (surface or groundwater) or noise pollution, and the storage, handling, use, or disposal of any such material. Lessee shall give Lessor timely notice of any release, violation of environmental laws or inspection or inquiry by governmental authorities charged with enforcing environmental laws with respect to the Property. Lessee also shall give Lessor timely notice of all measures undertaken by or on behalf of Lessee to investigate, remediate, respond to or otherwise cure such release or violation. In the event that Lessor receives notice from Lessee or otherwise of a release or violation of environmental laws which occurred or is occurring during the term of this Lease, Lessor may require Lessee, at Lessee's sole expense, to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation. Lessee shall bear the expense of all practices or work, preventative or remedial, which may be required because of the condition or use of the Property, by Lessee or those claiming by, through or under Lessee, during Lessee's period of occupancy. Lessee expressly agrees that the indemnification and hold harmless obligations it hereby assumes shall survive cancellation of this Lease. Lessee agrees that statutory limitation periods on actions to enforce these obligations shall not be deemed to commence until Lessor has actual knowledge of any such health or environmental impairment, and Lessee hereby knowingly and voluntarily waives the benefits of any shorter limitation period.

b) In this connection, Lessee expects to use on the Property the following hazardous materials: **NONE**, and to store on the Property the following hazardous materials: **NONE**. Lessee shall respond to Lessor's reasonable inquiries regarding the use or condition of the Property, and Lessor may enter the Property at such reasonable times and upon reasonable notice to Lessee. Use or storage on the Property of any hazardous materials not disclosed in this paragraph is a breach of this Lease.

13a) It is understood by Lessee that the Property is in dangerous proximity to railroad tracks and that persons and property, whether real or personal, on Property will be in danger of injury, death or destruction incident to the operation of the railroad, including, without limitation, the risk of derailment, fire, or inadequate clearance (including sight clearance or vision obstruction problems at grade crossings on or adjacent to the Property), and Lessee accepts this Lease subject to such dangers.

b) Lessee understands, as one of the material considerations of this Lease without which it would not be granted, that Lessee assumes all risk of injury to or death of all persons, and damage to or loss or destruction of buildings, contents, or other property (including animals) brought upon or in proximity to the Property by Lessee, or by any other person with the consent or knowledge of Lessee, **WITHOUT REGARD TO WHETHER SUCH BE THE RESULT OF NEGLIGENCE OR MISCONDUCT OF ANY PERSON IN THE EMPLOY OR SERVICE OF LESSOR OR OF DEFECTIVE TRACKAGE, EQUIPMENT, OR TRACK STRUCTURES. LESSEE HEREBY INDEMNIFIES AND AGREES TO PROTECT LESSOR FROM ALL SUCH INJURY OR DEATH AND LOSS, DAMAGE OR DESTRUCTION TO PROPERTY, INCLUDING CLAIMS AND CAUSES OF ACTION ASSERTED AGAINST LESSOR BY ANY INSURER OF SAID PROPERTY EXCEPT TO THE EXTENT PROXIMATELY CAUSED BY LESSOR'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. NOTWITHSTANDING THE FOREGOING, HOWEVER, LESSEE SHALL NOT BE LIABLE FOR INJURY TO OR DEATH OF LESSOR'S EMPLOYEES OR AGENTS, OR ROLLING STOCK BELONGING TO LESSOR OR OTHERS, OR SHIPMENTS OF THIRD PARTIES IN THE COURSE OF TRANSPORTATION, WHEN THIS INJURY, DEATH OR DAMAGE IS PROXIMATELY CAUSED BY LESSOR'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.**

c) **LESSEE ALSO AGREES TO INDEMNIFY AND HOLD HARMLESS LESSOR, REGARDLESS OF ANY NEGLIGENCE OF LESSOR, FROM ANY LOSS, DAMAGE, INJURY OR DEATH ARISING FROM ANY ACT OR OMISSION OF LESSEE, LESSEE'S INVITEES, LICENSEES, EMPLOYEES, OR AGENTS, TO THE PERSON OR PROPERTY OF THE PARTIES HERETO AND THEIR EMPLOYEES, AND TO THE PERSON OR PROPERTY OF ANY OTHER PERSON OR CORPORATION WHILE ON OR NEAR THE Property.**

d) Whenever any employee, agent or contractor of Lessee makes any claim for personal injury or death against Lessor within the meaning of the Federal Employers' Liability Act, or any applicable safety act, for any incident caused, wholly or in part, by property, equipment, fixtures or condition belonging to or subject to the control of Lessee, or claims or alleges that he or she is an employee of Lessor or is furthering the operational activities of Lessor, Lessee agrees to indemnify and hold harmless Lessor for all losses, damages, costs or expenses related to such claim, regardless of Lessor's negligence.

e) Lessor shall not be liable for lost electronic computer data or damage to computer system caused by electrical power fluctuations and failures.

14. It is agreed that the provisions of Sections 10, 12, and 13 are for the equal protection of other railroad companies, including National Railroad Passenger Corporation (Amtrak), permitted to use Lessor's property.

15. Lessee shall not assign this Lease or any interest therein, or grant a security interest in any buildings or improvements on the Property, or sublet, and no heir, executor, administrator, receiver, master, sheriff, trustee in bankruptcy, or other assignee by operation of law shall assign or sublet, without the express prior written consent of Lessor. All the covenants and provisions of this Lease shall be binding upon the heirs.

legal representatives, successors and assigns of Lessee. No assignment by Lessee shall be binding upon Lessor without the written consent of Lessor in each instance.

16. Lessee shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done, suffered or permitted to be done by Lessee on Property and shall indemnify Lessor against any loss, liability or expense incurred by Lessor on account of such liens. Lessor is hereby authorized to post any notices or take any other action upon or with respect to Property that is or may be permitted by law to prevent the attachment of any such liens to Property; provided, however, that failure of Lessor to take any such action shall not relieve Lessee of any obligation or liability under this Section or any other Section of this Lease. If, because of any act or omission of Lessee, any mechanic's lien or other lien, charge or order for the payment of money shall be filed against Lessor or any portion of the Property, Lessee shall, at its own expense, cause the same to be discharged of record within thirty (30) days after written notice from Lessor to Lessee of the filing thereof, and shall indemnify and save harmless Lessor against and from all costs, liabilities, penalties, and claims, including legal expenses, resulting therefrom. Lessee acknowledges that Lessor shall have no responsibility for management of the Property.

17a) Lessee shall, at its expense, procure and maintain throughout the term of this Lease, and thereafter until any Lessee-owned improvements are removed from the Property, a comprehensive general form of insurance covering liability, including, but not limited to, Public Liability, Personal Injury and Property Damage, as well as Contractual Liability in the amount of \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate. Such insurance shall contain no exclusion with respect to property of Lessor in the care, custody or control of Lessee. Lessee also shall, at its expense, procure and maintain throughout the term of this Lease, an automobile liability policy with limits of \$1,000,000.00 covering "any auto". LESSOR SHALL BE NAMED AS AN ADDITIONAL INSURED PARTY COVERED BY THE POLICY.

b) All risk insurance on the property of the Lessee, or in Lessee's care, custody and control, shall contain a waiver of subrogation of claims against Lessor. Lessee shall maintain Workers Compensation insurance which shall contain a waiver of subrogation against Lessor.

c) All insurance shall be placed with insurance companies licensed to do business in the State in which the Property is located, with a current Best's Insurance Guide Rating of B and Class X, or better. Lessee shall provide, and thereafter maintain in effect, a current Certificate of Insurance evidencing such insurance and said Certificate shall reference this contract number. When any portion of or all of the Property is located within 50 feet of a railroad track, insurance must provide for coverage of incidents occurring within fifty (50) feet of a railroad track, and any provision in the insurance policy to the contrary must be specifically deleted. Each policy shall provide that it shall not be canceled or materially changed unless at least thirty (30) days' prior written notice of cancellation or change shall have been mailed by the insurance company to Lessor at the address designated herein.

d) The furnishing of insurance required by this section shall in no way limit or diminish the liability or responsibility of Lessee as provided under any section of this Lease.

**18. Lessor may at its option prior to cancellation of this lease, require Lessee to conduct an environmental audit of said Property, at Lessee's cost and expense, to determine if any environmental damage to said Property has occurred during Lessee's occupancy thereof. The audit shall be conducted to Lessor's satisfaction and a copy of the audit report shall promptly be provided to Lessor for its review. Lessee shall pay all expenses for any remedial action that may be required as a result of said audit to**

**correct any environmental damage, and all necessary work shall be performed by Lessee prior to cancellation of this lease.**

19. This Lease does not grant, convey or transfer any right to the use of water under any water right owned or claimed by the Lessor which may be appurtenant to the Property. All right, title, and interest in and to such water is expressly reserved unto Lessor, and the right to use same or any part thereof may be obtained only by the prior written consent of the Lessor. Lessee shall not install or permit to be installed any wells on the Property without the written consent of Lessor.

20. Upon written notice from Lessor, Lessee agrees to assume the defense of any lawsuit, or other proceeding brought against Lessor by any public body, individual, partnership, corporation, or other legal entity, relating to any matter covered by this Lease for which Lessee has an obligation to assume liability for and/or save and hold harmless Lessor. Lessee shall pay all the costs incident to such defense including, but not limited to, attorneys' fees, investigators' fees, litigation expenses, settlement payments, and amounts paid in satisfaction of judgments.

21. If default shall be made in any of the covenants or agreements of Lessee contained in this document, or in case of any assignment or transfer of this Lease by operation of law, Lessor may, at its option, terminate this Lease by serving five (5) days' notice in writing upon Lessee; but any waiver by Lessor of any default or defaults shall not constitute a waiver of the right to terminate this Lease for any subsequent default or defaults, nor shall any such waiver in any way affect Lessor's ability to enforce any Section of this Lease. The remedy set forth in this section shall be in addition to, and not in limitation of, any other remedies that Lessor may have at law or in equity.

22. Upon the termination of this Lease in any manner herein provided, Lessee shall relinquish possession of the Property and shall remove any improvements, and restore the Property to substantially the state and environmental condition in which it was prior to Lessee's use. In case Lessee shall fail within thirty (30) days' after the date of such termination to make such removal and restoration, then Lessor may, at its election, (a) either remove the improvements or otherwise restore the Property, and in such event Lessee shall, within thirty (30) days' after receipt of bill therefor, reimburse Lessor for cost incurred, or (b) upon written notice to Lessee may take and hold any improvements and personal property as its sole property; or (c) pursue any remedy at law or in equity. In the event that the restoration of the Property is not completed by the date which Lessee terminates this Lease and relinquishes possession of the Property, Lessee's obligation to pay an amount equal to the rental payments under this Lease shall continue until such restoration is completed. Further, in the event Lessor has consented to improvements remaining on the Property following termination, Lessee shall provide a Bill of Sale covering such improvements to Lessor.

23. If Lessee fails to surrender to Lessor the Property, upon any termination of this Lease, all liabilities and obligations of Lessee hereunder shall continue in effect until the Property is surrendered; and no termination shall release Lessee from any liability or obligation, whether of indemnity or otherwise, resulting from any events happening prior to the date of termination or the date, if later, when any Lessee-owned improvements and personal property are removed and the Property restored or Lessor elects to take and hold any Lessee-owned improvements and personal property as its sole property as referenced in Section 22.

24. In the event that Lessee consists of two or more parties, all the covenants and agreements of Lessee herein contained shall be the joint and several covenants and agreements of such parties.

25. It is understood and agreed that this Lease shall not be placed of public record.

26. All questions concerning the interpretation or application of provisions of this Lease shall be decided according to the laws of the State in which the Property is located.

27. To the maximum extent possible, each provision of this Lease shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Lease shall be prohibited by, or held to be invalid under, applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this Lease.

28. The waiver by Lessor of the breach of any provision herein by Lessee shall in no way impair the right of Lessor to enforce that provision for any subsequent breach thereof.

29. If all or any part of the Property is subjected to taking under eminent domain laws, this Lease shall terminate from the time possession is taken by the condemning entity, with prepaid rentals prorated. Lessee agrees that it is not entitled to, and hereby disclaims, any award made for such taking, excepting only an award issued solely and expressly to compensate for the taking of personal property or buildings owned or constructed by Lessee.

30. Nothing in this Lease shall prevent Lessor from discontinuing service over any railroad line or lines by which rail service may be provided to the Property.

31. All notices to be given by Lessee to Lessor shall be given by letter, deposited with the United States Postal Service, postage prepaid, addressed to 2120 FIRST INTERSTATE CENTER, 999 THIRD AVENUE, SEATTLE, WA 98104. All notices to be given by Lessor shall be similarly given, addressed to Lessee at the address stated above. It is the Lessee's duty to notify Lessor promptly in writing of any change in its address; if it fails to do so, any notice from Lessor sent to its last known address shall be effective, whether or not received.

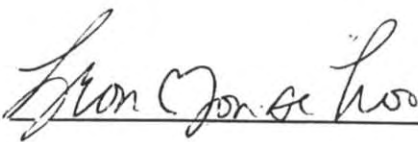
32. This Lease is the full and complete agreement between Lessor and Lessee with respect to all matters relating to lease of the Property, and supersedes any and all other agreements between the parties hereto relating to lease of the Property. If this Lease is a reissue of an existing agreement(s) held by Lessee, it shall supersede and cancel the previous Lease or Leases, without prejudice to any liability accrued prior to cancellation.

This Lease shall inure to the benefit of and be binding upon the parties hereto and their heirs, executors, administrators, successors and assigns.

SPECIALTY  
SERVICES, INC.


TRANSPORTATION

THE BURLINGTON NORTHERN AND  
SANTA FE RAILWAY COMPANY

By: 

Title: VP-Finance

By: CATELLUS MANAGEMENT CORP.  
ITS ATTORNEY IN FACT

By:   
Regional Manager

By signing this agreement, I acknowledge that I have read and understand it, and will abide by all of its terms.

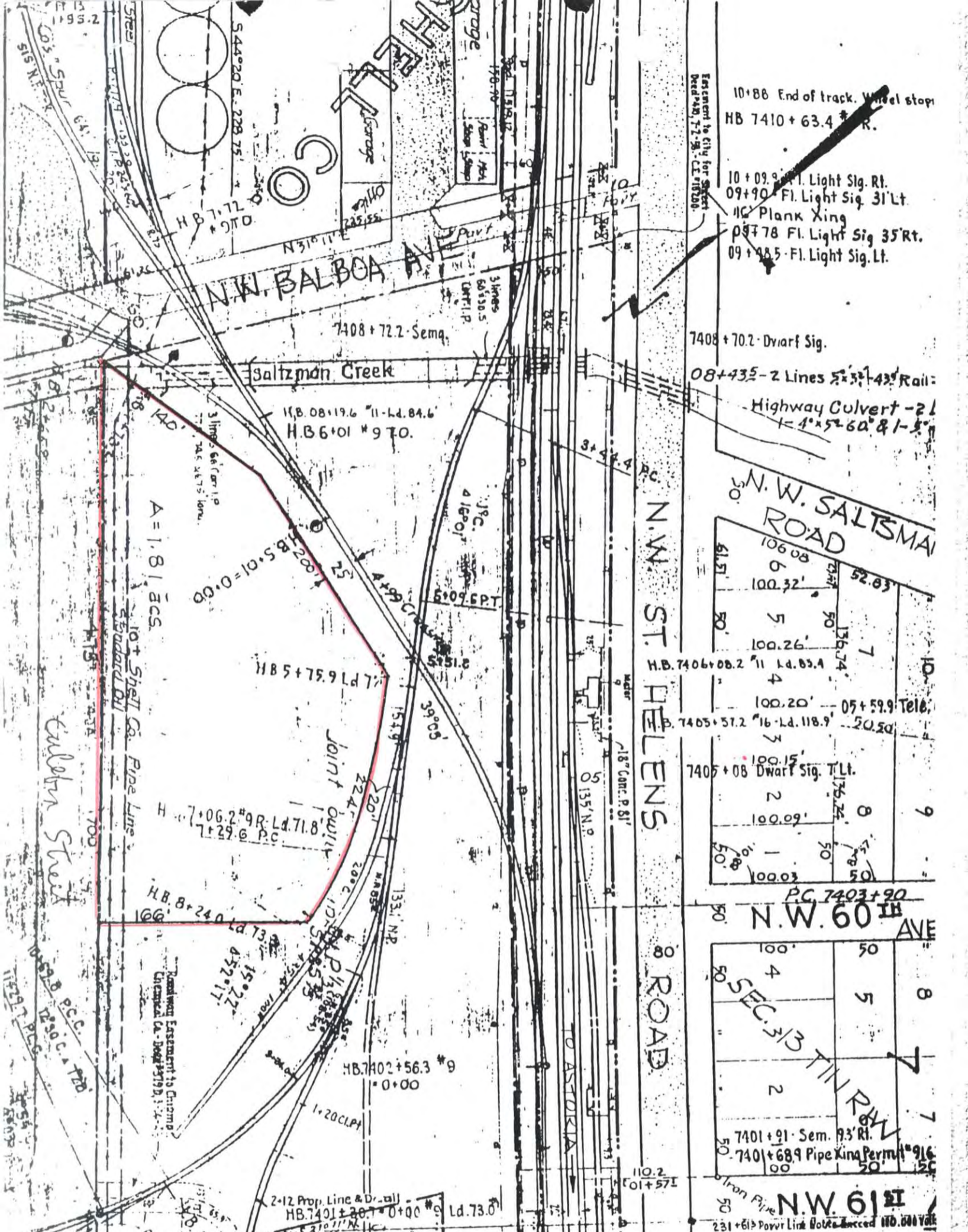


EXHIBIT "A"

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

INDICATES LEASED LAND AREA 78,885 SF

LESSEE	SPECIALTY TRANSPORTATION SERVICES, INC.
CITY	WILLBRIDGE
COUNTY	MULTNOMAH
STATE	OREGON
CORRIDOR	NORTHERN
DIVISION	PACIFIC
PURPOSE	STORAGE
SCALE	1" = 100'
DATE	01/01/98

1-Story Conc  
990.0' H.B. 701



FORM APPROVED  
BY LAW

**THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY**

**CONSENT TO SUBLEASE UNDER LEASE NO 501,022**

THIS AGREEMENT, among THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, hereinafter called "Lessor", CSU TRANSPORT, INC., hereinafter called "Lessee", and METRO, hereinafter called "Sublessee",

WITNESSETH:

WHEREAS, by lease numbered 501,022 and dated FEBRUARY 1, 1988 and Assignment dated as of May 14, 2001, Lessor leased to Lessee certain premises at WILLBRIDGE, County MULTNOMAH, State of OREGON; and

WHEREAS, Lessee and Sublessee desire Lessor's consent to a sublease from Lessee to Sublessee of those certain leased premises described in said lease, as shown on the attached Exhibit A.

NOW THEREFORE, the parties hereto, in consideration of their mutually-dependent promises, hereby agree as follows:

1. Lessee and Sublessee shall jointly and severally perform and be bound by all of the terms, conditions and provisions of said lease, as the same may have been or may hereby or hereafter be amended, during the term of the sublease from Lessee to Sublessee. If only a part of the leased premises are being subleased, Sublessee shall be so bound only as to the part subleased.

2. Sublessee shall occupy and use an 11,934 square foot subleased premises for the exclusive purpose of A PAVED PARKING AREA WITH 36 PARKING SPACES FOR METRO EMPLOYEES' VEHICLES AND METRO VEHICLES AND EQUIPMENT.

3. Lessor consents to the sublease from Lessee to Sublessee, provided that such consent shall not be construed as consent to any further sublease of said premises.

4. At the request of Lessor, said sublease shall be subject to cancellation upon thirty (30) days written notice given by Lessee to Sublessee. Upon receipt of written notice by Lessee from Lessor requesting cancellation of said sublease, Lessee will within ten (10) days serve written notice of cancellation of said sublease on Sublessee, who shall peaceably and quietly surrender said premises upon the expiration of said thirty (30) day period.

5. In the event that CSU Transport, Inc. defaults under their existing Waste Hauling Contract with Metro and Metro assumes the operations of CSU Transport, Inc., under such Contract, Metro will be permitted to obtain an assignment of Lease # 501,022, provided that said


Assignment meets the approval of Lessor and Metro agrees to assume all of the obligations of CSU Transport, Inc. under the Lease.

6. Prior to completion of this agreement a processing fee of <sup>Five</sup>~~Two Hundred Fifty~~ Dollars (\$500.00) shall be paid to Lessor.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in triplicate this 10th day of September, 2001.

**LESSOR: THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY**

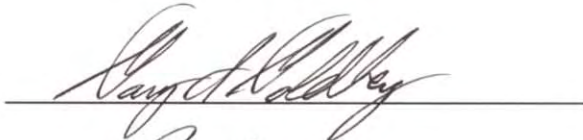
By: Staubach Global Services  
Its Attorney in Fact



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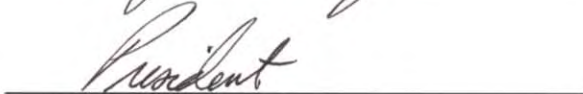
**LESSEE: CSU TRANSPORT, INC.**

By:



A handwritten signature in black ink, appearing to be 'Ray A. Kelly', is written over a horizontal line.

Title:



The word 'President' is handwritten in black ink over a horizontal line.

**SUBLESSEE: METRO**

By:



A handwritten signature in black ink is written over a horizontal line.

Title:



The word 'Director' is handwritten in black ink over a horizontal line.

## STAFF REPORT

### IN CONSIDERATION OF NO. 08-3889, FOR THE PURPOSE OF CONSIDERING THE RELEASE OF REQUEST FOR PROPOSAL NO. 08-1254 FOR THE PROCUREMENT OF SOLID WASTE TRANSPORTATION SERVICES

---

Date: December 18, 2007

Prepared by: Mike Hoglund

#### PURPOSE

The Metro Council's approval of this Resolution would authorize the Chief Operating Officer to release a Request for Proposals to procure a new solid waste transport contractor for solid waste disposed at Metro South and Metro Central transfer stations.

#### BACKGROUND

Metro's current Waste Transport Services Contract expires at the end of 2009. The contract provides for the transport of waste received at Metro's two transfer stations to the Columbia Ridge Landfill owned by Waste Management Disposal Services. Metro must obtain replacement transport services to continue transporting waste to this landfill through 2019 at which time the disposal contract expires. In late 2006, the Metro Council approved the project work plan entitled *New Waste Transport Contract* to obtain these replacement services. An interdepartmental project team was assembled with representatives from Solid Waste & Recycling, Planning, Finance & Administrative Services, and Office of the Metro Attorney. In addition the consulting firm of CH2M Hill was retained to assist the project team to review waste transport modal options and to facilitate development of the request for proposals evaluation criteria.

##### *Phase I – Transportation Study*

The first phase of this project consisted of the Metro Solid Waste Transportation Study, which investigated the alternative approaches available to Metro for replacement transport services. The consulting firm of CH2M Hill presented this study to the Metro Council at its May 29, 2007 meeting, concluding the study phase of the project.

The major findings of the study involved the feasibility of the possible modes available, how the values of the Metro Council could be used to evaluate proposals to provide the needed services and an analysis of policy issues. The study demonstrated that all three modes (barge, rail and truck) were capable of providing the necessary logistics and services required. It also indicated substantial variation amongst the modes when evaluated utilizing criteria derived from the Council values, and identified the factors proposers needed to address in relation to those values in their proposals. A major policy finding was that the possibilities of backhaul were limited and should not be emphasized during the request for proposals (RFP) process.

##### *Phase II – Public Outreach and Procurement*

Phase II of the project consists of conducting a procurement process, beginning with the drafting of a request for proposals (RFP). Based on the study and feedback from the Metro Council, staff drafted an RFP that was distributed for review and comment by potential proposers and interested parties in October and early November 2007.

Three public meetings were held in Condon, Hood River and in Portland. Total attendance at these meetings was **108**. In addition a survey has been available at the public meetings and online; **84** people responded to the survey.

The outreach campaign has been supported by ads in community and metropolitan newspapers and industry publications and press releases.

The Solid Waste and Recycling department also conducted a postal mailing and two emailings to more than **800** interested parties as well as numerous mailings to the industry email list.

The responses from the public hearings and the online survey are summarized in Attachment #1. Generally comments stressed the importance of environmental and socioeconomic factors over cost. The reliability and efficiency of the transport system were also important.

Over twenty interested firms were contacted regarding the draft and comments were received from approximately half. Comments and the project team's responses are contained in Attachment #2.

Based on the comments received, a presentation was made to the Metro Council on November 27<sup>th</sup>, which included sensitivity analysis around how changing evaluation points or emission assumptions might affect the ranking of different modes. The analysis showed that while the relative ranking between modes did not differ from the original analysis, the difference in rankings narrowed. Based on this analysis and subsequent discussion, the Council agreed to reallocate evaluation points as shown below, and to continue the approaches regarding soliciting a single contractor and the handling of fuel as contained in the draft RFP.

*Change in Evaluation Points*

<b>Evaluation Criteria</b>	<b>Draft RFP</b>	<b>Final RFP</b>
Cost	60	45
Environmental Impacts	15	20
Socioeconomic Impacts	5	10
Operations/Risk	20	25

Additional changes were made to the RFP based on the comments and incorporated into the final RFP attached as Exhibit A to Resolution No. 08-3889. Individual changes are listed in Attachment #2 to this staff report.

*Phase III – Mobilization and Begin Operations*

Phase III of this project will occur after a new service provider has been procured. Most potential operators have expressed the need for at least an 18-month time window for mobilization prior to beginning operations; hence, selection of a contractor by mid-year next year is in the critical path if the new contractor is to begin operations as scheduled, in January 2010.

Schedule

If this resolution is adopted, the following 2008 schedule is anticipated:

- End of January - release RFP
- Mid-March - Proposals Received
- Evaluation/Negotiation Complete- End of June
- Council Review/Award - July

- Contractor Begins Mobilization - August
- New Operations Begin - January 1, 2010
- Contract Terminates - December 31, 2019

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

There is no known opposition to proceeding with the project.

### **2. Legal Antecedents**

There are no known legal antecedents.

### **3. Anticipated Effects**

See Schedule above for anticipated effects upon adoption of this Resolution.

### **4. Budget Impacts**

There is no extraordinary budget impact anticipated in the current fiscal year, nor in fiscal year 2008-2009 from the release of RFP. The effort of evaluating proposals received in 2008, i.e., staff time, is considered part of the Department's normal business operations and will be accomplished within existing budget allocations.

Once a new transport contractor has been selected to begin operations on January 1, 2010, it is probable that there will be a significant increase in the cost to transport waste to the Columbia Ridge Landfill of as much or more than \$2 per ton, or about \$1.2 million per year. The actual changes in cost will be relatively well known well in advance of budget planning for the 2009-2010 fiscal year; hence, from the perspective of cost recovery, e.g., through Metro's tip fee, the Metro Council will have ample opportunity through the normal budgeting process to respond to then-known changes in cost for waste transport services.

## **RECOMMENDED ACTION**

Approve Resolution No. 08-3889, to release Request for Proposals SWR 08-1254-SWR to procure a new solid waste transport contractor.

## ATTACHMENT #1

### **WASTE TRANSPORT CONTRACT PUBLIC MEETINGS**

**CONDON, OREGON- OCTOBER 8, 2007**

#### Comments and Questions (Staff Responses)

##### Questions:

- Is the trucking option cost-effective?
- Will Metro have to replace / modify compactors if the rail or barge option is used? (No.)
- Would barges go from the port at Morrow? (Possibly, though unlikely because it's not cost effective. It depends on the proposals we receive.)
- Are there emission controls on trains? (No.)
- Can Gilliam County require contractor to have a permit? (Yes. They do now.)
- What about using biodiesel? (It's not currently a requirement/factor in the draft RFP.)
- Are trucks considered personal property that is taxed? (No; other equipment is, but not trucks.)
- Is there planning in case of disasters? (Yes; a disaster debris plan is being developed.)
- Why no back hauling? (What can be transported in waste hauling trucks is pretty limited. Rocks, chips could be back hauled. Metro is open to back-haul opportunities.)
- Will landfill / transfer operators be restricted from bidding? (No.)
- If rail is the choice, what's our recourse in Arlington to deal with the traffic delay issues? [State representative and local elected officials responded regarding laws governing how long trains can close an intersection.]

##### Comments:

- Choosing any option other than trucking would result in half as many jobs / wages. Current drivers are employed from surrounding counties.
- Truckers' jobs are important, and the trucking option employs the most people.
- Don't fix a system that isn't broken.
- Barge and rail options would rely on trucking, as well, but the trucking option doesn't rely on barge and rail.
- Don't transport the waste by rail; stay with trucking.
- Don't transport the waste by barge; there's no current barge facility.
- There's no major advantage to changing from the current (trucking) system. Barges can have accidents that cause a significant environmental problem.
- Trains crossing roads interfere with traffic flow and emergency vehicles.
- Trucking hasn't had any significant impact on I-84.
- CSU drivers are polite and represent Gilliam County well.
- If trucking continues to be the transport mode, the jobs should still be based in Gilliam County.
- If the barge option is chosen, it needs to be based at Willow Creek.
- Trucks used to have to start and stop in Gilliam County.
- The Metro contract has been a godsend to Gilliam County and has resulted in low property taxes and many other benefits. Trucking is the way to go.
- The transportation system you choose could be a life-saver for Gilliam County in an emergency situation. Think outside the box.
- Need to give more points in the criteria for development in Gilliam County.

**BEST WESTERN INN**  
**HOOD RIVER, OREGON- OCTOBER 29, 2007**  
Comments and Questions

- **Will rising fuel costs be passed onto customers?** They could be. However, particularly for residential customers, the increase would be very minimal because the percentage of the garbage bill for landfill transport fuel is so small. For commercial customers who generate more waste, costs would be more substantial.
- Metro will be looking for proposals that address the issue of rising fuel costs.
- **Will biofuel for trucks be a requirement in the request for proposal?** No. Low-sulfur fuels will be. However, utilization of biofuel will be considered in the allocation of points under both the “environmental” criterion and the sustainability aspects of the “operational” criterion.
- **What option would work best for Gilliam County?** [Question addressed to Gilliam County Commissioner at the meeting.] Trucking gives us the greatest number of jobs. We were hoping to also develop a barge dock, but we’re experiencing problems with it.
- **If you selected trucking, how would a severe fuel shortage impact the people of Portland?** A severe fuel shortage would impact any of the transport options selected. If it were a really serious shortage, obviously just getting fuel to transport the waste would be an issue, regardless of the costs.

**METRO REGIONAL CENTER – COUNCIL CHAMBERS**  
**PORTLAND, OREGON, NOVEMBER 7, 2007**  
Comments and Questions

Questions

- Statistics regarding trucking and emissions; do they take into account the higher number of trips needed?
- Where is equipment being maintained currently? (at Columbia Ridge Landfill)

Comments

- Gilliam County happy with the current economic benefits and employment. Strong community support for trucking. @ 80 jobs currently; would like trucking base to remain in the county (Gilliam Court Commission Chair).
- Friends of Columbia River Gorge concerned with air quality issues. Would like environmental concerns to be given more points in the RFP.
- Current contract has been a huge investment for Metro and contributed to the development of the regional solid waste system. There are even more ways to expand. Perhaps put in points for backhauling to encourage bidders to incorporate that aspect.
- DEQ encourages bidders to look ahead towards more stringent air quality standards. Rail and barge lag in restrictions; some of the improvements from trucking could be developed for these other modes of transport.
- Increased cost is tolerable if benefits occur as well, such as environmental benefits.
- Provide an analysis of modes to help public and Council make an informed financial decision.

Comments via email

- Method chosen must be the most efficient possible regarding carbon emissions. Transporting combustible waste likely uses more energy than burning it locally, producing electricity. Use whichever method produces the least carbon dioxide.
- Must be careful to minimize impacts to the Gorge. Weigh the risks to the Gorge ecosystem and the health/safety of those who live or travel to that area.

**1. How important is each criterion to you (1 = not important 2 = somewhat important 3= important 4 = very important).**

	not important	somewhat important	important	very important	Rating Average	Response Count
<b>a.</b> Cost effectiveness	4.7% (4)	25.9% (22)	<b>37.6% (32)</b>	31.8% (27)	2.96	85
<b>b.</b> Reliability	4.8% (4)	11.9% (10)	<b>42.9% (36)</b>	40.5% (34)	3.19	84
<b>c.</b> Community concerns and impact	4.7% (4)	15.3% (13)	32.9% (28)	<b>47.1% (40)</b>	3.22	85
<b>d.</b> Environmental impacts	3.5% (3)	10.6% (9)	24.7% (21)	<b>61.2% (52)</b>	3.44	85
	<i>answered question</i>					<b>85</b>
	<i>skipped question</i>					<b>1</b>

**3. Based on what you know about the three transportation options (barge, truck, rail) and on your preferred criteria, select one preferred option. Select only one.**

	Response Percent	Response Count
Barge	11.1%	9
<b>Truck</b>	<b>53.1%</b>	43
Rail	35.8%	29



1. How important is each criterion to you (1 = not important 2 = somewhat important 3= important 4 = very important).

*answered question*

81

## ATTACHMENT #2

Comments and Responses Received on Draft RFP 08-1254-SWR, October 2007

*Note: Comments received were primarily from firms interested in proposing on the project, as well as DEQ and the Friends of the Columbia Gorge.*

### 1. RFP

#### a. **Ability to propose on one or both**

- Responding firms presented pros and cons to a single contract encompassing both transfer stations, or a contract for each. Most preferred a single contract, citing difficulty in administering two large contracts, including duplicate overhead.

**Metro Response:** At its Work Session of October 27, 2007, Council voted to continue the single proposal approach in the final RFP.

#### b. **Experience Requirement**

- There was some disagreement with the single customer provision<sup>1</sup> of the experience requirement, and that the distance requirement in proportion to the quantity of freight could be problematic for smaller firms.

**Metro Response:** The single customer condition has been modified to lower the experience requirement and shorten the distance so that smaller firms may participate in the project.

#### c. **Fuel**

- Vendors expressed concerns over whether or not fuel costs should be included in the per container price; how fuel prices are adjusted; and if Metro should purchase fuel for the project.

**Metro Response:** At the Council Work Session of October 27, 2007, the Council indicated its approval of continuing the draft RFP's approach of offering proposers the choice of proposing on: 1) a single per-container price that includes fuel; or 2) a price for handling the container plus a separate per-load price for fuel.

Regarding Metro buying fuel and obtaining excise tax relief, Council decided to continue the current approach in the draft (soliciting the cost component *with excise taxes included* for evaluation purposes), and to reevaluate the issue of Metro purchasing fuel during contract negotiations.

Metro's intentions regarding fuel payments and adjustments are contained in Item VIII (E) of the RFP.

#### d. **Overview of current contract**

- There is no mention of how the lump sum prepayment made to the existing transport contract affected the per ton prices described in this section.

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<sup>1</sup> This required that a threshold amount of freight be transported for a single customer by the proposer.

**Metro Response:** A footnote has been added to the “Metro Waste Transport Payments and Fuel Usage” appendix document noting the payment. Vendors should review the current transport contract and all its change orders posted on the project website to determine current pricing and scope of services.

**e. Evaluation**

- Potential proposers asked that Metro request clarification prior to adjusting any data submitted that Metro judges to be inaccurate, and that more evaluation points be added in consideration of socioeconomics. A question was also posed regarding the definition of “container capacity.”

**Metro Response:** The evaluation process has been modified to allow proposers an opportunity to respond to evaluation committee changes to data submitted.

After discussion at the October 27 Work Session, Council decided to adjust evaluation points as follows:

- Cost – reduced from 60 to 45
- Environment – increased from 15 to 20
- Socioeconomic – increased from 5 to 10
- Operations/Risk – increased from 20 to 25

Proposers should evaluate their tractor/trailer or tractor/chassis combination to determine the maximum bale they can transport, assuming a maximum bale length of 34 feet that can be pushed no further than 7 feet into the container.

**2. Questionnaire**

Vendors asked to be allowed to submit alternative financial information rather than audited financial statements, and asked for clarification regarding financial reporting requirements during the contract.

**Metro Response:** Metro will not require audited financial statements: New requirements for financial information have been substituted in the Questionnaire.

Regarding financial reporting during the life of the contract, Article 11 of the proposed services agreement contains the following requirement:

*“Contractor shall submit to Metro at least annually, and more often at Metro’s request, copies of such financial records and tax returns as are submitted to the surety or banking institution furnishing Contractor’s Performance and Labor and Materials Bonds or Letter(s) of Credit (see Article 14).”*

**3. Contractual Issues** – The Proposed Solid Waste Transportation Services Agreement contained in the January draft RFP is the same as that contained in the October draft. Metro intends to modify the agreement during negotiations as described in section VIII (E) of the January draft RFP.

a. **Article 1 (Definitions)**

- How would contract terms be affected in the case of a large-scale natural disaster, as they are excluded from the Force Majeure definition?

**Metro Response:** It is anticipated that such events would result in “federal or state government orders” that would fall under the Force Majeure definition.

b. **Article 3 (Obligations of Contractor)**

- Vendors questioned whether monthly meetings would be for just the start-up or the contract duration; and questioned if additional compensation would be available for use of the alternative transport system during an emergency / disruption to the system.

**Metro Response:** The monthly meeting requirement is for the duration of the contract, and the Contractor is not entitled to additional compensation for putting into place an alternative to its primary transportation system unless a Force Majeure event has occurred.

c. **Article 4 (Title to Waste)**

- Responding firms asked for clarification of this Article.

**Metro Response:** If a seal is broken on a load after Contractor takes possession but prior to being broken by the landfill contractor, the transport Contractor is responsible for all costs and liabilities associated with the load, such as if it contains unacceptable waste which requires additional handling, or must be disposed in a hazardous waste landfill.

d. **Article 6 (Separate Contracts)**

- Regarding this clause, there were concerns that Metro would not be required to guarantee commitment to the chosen proposer, nor to buy their equipment or cover other expenses incurred, in the event Metro contracted with other firms to haul the waste discussed in the RFP.

**Metro Response:** Metro’s intentions regarding this matter are contained in Item VIII (E) of the RFP.

e. **Article 7 (Payment)**

- It was requested that proposal prices be adjusted prior to the start of operations to account for long mobilization time; to modify the change in law provision so that the contractor is not responsible for costs due to local government changes in law; to cover specific expenses associated with changes with existing fees/taxes; and to clarify the timeliness in which Metro pays the contractor after receiving an invoice.

**Metro Responses:** Metro’s intentions regarding payments and the local change in law provision are contained in Item VIII (E) of the RFP.

The payment article is written such that the Contractor is responsible for the payment of all fees and taxes whether in existence at the time of contract execution or which come into existence later. CPI adjustments in the article are intended to cover increases in fees and taxes, as well as other operating expense increases. Article 7-3 addresses circumstances under which Contractor may be eligible for additional compensation from Metro for new or

revised fees and taxes, however generally the Contractor will be responsible for increases in fees and taxes without additional compensation from Metro.

f. **Article 8 (Additional or Deleted Work)**

- Potential proposers asked for clarification of this item, particularly how compensation for additional/deleted work will be determined should the parties disagree.

**Metro Response:** Metro's intentions regarding this matter are contained in Item VIII (E) of the RFP.

g. **Article 11 (Inspections/Records retention)**

- Clarification was needed regarding a number of phrases used.

**Metro Response:** The proposals/bids that Metro receives in response to a RFP, RFB, or RFI become public record. According to the Metro Records Retention Schedule, the accepted bid is retained for six years and rejected bids are retained for two years. During the life of these records anyone may request them in a public document request. However, a Contractor may request confidentiality in their submitted bid to protect sensitive information. Any public document request would be referred to the Office of Metro Attorney for possible redaction or exemption.

Submitted information becomes the property of Metro.

As defined by the State of Oregon, a record means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. The electronic record may take the place of the original and all hard copy versions of the record may be treated as convenience copy and disposed of in an appropriate manner when the copy is no longer needed.

h. **Article 13 (Insurance)**

- Respondents questioned the necessity of citing the Harbor Workers and FELA (Jones Act) and the amount of umbrella insurance coverage (\$15 million).

**Metro Response:** The Harbor Act and Jones Act are applicable mainly to intermodal terminals with marine or rail services respectively. In addition, the article has been rewritten. Metro's intentions regarding other insurance issues are contained in Item VIII (E) of the RFP.

i. **Article 15 (Metro's Rights and Remedies for Contractor's Default in Performance)**

- Vendors voiced several concerns regarding penalties and liquidated damages that may be levied against the Contractor once the station is closed.

**Metro Response:** Metro's intentions regarding exposure to penalties are contained in Item VIII (E) of the RFP.

In the case of liquidated damages (LDs), Metro wishes the Contractor to continue its efforts to remedy the situation causing imposition of LDs even if the station is closed and will continue to impose any LDs until the situation is remedied subject to the 24 hour limitation.

j. **Article 16 (Metro's Right to Terminate)**

- Questions arose about compensation for equipment and costs incurred under this Article.

**Metro Response:** The types of costs allowable under the termination provision will be negotiated between Metro and the Contractor, but will not include anticipated profits. Metro will negotiate reimbursement for the use of Contractor's equipment during final negotiations once the mode and equipment purchasing arrangements are known.

k. **Article 28 (Compliance with Oregon public contracting laws)**

- One respondent asked for clarification regarding employee overtime and medical care.

**Metro Response:** Regarding overtime, it is our interpretation that public policy will require the use of overtime for this contract. Contractor will be required to comply with any medical care provisions of the article. The title has been changed to better reflect the intent of the article.

4. **Operational**

a. **BNSF site**

- A few questions arose about the property leased from BNSF adjacent to Metro Central.

**Metro Response:** Metro will provide a copy of the current lease in the final RFP. The current lease is \$53,914 annually; Metro pays CSU 5.24% for 12 spaces on the 1.81 acre storage yard. Traditionally, the lease has been adjusted per the CPI, but BNSF is considering reassessing the surrounding property to readjust. Metro will not be responsible for finding replacement space if the lease is cancelled, but expects its sublease to continue if the next Contractor utilizes the site.

b. **Onsite Activities**

- A discrepancy was mentioned regarding trailer and tractor washing between the Annual Report and the RFP. Also, a vendor wondered about the thawing building, as well as compaction hours. Other questions concerned various aspects of onsite activities including siting fuel tanks/maintenance facilities at CRL, liability for trailer damage during loading and hazardous materials.

**Metro Response:** The washing of trailers at MCS as mentioned in the annual report occurred in the lot leased by the Contractor, not on the transfer station site. Regarding the thawing building, only the building is available (not heaters). The letter from WMDS contained in the RFP appendix contains further information about the building.

Generally, compaction hours are 18 hours per day M-F, and 8 hours on one weekend day at MSS; 14 hours weekdays at MCS and 8 hours on one weekend day.

Metro neither owns nor leases any space at the landfill, so an above-ground diesel fuel tank has not been considered. Metro does not know if a maintenance facility may be possible at CRL- any such negotiations would be between the two contractors.

Regarding damage to property, one or two trailers sustain minor damages every other month at the transfer stations, while major damage such as structural failure occurs about once every two years (mainly to 100 series trailers with exposed roof bows). The transfer station operator is generally responsible for damage unless the trailer is structurally unsound or the shuttle driver is at fault (in which case the transport contractor may be liable). The two contractors are responsible for working out who is at fault; Metro will be the final arbiter of any dispute.

Hazardous materials are prohibited at Metro transfer stations. The transfer station operator is responsible for spotting and removing any hazardous or unacceptable material prior to loading for transport. The transport contractor is responsible, however, for developing contingency plans in the event hazardous waste is loaded into its containers, causing an incident.

**c. Equipment**

- Some vendors were unclear as to the reason equipment is required to be new, and had some trepidation about equipping all containers with GPS units. Water-tightness conditions were a concern, as well.

**Metro Response:** Contractor must supply enough new tractors and containers to accomplish the anticipated normal operations, including anticipated breakdowns and routine maintenance. During use of the back-up system, Contractor can substitute used equipment. However, during the evaluation process, the emissions from the use of an alternate transport system will be considered (particularly for extended periods such as lock closures).

Insofar as water-tightness, testing will only need to be documented as part of the Contractor's acceptance of new containers (see revision to item 3.3 of SOW). However, Metro will reserve the right to require testing if it believes a container does not meet the performance requirement. See revised item 3.4 of SOW. The cleaning (item 3.5) requirement has been revised to require cleaning as problems arise.

Item 3.7 of the Scope of Work has been modified to limit the GPS requirement. Metro will also consider alternative methods of tracking equipment in proposals.

**d. Drivers**

- Vendors asked several questions about employees' salaries / pay scales, and from where drivers could be hired.

**Metro Response:** Proposing contractors are not required to use the current contractor's salary structure, nor is there a specific pay scale requirement. Hiring drivers from Portland or counties other than Gilliam is acceptable, though the socioeconomic impact on the affected communities will be considered during proposal evaluation.

**e. Tipping**

- One respondent asked about Waste Management's tipping fee, and what alternative landfills are available in the event of highway closures.

**Metro Response:** See letter from WMDS contained in the appendix for tip fee information. Metro does not anticipate the use of an alternate landfill should I-84 close. The Contractor

would be required to implement their back-up system, which should include the use of alternate routes.

f. **Payloads**

- Are there MSW payload goals?

**Metro Response:** Metro has established no goals but desires a payload that minimizes costs to Metro and the total number of loads. Historical payload data is contained in the appendix of the RFP.

g. **Contingency Plans**

- Proposers were interested in whether there are requirements for environmental contingency plans, whether for trailers, barge, or rail.

**Metro Response:** Contingency plans are required for all modes. Regarding the environmental effects of a barge or rail mode failure versus truck transport, an assessment of such risks is contained in the *Metro Solid Waste Transportation Study*, available online.

h. **Miscellaneous**

- There was interest expressed for information regarding Metro-sponsored community involvement programs, as well as questions regarding personal protective equipment (PPE).

**Metro Response:** Metro does not sponsor involvement programs in the affected communities; however, the agency does have ongoing enhancement programs to mitigate impacts surrounding its transfer stations. Regarding PPE, the Contractor is required to comply with each of the facilities' safety and operating requirements.

- The DEQ offered the following suggestions:
  1. Require that trucks comply with year 2010 requirements
  2. Require tugs and locomotives to use ULSD
  3. Consider encouraging biodiesel if there is no increase in NOx
  4. Encourage proposers to enact anticipated regulatory requirements early

**Metro Response:** The evaluation process contemplated in the RFP will reward proposals which contain these actions. Metro has largely taken this performance-based approach rather than a prescriptive approach to allow proposers to craft the most environmentally creative proposal to meet the objectives stated in the DEQ letter.

- Friends of the Columbia Gorge offered these:
  1. Require the transportation option with the least possible emissions in the Gorge
  2. Incorporate the Columbia Gorge mitigation requirements from the last transport contract

**Metro Response:** Since Metro is unsure which transportation option will have the lowest emissions in the Gorge, it has structured the evaluation process to accommodate these specific concerns. Likewise, we have specifically included impacts on the Gorge as part of the socioeconomic evaluation. Once the mode has been determined, Metro will reexamine Gorge operations and their impact.



## 5. Appendix

**TONNAGE PROJECTIONS/HISTORICAL TONNAGE PATTERNS:** The original forecast has been updated to reflect new information regarding waste recovery and generation, as well as the lack of a new non-Metro transfer station in the system. The result of these changes is an addition of approximately 72,000 annual tons under the contract in the lead up to 2013, with even more projected additions beyond, as Metro transfer stations acquire an increasing proportion of regional solid waste.

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