600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1542 | FAX 503 797 1793

METRO

Agenda

MEETING: METRO COUNCIL
DATE: September 18, 2008
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. INTEGRATING HABITAT PEOPLE'S CHOICE AWARD VIDEO

4. CONSENT AGENDA

4.1 Consideration of Minutes for the September 11, 2008 Metro Council Regular Meeting.

5. ORDINANCES – FIRST READING

5.1 **Ordinance No. 08-1191,** For the Purpose of Approving the Transfer Station Franchise Renewal Application for Waste Management of Oregon, Inc. Authorizing the Chief Operating Officer to Issue a Renewed Franchise For Forest Grove Transfer Station.

5.2 **Ordinance No. 08-1192,** For the Purpose of Approving the Transfer Station Franchise Renewal Application of Waste Management of Oregon, Inc. Authorizing the Chief Operating Officer to Issue a Renewed Franchise For Troutdale Transfer Station.

5.3 **Ordinance No. 08-1193,** For the Purpose of Approving the Transfer Station Franchise Renewal Application of Pride Recycling Company Authorizing the Chief Operating Officer to Issue a Renewed Franchise.

5.4 **Ordinance No. 08-1194,** For the Purpose of Approving the Transfer Station Franchise Renewal Application of Willamette Resources, Inc., Authorizing the Chief Operating Officer to Issue a Renewed Franchise.

5.5 **Ordinance No. 08-1195,** For the Purpose of Amending Metro Code Chapter 5.05 to Include Tualatin Valley Waste Recovery on the List of Designated Facilities.

5.6	**Ordinance No. 08-1197,** For the Purpose of Amending Metro Code Chapter 5.05 to Include Riverbend Landfill on the List of Designated Facilities.	

6. ORDINANCES - SECOND READING

6.1	**Ordinance No. 08-1199,** For the Purpose of Annexing Lands on the East Side of NW Helvetia Road, South of West Union Road, and North of Jacobson Road to the Metro Jurisdictional Boundary.	Harrington
6.2	**Ordinance No. 1198**, For the Purpose of Amending the Regional Solid Waste Management Plan, 2008-2018 Update, to include a Business Recycling Requirement.	Collette
6.3	**Ordinance No. 08-1200**, For the Purpose of Amending Metro Code Chapter 5.10, Regional Solid Waste Management Plan, by Adding Provisions to Implement the Business Recycling Requirement.	Collette
6.4	**Ordinance No. 08-1201**, For the Purpose of Adopting the Business Recycling Requirement Model Ordinance Pursuant to Metro Code Section 5.10.350 and the Regional Solid Waste Management Plan.	Collette

7. CHIEF OPERATING OFFICER COMMUNICATION

8. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for September 18, 2008 Metro Council meeting

Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 – Community Access Network www.tvctv.org – (503) 629-8534 2 p.m. Thursday, September 18 (Live)	**Portland** Channel 30 (CityNet 30) – Portland Community Media www.pcmtv.org – (503) 288-1515 8:30 p.m. Sunday, September 21 2 p.m. Monday, September 22
Gresham Channel 30 – MCTV www.mctv.org – (503) 491-7636 2 p.m. Monday, September 22	**Washington County** Channel 30 – TVC-TV www.tvctv.org – (503) 629-8534 11 p.m. Saturday, September 20 11 p.m. Sunday, September 21 6 a.m. Tuesday, September 23 4 p.m. Wednesday, September 24
Oregon City, Gladstone Channel 28 – Willamette Falls Television www.wftvaccess.com – (503) 650-0275 Call or visit website for program times.	**West Linn** Channel 30 – Willamette Falls Television www.wftvaccess.com – (503) 650-0275 Call or visit website for program times.

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

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

Agenda Item Number 4.1

Consideration of Minutes of the September 11, 2008 Metro Council Regular Meeting

Consent Agenda

Metro Council Meeting
Thursday, September 18, 2008
Metro Council Chamber

Agenda Item Number 5.1

Ordinance No. 08-1191, For the Purpose of Approving the Transfer Station Franchise Renewal Application for Waste Management of Oregon, Inc. Authorizing the Chief Operating Officer to Issue a Renewed Franchise For Forest Grove Transfer Station.

First Reading

Metro Council Meeting
Thursday, September 18, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE TRANSFER STATION FRANCHISE RENEWAL APPLICATION OF WASTE MANAGEMENT OF OREGON, INC. AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED FRANCHISE FOR FOREST GROVE TRANSFER STATION	)	ORDINANCE NO. 08-1191 Introduced by Michael J. Jordan, Chief Operating Officer, with the concurrence of David Bragdon, Metro Council President

WHEREAS, Metro Code Section 5.01.045(b)(2) stipulates that a Metro Solid Waste Facility Franchise shall be required for the person owning or controlling a facility that operates a Transfer Station; and

WHEREAS, Waste Management of Oregon, Inc. operates Forest Grove Transfer Station and holds a Metro Solid Waste Facility Franchise Number FR-004, which will expire on December 31, 2008; and

WHEREAS, Waste Management of Oregon, Inc. filed a completed application seeking a renewal of its franchise pursuant to Metro Code Section 5.01.087(b); and

WHEREAS, the moratorium on applications for new transfer stations pursuant to Metro Code Section 5.01.060(e) does not apply to this renewal application; and

WHEREAS, Metro Code Section 5.01.087(b) stipulates that the Council shall approve or deny renewals of solid waste facility franchises, that the Chief Operating Officer shall formulate recommendations regarding whether the renewal meets the criteria in Metro Code Section 5.01.070, and that the Council shall approve renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Metro Code Section 5.01.070; and

WHEREAS, the Chief Operating Officer formulated recommendations on the criteria listed in Metro Code Section 5.01.070 as required by Metro Code Section 5.01.087(b); and

WHEREAS, the Chief Operating Officer recommends that the franchise be renewed together with specific conditions as provided in Exhibit A to this Ordinance entitled “Solid Waste Facility Franchise;” and

WHEREAS, the Metro Council finds that the proposed renewal is in the public interest and meets the criteria contained in Metro Code Section 5.01.070; and

WHEREAS, the Metro Council finds that the terms, conditions, and limitations contained in Exhibit A to this Ordinance are appropriate; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The transfer station renewal franchise application of Waste Management of Oregon, Inc. for Forest Grove Transfer Station is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Ordinance entitled “Solid Waste Facility Franchise.”

2. The Chief Operating Officer is authorized to issue to Waste Management of Oregon, Inc. a renewed Solid Waste Facility Franchise for Forest Grove Transfer Station substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this _______ day of _______________ 2008.

____
David Bragdon, Council President

Attest:

____
Christina Billington, Recording Secretary

Approved as to Form:

____
Daniel B. Cooper, Metro Attorney

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600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2736
TEL 503-797-1650 | FAX 503-813-7544

METRO

SOLID WASTE FACILITY FRANCHISE
No. F-004-08

FRANCHISEE:	**FACILITY NAME AND LOCATION:**
Waste Management of Oregon, Inc. 7227 NE 55th Avenue Portland, Oregon 97218 Tel. (503) 992-3015 Fax. (503) 357-4822	Forest Grove Transfer Station 1525 B Street Forest Grove, Oregon 97116 Tel. (503) 992-3015 Fax. (503) 357-4822
OPERATOR:	**PROPERTY OWNER:**
Waste Management of Oregon, Inc. 7227 NE 55th Avenue Portland, Oregon 97218 Tel. (503) 992-3015 Fax. (503) 357-4822	Waste Management of Oregon, Inc. 7227 NE 55th Avenue Portland, Oregon 97218 Tel. (503) 992-3015 Fax. (503) 357-4822

This franchise replaces and supersedes the provisions of Metro Solid Waste Facility Franchise No. FR-004. Metro grants this franchise to the Franchisee named above. The Franchisee is authorized to operate and maintain a solid waste facility and to accept the solid wastes and perform the activities authorized by and subject to the conditions stated in this franchise.

ISSUED BY METRO

Michael Jordan, Metro Chief Operating Officer   Date

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1.0	**ISSUANCE**	
1.1	**Franchisee**	Waste Management of Oregon, Inc. 7227 NE 55th Avenue Portland, Oregon 97218 Tel. (503) 992-3015 Fax. (503) 357-4822
1.2	**Corporate affiliation**	Waste Management, Inc. 1001 Fannin, Suite 4000 Houston, Texas 77002
1.3	**Contact**	Steve Wolfe Phone: (503) 992-3015 Fax: (503) 357-4822 E-mail: swolfe2@wm.com
1.4	**Franchise number**	When referring to this franchise, please cite: Metro Solid Waste Facility Franchise No. F-004-08.
1.5	**Term**	The term commences on January 1, 2009, and shall terminate on December 31, 2013, unless amended, modified, suspended, or revoked under the provisions of Section 11.0 of this franchise.
1.6	**Renewal**	The Franchisee may apply for a franchise renewal as provided in Metro Code Section 5.01.087.
1.7	**Facility name and mailing address**	Forest Grove Transfer Station 1525 B Street Forest Grove, Oregon 97116 Tel. (503) 992-3015 Fax. (503) 357-4822
1.8	**Operator**	Waste Management of Oregon, Inc. 7227 NE 55th Avenue Portland, Oregon 97218 Tel. (503) 992-3015 Fax. (503) 357-4822
1.9	**Facility premises description**	Tax Lot Identification No. 1S306BC09501, No. 1S306CB00500, and No. 1S306CB00600, City of Forest Grove, Washington County, State of Oregon

1.10	**Property owner**	Waste Management of Oregon, Inc. 7227 NE 55th Avenue Portland, Oregon 97218 Tel. (503) 992-3015 Fax. (503) 357-4822
1.11	**Permission to operate**	The Franchisee is the property owner.

2.0	**CONDITIONS AND DISCLAIMERS**	
2.1	**Guarantees**	This franchise shall not vest any right or privilege in the Franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise.
2.2	**Non-exclusive franchise**	This franchise shall not in any way limit Metro from granting other solid waste franchises within Metro's boundaries.
2.3	**Property rights**	This franchise does not convey any property rights in either real or personal property.
2.4	**Amendment and modification**	Except as provided in Section 11.0 of this franchise, no amendment or modification shall be effective unless approved by the Metro Council.
2.5	**No recourse**	The Franchisee shall have no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement of the franchise or in the event Metro determines that the franchise or any part thereof is invalid.
2.6	**Indemnification**	The Franchisee shall indemnify Metro, the Council, the Chief Operating Officer (the "COO"), and any of their employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the granting of this franchise or the Franchisee's performance of or failure to perform any of its obligations under the Franchise or Metro Code Chapter 5.01, including without limitation patent infringement and any claims or disputes involving subcontractors.
2.7	**Binding nature**	This franchise is binding on the Franchisee. The Franchisee is liable for all acts and omissions of the Franchisee's contractors and agents.

2.8	**Waivers**	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 11.0 and be in writing and signed by the COO.
2.9	**Effect of waiver**	Waiver of a term or condition of this franchise shall not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.10	**Choice of law**	The franchise shall be construed, applied, and enforced in accordance with the laws of the State of Oregon.
2.11	**Enforceability**	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise shall not be affected.
2.12	**Franchise not a waiver**	This franchise does not relieve any owner, operator, or the Franchisee from the obligation to obtain all required permits, franchises, or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.13	**Franchise not limiting**	This franchise does not limit the power of a federal, state, or local agency to enforce any provision of law relating to the facility.
2.14	**Definitions**	Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01.

3.0	**AUTHORIZATIONS**	
3.1	**Purpose**	This section of the franchise describes the wastes that the Franchisee is authorized to accept at the facility and the waste-related activities the Franchisee is authorized to perform at the facility.
3.2	**General conditions on solid waste**	The Franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The Franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
3.3	**General conditions on activities**	The Franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.

3.4	**Acceptance and management of putrescible solid waste**	1. The Franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 12.2 of this franchise. The Franchisee also is authorized to accept putrescible waste for material recovery. 2. The Franchisee shall receive, manage, store, reload, and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers. Public self-haul customers may tip waste outside, provided that such waste is tipped directly into watertight containers that are covered or tarped within 12 hours of receipt, or by the end of the business day, whichever is earlier.
3.5	**Acceptance and management of mixed non-putrescible solid waste for reloading**	1. The Franchisee is authorized to accept loads of mixed non-putrescible solid waste for reload and transfer to a facility authorized by Metro to perform material recovery. 2. Except as provided below in Subsections (a) and (b), the Franchise shall receive, sort, store, reload, and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides. a. Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover prior to processing, within 12 hours of receipt, or by the end of the business day, whichever is earlier. b. Public self-haul customers may tip waste outside, provided that such waste is tipped directly into watertight containers that are covered or tarped within 12 hours of receipt, or by the end of the business day, whichever is earlier. 3. The Franchisee shall reload and remove all mixed non-putrescible waste from the site within 48 hours of receipt.
3.6	**Origin of solid waste**	The Franchisee shall accept authorized solid waste generated within the Metro boundary from any person who delivers such waste to the facility.
3.7	**Household hazardous waste collection**	The Franchisee shall provide opportunities for Metro to hold household hazardous waste collection events on-site at regular intervals and shall set aside a suitable area for that

		purpose.
3.8	**Acceptance of source-separated recyclable materials**	1. The Franchisee shall provide an area for collecting source-separated recyclable materials without charge at the facility premises, or at another location more convenient to the population being served by the facility, on the days and at the times that the facility is normally open to the public for disposal of solid waste. For purposes of this Section 3.8, said source-separated recyclable materials shall include newspaper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, aluminum, container glass, high grade office paper, tin cans, and any other material that is added by the COO based on a change to Oregon Administrative Rules Section 340-090-0070(1) subsequent to the effective date of this franchise. 2. The Franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.
3.9	**Acceptance of yard debris**	The Franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The Franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.10	**Acceptance of source-separated food waste**	The Franchisee is authorized to accept source-separated food waste that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The Franchisee may accept source-separated food waste only for reloading to authorized facilities for composting or other useful purposes as described in an operating plan and approved in writing by the COO.
3.11	**Acceptance of untreated wood**	The Franchisee is authorized to accept for processing and reloading, source-separated, untreated and unpainted wood waste, for example untreated lumber and wood pallets. The Franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.

3.12	**Acceptance of painted and treated wood**	The Franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by the COO. The Franchisee shall not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock, or any other product unless otherwise described in an operating plan and approved in writing by the COO.
3.13	**Acceptance of electronics devices**	The Franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer, and other similar functions related to preparing these materials for reuse, recycling, or disposal as required by the Oregon Department of Environmental Quality (DEQ).
3.14	**Acceptance of inert material**	The Franchise is authorized to accept inert materials for purposes of classifying, consolidating, transfer, and other similar functions related to preparing these materials for useful purposes.

4.0	**LIMITATIONS AND PROHIBITIONS**	
4.1	**Purpose**	This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility.
4.2	**Tonnage authorization**	This franchise does not limit the amount of solid waste that the Franchisee may accept.
4.3	**Prohibited waste**	The Franchisee shall not knowingly receive, process, reload, or dispose of any solid waste not authorized by this franchise. The Franchisee shall not knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; regulated hazardous waste; or any waste prohibited by the DEQ.
4.4	**Prohibition on mixing**	1. The Franchisee shall not mix or commingle any source-separated recyclable materials, source-separated yard debris or wood wastes brought to the facility with any unprocessed solid wastes or solid wastes destined for disposal. 2. The Franchisee shall not mix or commingle putrescible solid

		waste with non-putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris. 3. The Franchisee shall not mix or commingle non-putrescible solid waste with putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.
4.5	**Prohibition of size reduction on non-putrescible waste**	The Franchisee shall not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, or processing residual consolidation or loading operations, and such size reduction is described and approved by the COO in an operating plan.
4.6	**No disposal of recyclable materials**	The Franchisee shall not transfer source-separated recyclable materials to a disposal site, including without limitation landfills and incineration facilities.
4.7	**Composting prohibited**	The Franchisee shall not keep yard debris on site long enough for more than negligible biological decomposition to begin.
4.8	**Limits not exclusive**	This franchise shall not be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

5.0	**OPERATING CONDITIONS**	
5.1	**Purpose and general performance goals**	This section of the franchise describes criteria and standards for the operation of the facility. The Franchisee shall operate in a manner that meets the following general performance goals: a) Environment. The Franchisee shall design and operate the facility to preclude the creation of undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste, asbestos and other prohibited wastes. b) Health and safety. The Franchisee shall design and operate the facility to preclude the creation of conditions that may degrade public health and safety

		including, but not limited to, fires, vectors, pathogens and airborne debris. c) Nuisances. The Franchisee shall design and operate the facility to preclude the creation of nuisance conditions including, but not limited to, litter, dust, odors, and noise.
5.2	**Qualified operator**	1. Except as described in an operating plan and approved in writing by the COO, the Franchisee shall, during all hours of operation, provide an operating staff employed by the facility and qualified and competent to carry out the functions required by this franchise and to otherwise ensure compliance with Metro Code Chapter 5.01. 2. Facility personnel, as relevant to their job duties and responsibilities, shall be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan. 3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.
5.3	**Fire prevention**	The Franchisee shall provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from processing and storage areas.
5.4	**Adequate vehicle accommodation**	The Franchisee shall: a) Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. Access roads shall be maintained to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather. b) Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles shall not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances. c) Post signs to inform customers not to queue on public roadways. d) Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site tarping and untarping of loads.

5.5	**Managing prohibited wastes**	1. The Franchisee shall reject prohibited waste upon discovery and shall properly manage and dispose of prohibited waste when unknowingly received. 2. The Franchisee shall implement a load-checking program to prevent the acceptance of waste that is prohibited by the franchise. This program must include at a minimum: a) Visual inspection. As each load is tipped, a qualified operator shall visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise. b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas shall be covered and enclosed to prevent leaking and contamination. c) Record maintenance. Records of the training of personnel in the recognition, proper handling, and disposition of prohibited waste shall be maintained in the operating record and be available for review by Metro. 3. Upon discovery, the Franchisee shall remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the Franchisee unknowingly receives shall be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by the DEQ or local government.
5.6	**Storage and exterior stockpiles**	The Franchisee shall: a) Manage, contain, and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards; b) Maintain storage areas in an orderly manner and keep the areas free of litter; c) Position exterior stockpiles within footprints identified on the facility site plan or operating plan; and d) Not stockpile recovered or source-separated materials for longer than 180 days (6 months).
5.7	**Dust, airborne debris and litter**	The Franchisee shall operate the facility in a manner that minimizes and mitigates the generation of dust, airborne debris and litter, and shall prevent its migration beyond

		property boundaries. The Franchisee shall: a) Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit; b) Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit; c) Maintain and operate all access roads and receiving, processing, storage, and reload areas in such a manner as to minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site; d) Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation; e) Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; and f) Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, shall be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Section 5.09.040 of the Metro Code.
5.8	**Odor**	1. The Franchisee shall operate the facility in a manner that prevents the generation of odors that are detectable off-site. 2. The Franchisee shall establish and follow procedures in the operating plan for minimizing odor at the facility.
5.9	**Vectors (e.g. birds, rodents, insects)**	1. The Franchisee shall operate the facility in a manner that is not conducive to the harborage of rodents, birds, insects, or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another. 2. If vectors are present or detected at the facility, the Franchisee shall implement vector control measures.

5.10	**Noise**	The Franchisee shall operate the facility in a manner that prevents the creation of noise sufficient to cause adverse off-site impacts and to the extent necessary to meet applicable regulatory standards and land-use regulations.
5.11	**Water contaminated by solid waste and solid waste leachate**	The Franchisee shall operate the facility consistent with an approved DEQ stormwater management plan or equivalent and shall: a) Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; and b) Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state, and federal laws and regulations.
5.12	**Access control**	1. The Franchisee shall control access to the facility as necessary to prevent unauthorized entry and dumping. 2. The Franchisee shall maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.
5.13	**Signage**	The Franchisee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, and legible from off-site during all hours and shall contain at least the following information: a) Name of the facility; b) Address of the facility; c) Emergency telephone number for the facility; d) Operating hours during which the facility is open for the receipt of authorized waste; e) Fees and charges; f) Metro's name and telephone number (503) 234-3000; g) A list of authorized and prohibited wastes; h) Vehicle / traffic flow information or diagram; i) Covered load requirements; and j) Directions not to queue on public roadways.
5.14	**Nuisance complaints**	1. The Franchisee shall respond to all nuisance complaints in timely manner (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), and shall

		keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint. 2. If the facility receives a complaint, the Franchisee shall: a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); and b) Log all such complaints as provided by the operating plan. Each log entry shall be retained for one year and shall be available for inspection by Metro.
5.15	**Operating hours**	Metro may reasonably regulate the hours of facility operation as it finds necessary to ensure compliance with this franchise. Metro shall exercise best efforts to provide 90 days written notice prior to regulating hours of operation and shall not unreasonably increase the Franchisee's costs of operation of the facility.
5.16	**Access to franchise document**	The Franchisee shall maintain a copy of this franchise on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.

6.0	**OPERATING PLAN**	
6.1	**Purpose**	This section lists the requirements associated with preparing and implementing a facility operating plan, and lists the procedures that must be included in the required facility operating plan.
6.2	**Plan compliance**	The Franchisee must operate the facility in accordance with an operating plan approved in writing by the COO. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this franchise. The Franchisee may amend or revise the operating plan from time to time, subject to written approval by the COO.
6.3	**Plan maintenance**	The Franchisee shall submit an updated operating plan to the COO by February 2, 2009 as provided in Section 6.0 of this franchise. The Franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures, and requirements. The Franchisee must submit amendments and revisions of the operating plan to the COO for written approval prior to implementation.

6.4	**Access to operating plan**	The Franchisee shall maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
6.5	**Procedures for inspecting loads**	The operating plan shall establish: a) Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes; b) Procedures for identifying incoming and outgoing loads for waste classifications; c) A set of objective criteria for accepting and rejecting loads; d) Procedures for providing reasonable notice and justification prior to refusing service to any customer of the facility: and e) An asbestos testing protocol for all materials that appear to contain friable asbestos.
6.6	**Procedures for processing and storage of loads**	The operating plan shall establish procedures for: a) Processing authorized solid wastes; b) Reloading and transfer of authorized solid wastes; c) Managing stockpiles to ensure that they remain within the authorized weights, volumes and pile heights; d) Storing authorized solid wastes; and e) Minimizing storage times and avoiding delay in processing of authorized solid wastes.
6.7	**Procedures for managing prohibited wastes**	The operating plan shall establish procedures for managing, reloading, and transferring to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan shall establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.
6.8	**Procedures for odor prevention**	The operating plan shall establish procedures for preventing objectionable odors generated at the facility from being detected off the premises of the facility. The plan must include: a) A management plan that will be used to monitor and manage odors of any derivation including malodorous loads delivered to the facility; and b) Procedures for receiving and recording odor complaints, immediately investigating all odor

		complaints to determine the cause of odor emissions, and remedying promptly all odor problems at the facility.
6.9	**Procedures for dust prevention**	The operating plan shall establish procedures for preventing dust from blowing off the premises of the facility. The plan must include: a) A management plan that will be used to monitor and manage dust of any derivation; and b) Procedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions, and remedying promptly all dust problems at the facility.
6.10	**Procedures for emergencies**	The operating plan shall establish procedures to be followed in case of fire or other emergency.
6.11	**Procedures for nuisance complaints**	1. For every nuisance complaint (for example odor, dust, vibrations, and litter) received, the Franchisee shall record: a) The nature of the complaint; b) The date the complaint was received; c) The name, address and telephone number of the person or persons making the complaint; and d) Any actions taken by the operator in response to the complaint (whether successful or unsuccessful). 2. The Franchisee shall make records of such information available to Metro upon request. The Franchisee shall retain each complaint record for a period of not less than one year.
6.12	**Closure protocol**	The Franchisee shall establish protocol for closure and restoration of the site in the event of a cession of operations as provided in Metro Code Section 5.01.060(c)(3). The plan shall establish protocol for: a) Short-term closure (duration of time that is more than two consecutive business days but less than 120 days in length); and b) Long-term closure (duration of time that is 120 consecutive days or more in length).

6.13	**Financial assurance**	The Franchisee shall maintain financial assurance in the amount of $100,000 for the cost of the facility's closure and maintain such financial assurance in a form approved by Metro for the term of this franchise.

7.0	**FEES AND RATE SETTING**	
7.1	**Purpose**	This section of the franchise specifies fees payable by the Franchisee, and describes rate regulation by Metro.
7.2	**Annual fee**	The Franchisee shall pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
7.3	**Rates**	The rates charged to customers of the Franchisee for the acceptance of solid waste (including without limitation tip fees, acceptance fees, processing fees, transaction fees and environmental charges) are not subject to regulation by Metro; unless, pursuant to Section 11.1 or 11.2 of this franchise, the Council adopts an ordinance that: a) Extends Metro's rate regulation authority over the class of facilities of which this Franchisee is a member; and b) Amends this franchise to implement the regulations and process specified by said ordinance.
7.4	**Access to financial records**	If during the term of this franchise, the Metro Council directs a review of the Franchisee's financial records that exceeds, or is not covered by, the requirements set forth in Section 12.3 of this franchise, then the Franchisee shall provide access for an independent auditor or financial analyst to these financial records, and access to said financial records shall not be unreasonably withheld.
7.5	**Metro fee and tax imposed on waste received**	The Franchisee shall collect and remit to Metro the Regional System Fee, as provided in Metro Code Title V, and the Excise Tax, as provided in Metro Code Title VII, on all solid wastes it receives.

8.0	**RECORD KEEPING AND REPORTING**	
8.1	**Purpose**	This section of the franchise describes record keeping and reporting requirements. The Franchisee shall effectively

		monitor facility operation and maintain accurate records of the information described in this section.
8.2	**Reporting requirements**	1. For all solid waste and materials the Franchisee is authorized to receive under Section 3.0 of this franchise, the Franchisee shall keep and maintain accurate records of the amount of such materials the Franchisee receives, recovers, recycles, reloads, and disposes. 2. The Franchisee shall keep and maintain complete and accurate records of the following for all transactions: a) Ticket Number (should be the same as the ticket number on the weight slips); b) Customer account numbers identifying incoming customers and outgoing destinations; c) Description whether the load was incoming to the facility or outgoing from the facility; d) Material Category: Code designating the following types of material (more detail, such as differentiating yard debris, is acceptable): (1) incoming source-separated recyclable materials by type; (2) incoming non-putrescible waste; (3) incoming putrescible waste (4) outgoing recyclable materials by type; (5) outgoing non-putrescible waste; (6) outgoing putrescible waste; e) Origin: Code designating the following origin of material: (1) from inside Metro boundaries; (2) from within Multnomah, Clackamas and Washington Counties but outside Metro boundaries; and (3) from another location outside Metro boundaries: i. Any load containing any amount of waste from within the Metro region shall be reported as if the entire load was generated from inside the Metro region. ii. If the Franchisee elects to report all loads delivered to the facility as being generated from inside the Metro region, then the Franchisee is not required to designate the origin of loads as described above in Subsections (e)(2) and (e)(3). f) Date the load was received at, transferred within, or transmitted from the facility; g) Time the load was received at, transferred within, or transmitted from the facility; h) Indicate whether Franchisee accepted or rejected the load;

		i) Net weight of the load; and j) The fee charged to the generator of the load.
8.3	**Record transmittals**	Franchisee shall transmit to Metro records required under Section 8.0 and the corresponding summary report derived from such records no later than fifteen days following the end of each month in a format prescribed by Metro.
8.4	**Account number listing**	Within five business days of Metro's request, Franchisee shall provide Metro with a listing that cross-references the account numbers used in the transaction database with the company's name and address.
8.5	**Transactions based on scale weights**	Except for minimum fee transactions for small, lightweight loads, the Franchisee shall record each inbound and outbound transaction electronically based on actual and accurate scale weights using the Franchisee's on-site scales.
8.6	**DEQ submittals**	The Franchisee shall provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
8.7	**Copies of enforcement actions provided to Metro**	The Franchisee shall ensure Metro receives copies of any notice of violation or noncompliance, citation, or any other similar enforcement actions issued to the Franchisee by any federal, state, or local government other than Metro, and related to the operation of the facility.
8.8	**Unusual occurrences**	1. The Franchisee shall keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. 2. If a breakdown of the Franchisee's equipment occurs that will substantially impact the ability of the facility to remain in compliance, or create off-site impacts, the Franchisee shall notify Metro within 24 hours. 3. The Franchisee shall report any facility fires, accidents, emergencies, and other significant incidents to Metro within 12 hours of the discovery of their occurrence. 4. The Franchisee shall give at least 24-hour notice to the COO prior to the short-term closure of the facility. The Franchisee shall comply with the closure protocol provided

		in Section 6.12 of this franchise. 5. The Franchisee shall give at least 90 days written notice to the COO prior to the long-term closure of the facility. The Franchisee shall comply with the closure protocol provided in Section 6.12 of this franchise.
8.9	**Changes in ownership**	1. Any change in control of Franchisee or the transfer of a controlling interest of Franchisee shall require prior written notice to Metro. “Transfer of a controlling interest of Franchisee” includes without limitation the transfer of 10% or more of the ownership of Franchisee to or from a single entity. Metro may modify this franchise under Section 11.3 to require the new ownership of Franchisee to assume all the rights and obligations of this franchise. 2. The Franchisee may not lease, assign, mortgage, sell, or otherwise transfer control of the franchise unless the Franchisee follows the requirements of Metro Code Section 5.01.090.

9.0	**INSURANCE REQUIREMENTS**	
9.1	**Purpose**	This section describes the types of insurance that the Franchisee shall purchase and maintain at the Franchisee’s expense, covering the Franchisee, its employees, and agents.
9.2	**General liability**	The Franchisee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.
9.3	**Automobile**	The Franchisee shall carry automobile bodily injury and property damage liability insurance.
9.4	**Coverage**	Insurance coverage shall be a minimum of $500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than $1,000,000.
9.5	**Additional insureds**	Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS.
9.6	**Worker’s Compensation Insurance**	The Franchisee, its subcontractors, if any, and all employers working under this franchise, is subject employers under the Oregon Workers’ Compensation Law shall comply with ORS 656.017, which requires them to provide Workers’ Compensation coverage for all their subject workers. The

		Franchisee shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If the Franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
9.7	**Notification**	The Franchisee shall give at least 30 days written notice to the COO of any lapse or proposed cancellation of insurance coverage.

10.0	**ENFORCEMENT**	
10.1	**Generally**	Enforcement of this franchise shall be as specified in Metro Code Chapter 5.01.
10.2	**Authority vested in Metro**	The power and right to regulate, in the public interest, the exercise of the privileges granted by this franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against Franchisee.
10.3	**No enforcement limitations**	This franchise shall not be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this franchise be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this franchise or the Franchisee's operation of the facility.
10.4	**Penalties**	Each violation of a franchise condition shall be punishable by penalties as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation.

11.0	**AMENDMENT, MODIFICATION, SUSPENSION, AND REVOCATION**	
11.1	**Amendment by agreement**	At any time during the term of the franchise, either the COO or the Franchisee may propose amendments to this franchise. If either the COO or the Franchisee proposes amendments to this franchise, both parties shall make good faith efforts to arrive at consensus on the intent and implementing language

		of said amendments.
11.2	**Amendment by Metro Council action**	Except as provided in Section 11.3, the provisions of this franchise shall remain in effect unless the Metro Council: a) Amends the Metro Code, amends the Regional Solid Waste Management Plan, or implements other legislation of broad applicability that affects the class of facilities of which this Franchisee is a member; and b) Adopts an ordinance amending this franchise to implement the policy, code or process specified by said ordinance.
11.3	**Modification, suspension or revocation by Metro for cause**	The COO may, at any time before the expiration date, modify, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to: a) Violation of the terms or conditions of this franchise, Metro Code, or any applicable statute, rule, or standard; b) Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this franchise; c) Failure to disclose fully all relevant facts; d) A significant release into the environment from the facility; e) Significant change in the character of solid waste received or in the operation of the facility; f) Any change in ownership or control; g) A request from the local government stemming from impacts resulting from facility operations; and h) Compliance history of the Franchisee.

12.0	**GENERAL OBLIGATIONS**	
12.1	**Compliance with law**	The Franchisee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility

		shall be deemed part of this franchise as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the franchise document, as well as any existing at the time of the issuance of the franchise but not cited or attached, and permits or conditions issued or modified during the term of the franchise.
12.2	**Deliver waste to appropriate destinations**	The Franchisee shall ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.
12.3	**Right of inspection and audit**	Authorized representatives of Metro may take photographs, collect samples of materials, and perform such inspection or audit as the COO deems appropriate, and shall be permitted access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 12.4 of this franchise, Metro's right to inspect shall include the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of Franchisee that are directly related to the operation of the facility.
12.4	**Confidential information**	The Franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the Franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The Franchisee shall prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt of a request for disclosure of information identified by Franchisee as confidential, Metro shall provide Franchisee written notice of the request. The Franchisee shall have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. The Franchisee shall pay any

		costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. This Section 12.0 shall not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such representatives agree to continue to treat such information as confidential and make good faith efforts not to disclose such information
12.5	**Compliance by agents**	The Franchisee shall be responsible for ensuring that its agents and contractors operate in compliance with this franchise.

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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 08-1191 FOR THE PURPOSE OF APPROVING THE TRANSFER STATION FRANCHISE RENEWAL APPLICATION OF WASTE MANAGEMENT OF OREGON, INC. AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED FRANCHISE FOR FOREST GROVE TRANSFER STATION

August 29, 2008 Prepared by: Warren Johnson

BACKGROUND

On August 7, 2008, Waste Management of Oregon, Inc. (WMO), dba Forest Grove Transfer Station (FGTS), submitted to Metro a solid waste facility franchise renewal application pursuant to Metro Code Section 5.01.087(b). The Metro Code specifies that the Council shall approve the renewal of a Solid Waste Facility Franchise unless it determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.070. Metro Code Section 5.01.087(b) requires that the Chief Operating Officer formulate recommendations regarding whether the proposed renewal meets the issuance criteria provided in Section 5.01.070.

Approval of Ordinance No. 08-1191 will authorize the Chief Operating Officer to issue a renewed regional transfer station franchise to FGTS for a term of five years.

THE APPLICANT

The applicant, WMO, is the owner and operator of FGTS, an existing solid waste facility located at 1525 B Street, in Forest Grove (Metro Council District 4). The FGTS is the only privately owned and operated regional transfer station located within the Metro region. The facility commenced operation and obtained its first Metro franchise in 1985.

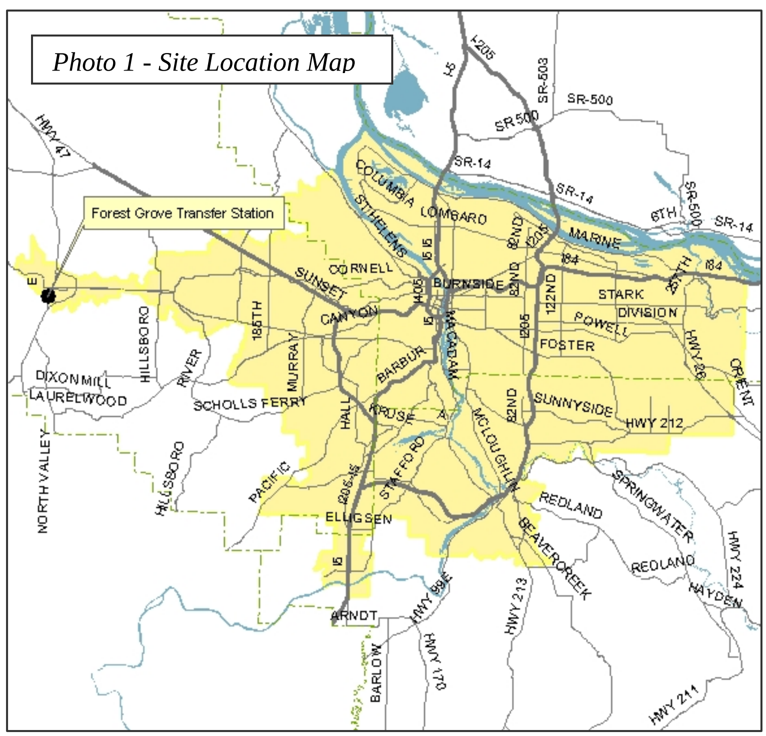

Photo 1 - Site Location Map

On December 31, 1997, Metro issued Solid Waste Facility Franchise No. FR-004 to USA Waste of Oregon, Inc. (USA Waste), dba Metropolitan Disposal and Recycling Corporation. In July 1998, USA Waste merged with WMO. The applicant has been the owner and operator of the facility since that time.

The facility currently holds a Metro-issued franchise (No. FR-004) to operate a regional transfer station authorized to receive solid waste and accept source-separated recyclable materials. Due to spatial constraints within its operations building, the facility does not perform material recovery on waste. In addition, as a regional transfer station, the existing franchise (No. FR-004) does not limit the amount of waste that the facility is authorized to receive.

Photo 2 - Aerial photo of facility

The term of the existing franchise (No. FR-004) was initially set for a five-year period (ending December 31, 2002) with an automatic extension for an additional five-year period (ending on December 31, 2007) unless there were significant compliance issues. On August 16, 2007, the Metro Council adopted Ordinance No. 07-1159 authorizing the Chief Operating Officer to extend the term of the franchise by one additional year to expire on December 31, 2008. The purpose of the one-year term extension was to align the expiration date of this franchise with that of three local transfer station franchises that are set to expire on December 31, 2008. Coordinating these expiration dates was intended to allow the Metro Council to consider and act on the four transfer station renewal applications concurrently.

In addition to its franchise, the applicant currently holds a Metro Non-System License (NSL) that authorizes the delivery of solid waste, directly to the Riverbend Landfill in Yamhill County, Oregon (NSL No. N-010-05). All of the waste received at FGTS is currently transferred to the Riverbend Landfill under authority of this NSL, the term of which is set to expire on December 31, 2008. On August 28, 2008, the applicant submitted an application to Metro requesting the renewal of this NSL.

Table 1 summarizes the annual amount of solid waste that the FGTS received from inside the region for each of the previous four Metro fiscal years. FGTS pays to Metro the Regional System Fee and Excise Tax on all waste it receives from within the region.

Table 1. Amount of Solid Waste Received at the FGTS

Fiscal Year (June 30th through July 1st)	Solid Waste Received (Tons)
2004-05	156,143
2005-06	165,160
2006-07	157,820
2007-08	151,886

The applicant has requested a renewal of its solid waste facility franchise (No. FR-004), which is set to expire on December 31, 2008. In its renewal application, the applicant requested authority to accept non-putrescible waste for the purpose of reloading and delivering it to a material recovery facility at either Pride Recycling in Sherwood or Tualatin Valley Waste Recovery in Hillsboro. With the exception of this new reloading activity, the applicant has not requested any further significant changes to its authorizations or activities.

Metro Code Provisions Related to Franchise Renewals

1. Application

Metro Code Section 5.01.087(b) stipulates that a franchisee seeking renewal of a solid waste facility franchise shall file a completed application for renewal accompanied by payment of an application fee of $500 not less than 120 days prior to the expiration of the franchise term.

On August 7, 2008, WMO submitted to Metro a complete solid waste facility franchise renewal application accompanied by an application fee of $500. The applicant filed its renewal application more than 120 days prior to the expiration date of its current franchise. The current franchise term expires on December 31, 2008. WMO filed its renewal application as required by Metro Code Section 5.01.087(b).

2. Compliance with the Criteria Contained in Metro Code Section 5.01.070

Metro Code Section 5.01.087(b) stipulates that the Chief Operating Officer shall formulate recommendations regarding whether the franchise renewal meets the criteria contained in Metro Code Section 5.01.070 and the Metro Council shall approve renewal of a solid waste facility franchise unless it finds that the proposed renewal is not in the public interest or does not meet the criteria contained in that section. In addition, Section 5.01.087(b) stipulates that the Council may attach conditions or limitations to the renewed franchise.

Metro Code Section 5.01.070 governs the evaluation and issuance of franchises, and only subsections (c) and (f) of that section establish criteria for the approval of franchise applications.

A. Metro Code Section 5.01.070(c) criteria evaluation follows:

i. <u>Applicant Qualifications</u>

The applicant is well known to Metro as an operator of a Metro-franchised solid waste facility and as a long-standing solid waste management company in the Metro area. WMO has operated the FGTS for approximately ten years and has extensive experience in recycling, solid waste collection, transfer, and disposal. The applicant is fully qualified to operate and manage this facility in a competent and efficient manner. WMO serves as Metro's disposal contractor until 2019.

ii. Compliance with the Regional Solid Waste Management Plan (RSWMP)

On July 24, 2008, Council adopted Ordinance No. 07-1162A (for the purpose of adopting the RSWMP, 2008-2018 Update). The RSWMP 2008-2018 Update replaces the 1995-2005 RSWMP and becomes effective on October 22, 2008.

Regarding the new Plan (RSWMP 2008-2018), Chapter III entitled, *Future direction and regional policies,* includes the following regional policy statements:

> ***7.0 New facilities****: The current system of transfer stations provides reasonable access for haulers and sufficient capacity for the consolidation and transfer of solid waste to disposal facilities.*

The rationale for providing access to transfer stations is to maintain service levels by reducing drive time for haulers, reducing congestion at existing facilities, and adding opportunity to recover materials. An efficient disposal system depends on both capacity and accessibility. The applicant's facility is part of the current system of transfer stations and, therefore, the proposed franchise renewal is consistent with this policy.

> ***8.0 Facility ownership****: Transfer facilities in the regional solid waste system may be publicly or privately owned.*

The applicant's facility is a privately owned transfer station and is consistent with this policy.

> ***10.0 System regulation****: Solid waste facilities accepting waste generated within the region will be regulated to ensure they are operated in an acceptable manner and are consistent with the policies of this Plan. All facilities performing post-collection material recovery shall meet minimum recovery requirements.*

The proposed franchise renewal will ensure that the facility is operated in an acceptable manner and consistent with policies of the RSWMP 2008-2018 Update. The proposed franchise requires the facility to reload non-putrescible waste to a material recovery facility as provided in Metro Code Chapter 5.01.

In addition to the above policies, Chapter V entitled, *Sustainable operations*, includes goals and objectives that are intended to guide evaluation and implementation of sustainable operations practices. In particular, Chapter V includes the following statement regarding monitoring and implementation methods:

> *Metro will establish and coordinate a sustainable operations work group of policy and technical participants. The work group will develop priorities and strategies for achieving the objectives, and will report on progress annually to the Regional Solid Waste Advisory Committee and Metro Council.*

The proposed franchise renewal is neutral with regard to Chapter V and is not inconsistent with the sustainable operations goals.

The solid waste management activities to be renewed under this franchise at FGTS are consistent with the RSWMP.

iii. Meeting the Requirements of Metro Code Section 5.01.060

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

The applicant seeks a franchise renewal and, in accordance with Metro Code provisions, has filed a completed application for renewal accompanied by payment of the application fee of $500. The application was properly filed.

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

This information was included in the franchise renewal application form and the application was properly filed.

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

(1) Proof of insurance;

(2) A duplicate copy of all applications and permits required by the Oregon Department of Environmental Quality (DEQ);

(3) A duplicate copy of any DEQ required closure plan or if not required by the DEQ then a closure document describing closure protocol;

(4) Copies of DEQ required financial assurance documents or if not required by the DEQ proof of financial assurance for the cost of closure of the facility;

(5) Signed consent by the property owner to the proposed use of the property;

(6) Proof that the applicant has received proper land use approval; and

(7) Copies of any other permits required from other governmental agencies.

All of the information described in Metro Code Section 5.01.060(c) is up to date and is included in the existing franchise file of the applicant. The required information has been submitted.

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

An analysis of these factors is provided below in Section 2B of this document.

> (e) *Notwithstanding any other provision in this section, the Chief Operating Officer shall not accept for filing any application for authority to operate a new Transfer Station until December 31, 2008.*

This proposed franchise renewal is not subject to the transfer station moratorium set forth in Metro Code Section 5.01.060(e). This provision pertains to a proposed facility making an initial application for a new franchise and does not limit a renewal request.

iv. <u>Compliance with Regulatory Requirements</u>

The applicant currently operates under authority of a Metro Solid Waste Facility Franchise (No. FR-004), a Metro NSL (No. N-010-05), a Solid Waste Disposal Site Permit (No. 368) issued by the DEQ, and a National Pollutant Discharge Elimination System Industrial Stormwater General Permit 1200-Z (No. 16843) issued by the DEQ. In addition, the applicant has received land use authorization from the City of Forest Grove.

According to recent communication with Paul Downey (City of Forest Grove), FGTS is currently in compliance with the City's code requirements and the facility has not received any notices of violation or enforcement actions within the last five years.

On April 13, 2007 the DEQ issued Solid Waste Disposal Site Permit No. 368 (the "Permit") to the applicant authorizing FGTS to operate a transfer station. The term of the Permit is set to expire on January 31, 2015. According to recent communication with Stephanie Rawson (DEQ), WMO is currently in compliance with its Permit and the facility has not received any notices of violation or enforcement actions from the DEQ within the last five years.

On December 31, 1997, Metro issued Solid Waste Facility Franchise No. FR-004 (the "Franchise") authorizing FGTS to accept solid waste for transfer. The term of the Franchise is set to expire on December 31, 2008.

Metro has conducted 32 site inspections at FGTS between the dates of January 1, 2004 and July 31, 2008. Staff has found the facility to be a well-run operation with no observable reason to suspect impending problems or issues. FGTS is currently in compliance with its NSL and Franchise. The facility has not received any notices of violation or enforcement actions from Metro within the last five years.

The applicant has sufficiently complied, and there is no reason to believe that the facility will not continue to comply, with all applicable regulatory requirements.

B. Metro Code Section 5.01.070(f) states:

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

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

This issue was examined above in Section 2A(ii) of this document entitled, Compliance with the Regional Solid Waste Management Plan (RSWMP). As previously discussed, the solid waste management activities to be renewed under this franchise are consistent with the RSWMP.

(2) The effect that granting a Franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region;

FGTS is an existing regional transfer station and has been in operation since 1985 and owned by the current operator since 1997. With the exception of accepting non-putrescible waste for the purpose of reloading to a material recovery facility, FGTS has not requested any significant change in authorizations or activities at its facility. The effect of granting a renewed franchise would be to maintain the status quo with regard to the cost of solid waste recycling and disposal services for the citizens of the region.

(3) Whether granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents;

Metro staff is not aware of any facility incidents or operating procedures that have adversely affected the health, safety and welfare of Metro's residents during the time that the facility has been operating. In addition, neither the DEQ nor Metro has issued any notices of violation to the facility within the last five years. The operator's experience and track record, together with the regulatory environment in which WMO operates, indicate that it is unlikely that the applicant will adversely affect the public health, safety and welfare.

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

FGTS is an existing regional transfer station and has been in operation since 1985 and owned by the current operator since 1997. Within the last five years of operation, Metro has received one odor complaint and the DEQ has received noise complaints regarding FGTS. These complaints did not result in any formal findings of violation. WMO has demonstrated its responsiveness to such complaints by implementing various site improvements to minimize the facility's impact on nearby residents. With the exception of a few infrequent complaints, staff is not aware of any other impacts reported by the surrounding neighborhood within the past five years. The operator's experience and track record indicate that it is unlikely that WMO would unreasonably adversely impact the surrounding neighborhood.

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

This issue was examined above in Section 2A(iv) of this document. As previously discussed, the applicant is likely to comply with regulations and standards if the franchise is renewed.

3. Compliance with the Criteria Contained in Metro Code Section 5.01.075(c)

Metro Code Section 5.01.075(c) stipulates that a franchise authorizing the acceptance of mixed non-putrescible waste for the purpose of conducting reloading shall be subject to the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Metro Code Section 5.01.132, and the general performance goals related to the following: environment, health and safety, nuisances, material recovery, reloading, and record keeping.

On May 8, 2007, Metro adopted administrative procedures outlining new standards for material recovery facilities (Administrative Procedures No. 501 Section 7 – *Standards for Non-Putrescible Mixed Waste Material Recovery Facilities and Non-Putrescible Mixed Waste Reload Facilities*). The standards include design requirements and operating conditions that were specifically developed, and approved in administrative procedures, in order to meet the general performance goals specified in Metro Code Section 5.01.075(c).

FGTS is an existing facility that is designed and operated in a manner that currently meets or exceeds all of these standards and performance goals for the reloading of non-putrescible waste.

4. Chief Operating Officer's Recommendation and Recommended Franchise Conditions

Based on the information presented above, the Chief Operating Officer finds that the franchise renewal application meets the criteria in Metro Code Section 5.01.070. The Chief Operating Officer also finds that the proposed franchise renewal is in the public interest. The Chief Operating Officer therefore recommends that the Metro Council approve a franchise renewal to FGTS subject to the requirements listed in Metro Code Chapter 5.01; and further subject to several new conditions and technical updates, which are incorporated into the draft franchise attached as Exhibit A to Ordinance No. 08-1191.

The substantive changes included in the proposed franchise are described below. In particular, Subsections C and D describe conditions that are based upon the direction that staff received during the Metro Council Work Session on August 12, 2008. The Council had agreed with staff recommendations to include these conditions in the franchises, based upon the *Wet Waste Allocation Project DRAFT Final Report*, dated August 4, 2008. Subsection E describes the new conditions that were included to reflect the Enhanced Dry Waste Recovery Program that was adopted by Metro Council via Ordinance No. 07-1147B on August 17, 2007. Subsection F describes the new conditions that were included in the proposed franchise to reflect the reload facility standards adopted by Metro Council via Ordinance No. 07-1138 on February 22, 2007 and the corresponding administrative procedures that were subsequently issued by the Chief Operating Officer on May 8, 2007.

Conditions:

A. Technical Updates – The format of the proposed franchise has been updated from that of the existing franchise (No. FR-004). In particular, the layout of the proposed franchise and the content of its general provisions have been standardized with that of other Metro-issued authorizations. The proposed franchise also includes updated record keeping and reporting requirements and stipulates that all such records must be accessible and available to Metro upon request. Except as described below in Subsections G and H, the majority of FGTS' existing franchise requirements are addressed in the proposed franchise.

B. Term - The term of the proposed franchise is set for a five-year period (ending on December 31, 2013). Metro Code Section 5.01.0709(k) stipulates that the term of a renewed franchise shall not be more than five years

C. Amendments – The proposed franchise includes provisions that provide general notice to the franchisee that the Metro Council may "reopen" and amend the conditions of the franchise via a duly adopted ordinance. Such ordinance adoption procedures include legal due process by providing a public review period, a public hearing, and an opportunity for a contested case hearing on the proposed amendments. This condition was included in the proposed franchise based upon the direction that staff received during the Metro Council Work Session on August 12, 2008.

D. Access to Financial Records – The proposed franchise stipulates that, during the term of the franchise, the Metro Council may direct a review of the franchisee's financial records by an independent auditor or financial analyst. In addition, the proposed franchise stipulates that the franchisee shall provide Metro with access to the above referenced financial records during this independent review. This condition was included in the proposed franchise based upon the direction that staff received during the Metro Council Work Session on August 12, 2008.

E. Enhanced Dry Waste Recovery Program – The proposed franchise stipulates that the franchisee may accept non-putrescible solid waste only for reload and transfer to facilities that are authorized by Metro to perform material recovery. The applicant requested this authority in order to meet the requirements of the Enhanced Dry Waste Recovery Program. The applicant has proposed accepting non-putrescible waste for the purpose of reloading it to either Pride Recycling or Tualatin Valley Waste Recovery.

F. Reload Facility Standards - The proposed franchise includes conditions that require the franchisee to conduct reloading of non-putrescible waste in accordance with the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Metro Code Section 5.01.132 (Administrative Procedures No. 501 Section 7 – *Standards for Non-Putrescible Mixed Waste Material Recovery Facilities and Non-Putrescible Mixed Waste Reload Facilities*). The proposed franchise conforms with the above referenced material recovery standards and the general performance goals.

G. Direct-Haul – This provision was not renewed. The proposed franchise no longer authorizes the delivery of solid waste directly to a general purpose landfill as specified in the existing franchise (Section 6.1.1 of Franchise No. FR-004). This provision has been omitted from the franchise renewal because it is no longer necessary. The franchisee is currently authorized, under NSL No. N-010-05, to deliver solid waste directly to the Riverbend Landfill. Putrescible waste NSLs are subject to Metro Council approval and, as such, any impact to the solid waste system can be considered during the renewal process.

H. Annual Report and Review - These provisions were not renewed. The proposed franchise no longer requires that the franchisee submit annual operating reports or participate in annual review meetings with Metro as specified in the existing franchise (Sections 7.4 and 7.8 of Franchise No. FR-004 respectively). These provisions have been omitted from the franchise renewal because they are no longer necessary. Metro currently has full-time solid waste inspection staff that closely monitors site conditions for compliance with Metro regulations. Metro staff typically performs six to twelve inspections of the FGTS per year.

ANALYSIS / INFORMATION

1. Known Opposition

There is no known opposition.

2. Legal Antecedents

Current provisions of Metro Code Chapter 5.01, entitled “Solid Waste Facility Regulation.” In particular:

- Metro Code Section 5.01.045(b) stipulates that a Solid Waste Facility Franchise shall be required for the person operating a transfer station.

- Metro Code Section 5.01.087(b) stipulates that the Metro Council shall approve or deny renewals of Solid Waste Facility Franchises.

3. Anticipated Effects

Adoption of Ordinance No. 08-1191 would authorize the Chief Operating Officer to issue a renewed Solid Waste Facility Franchise to FGTS for a term of five years.

4. Budget Impacts

Ordinance No. 08-1191 authorizes the renewal of an existing regional transfer station franchise without any significant changes in authorization, other than accepting non-putrescible waste for the purpose of reloading to a material recovery facility. As a regional transfer station, Metro does not limit the amount of waste that this facility may receive. It is expected that the FGTS will continue to accept the same quantity of waste as it has in the past. Thus, Metro's budget will not be affected by approval of Ordinance No. 08-1191.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance No. 08-1191.

WJ:bjl
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Agenda Item Number 5.2

Ordinance No. 08-1192, For the Purpose of Approving the Transfer Station Franchise Renewal Application of Waste Management of Oregon, Inc. Authorizing the Chief Operating Officer to Issue a Renewed Franchise For Troutdale Transfer Station.

First Reading

Metro Council Meeting
Thursday, September 18 , 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE TRANSFER STATION FRANCHISE RENEWAL APPLICATION OF WASTE MANAGEMENT OF OREGON, INC. AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED FRANCHISE FOR TROUTDALE TRANSFER STATION	)))))))	ORDINANCE NO. 08-1192 Introduced by Michael J. Jordan, Chief Operating Officer, with the concurrence of David Bragdon, Metro Council President

WHEREAS, Metro Code Section 5.01.045(b)(2) stipulates that a Metro Solid Waste Facility Franchise shall be required for the person owning or controlling a facility that operates a Transfer Station; and

WHEREAS, Waste Management of Oregon, Inc. operates Troutdale Transfer Station and holds a Metro Solid Waste Facility Franchise Number F-001-03, which will expire on December 31, 2008; and

WHEREAS, Waste Management of Oregon, Inc. filed a completed application seeking a renewal of its franchise pursuant to Metro Code Section 5.01.087(b); and

WHEREAS, the moratorium on applications for new transfer stations pursuant to Metro Code Section 5.01.060(e) does not apply to this renewal application; and

WHEREAS, Metro Code Section 5.01.087(b) stipulates that the Council shall approve or deny renewals of solid waste facility franchises, that the Chief Operating Officer shall formulate recommendations regarding whether the renewal meets the criteria in Metro Code Section 5.01.070, and that the Council shall approve renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Metro Code Section 5.01.070; and

WHEREAS, the Chief Operating Officer formulated recommendations on the criteria listed in Metro Code Section 5.01.070 as required by Metro Code Section 5.01.087(b); and

WHEREAS, the Chief Operating Officer recommends that the franchise be renewed together with specific conditions as provided in Exhibit A to this Ordinance entitled "Solid Waste Facility Franchise;" and

WHEREAS, the Metro Council finds that the proposed renewal is in the public interest and meets the criteria contained in Metro Code Section 5.01.070; and

WHEREAS, the Metro Council finds that the terms, conditions, and limitations contained in Exhibit A to this Ordinance are appropriate; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The transfer station renewal franchise application of Waste Management of Oregon, Inc. for Troutdale Transfer Station is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Ordinance entitled "Solid Waste Facility Franchise."

2. The Chief Operating Officer is authorized to issue to Waste Management of Oregon, Inc. a renewed Solid Waste Facility Franchise for Troutdale Transfer Station substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this _______ day of _______________ 2008.

David Bragdon, Council President

Attest:

Christina Billington, Recording Secretary

Approved as to Form:

Daniel B. Cooper, Metro Attorney

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2736
TEL 503-797-1650 | FAX 503-813-7544

METRO

SOLID WASTE FACILITY FRANCHISE
No. F-001-08

FRANCHISEE:	**FACILITY NAME AND LOCATION:**
Waste Management of Oregon, Inc. 869 NW Eastwind Drive Troutdale, Oregon 97060 Tel. (503) 640-9427 Fax. (503) 648-3942	Troutdale Transfer Station 869 NW Eastwind Drive Troutdale, Oregon 97060 Tel. (503) 667-5264 Fax. (503) 667-6237
OPERATOR:	**PROPERTY OWNER:**
Waste Management of Oregon, Inc. 3205 SE Minter Bridge Road Hillsboro, Oregon 97123 Tel. (503) 640-9427 Fax. (503) 648-3942	TDK Corp. 333 NE 3rd Gresham, Oregon 97030 Tel. (503) 665-3860

This franchise replaces and supersedes the provisions of Metro Solid Waste Facility Franchise No. F-001-03. Metro grants this franchise to the Franchisee named above. The Franchisee is authorized to operate and maintain a solid waste facility and to accept the solid wastes and perform the activities authorized by and subject to the conditions stated in this Franchise.

ISSUED BY METRO

Michael Jordan, Metro Chief Operating Officer | Date

METRO

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1.0	**ISSUANCE**	
1.1	**Franchisee**	Waste Management of Oregon, Inc. 869 NW Eastwind Drive Troutdale, Oregon 97060 Tel. (503) 640-9427 Fax. (503) 648-3942
1.2	**Corporate affiliation**	Waste Management, Inc. 1001 Fannin, Suite 4000 Houston, Texas 77002
1.3	**Contact**	Dan Wilson, District Manager Phone: (503) 640-9427 Fax: (503) 648-3942 e-mail: danwilson@wm.com
1.4	**Franchise number**	When referring to this franchise, please cite: Metro Solid Waste Facility Franchise No. F-001-08.
1.5	**Term**	The term commences on January 1, 2009, and shall terminate on December 31, 2013, unless amended, modified, suspended, or revoked under the provisions of Section 11.0 of this franchise.
1.6	**Renewal**	The Franchisee may apply for a franchise renewal as provided in Metro Code Section 5.01.087.
1.7	**Facility name and mailing address**	Troutdale Transfer Station 869 NW Eastwind Drive Troutdale, Oregon 97060 Tel. (503) 667-5264 Fax. (503) 667-6237
1.8	**Operator**	Waste Management of Oregon, Inc. 3205 SE Minter Bridge Road Hillsboro, Oregon 97123 Tel. (503) 640-9427 Fax. (503) 648-3942
1.9	**Facility premises description**	Tax Lot Identification No. 1N3E27A -00103, City of Troutdale, Multnomah County, State of Oregon
1.10	**Property owner**	TDK Corp. 333 NE 3rd Gresham, Oregon 97030 Tel. (503) 665-3860

1.11	**Permission to operate**	Franchisee warrants that it has obtained the property owner's consent to operate the facility as specified in this franchise.

2.0	**CONDITIONS AND DISCLAIMERS**	
2.1	**Guarantees**	This franchise shall not vest any right or privilege in the Franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise.
2.2	**Non-exclusive franchise**	This franchise shall not in any way limit Metro from granting other solid waste franchises within Metro's boundaries.
2.3	**Property rights**	This franchise does not convey any property rights in either real or personal property.
2.4	**Amendment and modification**	Except as provided in Section 11.0 of this franchise, no amendment or modification shall be effective unless approved by the Metro Council.
2.5	**No recourse**	The Franchisee shall have no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement of the franchise or in the event Metro determines that the franchise or any part thereof is invalid.
2.6	**Indemnification**	The Franchisee shall indemnify Metro, the Council, the Chief Operating Officer (the "COO"), and any of their employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the granting of this franchise or the Franchisee's performance of or failure to perform any of its obligations under the Franchise or Metro Code Chapter 5.01, including without limitation patent infringement and any claims or disputes involving subcontractors.
2.7	**Binding nature**	This franchise is binding on the Franchisee. The Franchisee is liable for all acts and omissions of the Franchisee's contractors and agents.
2.8	**Waivers**	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 11.0 and be in writing and signed by the COO.

2.9	**Effect of waiver**	Waiver of a term or condition of this franchise shall not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.10	**Choice of law**	The franchise shall be construed, applied, and enforced in accordance with the laws of the State of Oregon.
2.11	**Enforceability**	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise shall not be affected.
2.12	**Franchise not a waiver**	This franchise does not relieve any owner, operator, or the Franchisee from the obligation to obtain all required permits, franchises, or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.13	**Franchise not limiting**	This franchise does not limit the power of a federal, state, or local agency to enforce any provision of law relating to the facility.
2.14	**Definitions**	Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01.

3.0	**AUTHORIZATIONS**	
3.1	**Purpose**	This section of the franchise describes the wastes that the Franchisee is authorized to accept at the facility and the waste-related activities the Franchisee is authorized to perform at the facility.
3.2	**General conditions on solid waste**	The Franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The Franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
3.3	**General conditions on activities**	The Franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.
3.4	**Acceptance and management of putrescible solid waste**	1. The Franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 12.2 of this franchise. The Franchisee also is authorized to accept putrescible

		waste for material recovery. 2. The Franchisee shall receive, manage, store, reload, and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers. 3. The Franchisee is authorized to accept putrescible waste generated inside the Metro region only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
3.5	**Acceptance and management of mixed non-putrescible solid waste**	1. The Franchisee is authorized to accept mixed non-putrescible solid waste for material recovery. 2. The Franchise shall receive, sort, store, reload, and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover prior to processing, within 12 hours of receipt, or by the end of the business day, whichever is earlier. 3. The Franchisee is authorized to accept mixed non-putrescible waste from all customers including public self-haul.
3.6	**Material recovery required**	1. The Franchisee shall perform material recovery on mixed non-putrescible wastes. The Franchisee shall ensure that the facility is designed and operated to assure materials are recovered in a timely manner and to protect the quality of non-putrescible waste that has not yet undergone material recovery. The Franchisee must perform recovery at no less than the minimum level stipulated in Metro Code Chapter 5.01. 2. The Franchisee shall take quarterly samples of processing residual that are statistically valid and representative of the facility's residual. Each sample required by this section shall weigh at least 300 pounds.
3.7	**Management of processing residual from material recovery**	The Franchisee shall store, reload, and transfer all non-putrescible waste processing residual on an impervious surface and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers.

3.8	**Acceptance of source-separated recyclable materials**	1. The Franchisee shall provide a place for collecting source-separated recyclable materials on the facility premises. 2. The Franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.
3.9	**Acceptance of yard debris**	The Franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The Franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.10	**Acceptance of source-separated food waste**	The Franchisee is authorized to accept source-separated food waste that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The Franchisee may accept source-separated food waste only for reloading to authorized facilities for composting or other useful purposes as described in an operating plan and approved in writing by the COO.
3.11	**Acceptance of untreated wood**	The Franchisee is authorized to accept for processing and reloading, source-separated, untreated and unpainted wood waste, for example untreated lumber and wood pallets. The Franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.12	**Acceptance of painted and treated wood**	The Franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful as described in an operating plan and approved in writing by the COO. The Franchisee shall not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock, or any other product unless otherwise described in an operating plan and approved in writing by the COO.
3.13	**Acceptance of electronics devices**	The Franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer, and

		other similar functions related to preparing these materials for reuse, recycling, or disposal as required by the Oregon Department of Environmental Quality (DEQ).
3.14	**Acceptance of inert material**	The Franchise is authorized to accept inert materials for purposes of classifying, consolidating, transfer, and other similar functions related to preparing these materials for useful purposes.

4.0	**LIMITATIONS AND PROHIBITIONS**	
4.1	**Purpose**	This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility.
4.2	**Tonnage authorization**	The Franchisee is authorized to accept up to 70,000 tons of putrescible waste generated inside the Metro region within each calendar year. The Franchisee shall not accept solid waste generated outside the Metro region if to do so would limit the Franchisee from accepting 70,000 tons of putrescible waste, or any non-putrescible waste, generated inside the Metro region.
4.3	**Tonnage authorization growth allowance**	Effective January 1, 2011, the COO will amend Section 4.2 of this franchise to increase the tonnage authorization based on a growth allowance as established in Metro Code Chapter 5.01.
4.4	**Prohibited waste**	The Franchisee shall not knowingly receive, process, reload, or dispose of any solid waste not authorized by this franchise. The Franchisee shall not knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the DEQ.
4.5	**Prohibition on mixing**	1. The Franchisee shall not mix or commingle any source-separated recyclable materials, source-separated yard debris or wood wastes brought to the facility with any unprocessed solid wastes or solid wastes destined for disposal. 2. The Franchisee shall not mix or commingle putrescible solid waste with non-putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.

		3. The Franchisee shall not mix or commingle non-putrescible solid waste with putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.
4.6	**Prohibition of size reduction on non-putrescible waste**	The Franchisee shall not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, or processing residual consolidation or loading operations, and such size reduction is described and approved by the COO in an operating plan.
4.7	**No disposal of recyclable materials**	The Franchisee shall not transfer source-separated recyclable materials to a disposal site, including without limitation landfills and incineration facilities.
4.8	**Composting prohibited**	The Franchisee shall not keep yard debris on site long enough for more than negligible biological decomposition to begin.
4.9	**Limits not exclusive**	This franchise shall not be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

5.0	**OPERATING CONDITIONS**	
5.1	**Purpose and general performance goals**	This section of the franchise describes criteria and standards for the operation of the facility. The Franchisee shall operate in a manner that meets the following general performance goals: a) Environment. The Franchisee shall design and operate the facility to preclude the creation of undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste, asbestos and other prohibited wastes. b) Health and safety. The Franchisee shall design and operate the facility to preclude the creation of conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris. c) Nuisances. The Franchisee shall design and operate the facility to preclude the creation of

		nuisance conditions including, but not limited to, litter, dust, odors, and noise.
5.2	**Qualified operator**	1. The Franchisee shall, during all hours of operation, provide an operating staff employed by the facility and qualified and competent to carry out the functions required by this franchise and to otherwise ensure compliance with Metro Code Chapter 5.01. 2. Facility personnel, as relevant to their job duties and responsibilities, shall be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan. 3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.
5.3	**Fire prevention**	The Franchisee shall provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from processing and storage areas.
5.4	**Adequate vehicle accommodation**	The Franchisee shall: a) Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. Access roads shall be maintained to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather. b) Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles shall not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances. c) Post signs to inform customers not to queue on public roadways. d) Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site tarping and untarping of loads.
5.5	**Managing prohibited wastes**	1. The Franchisee shall reject prohibited waste upon discovery and shall properly manage and dispose of prohibited waste when unknowingly received. 2. The Franchisee shall implement a load-checking program to prevent the acceptance of waste that is

		prohibited by the franchise. This program must include at a minimum: a) Visual inspection. As each load is tipped, a qualified operator shall visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise. b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas shall be covered and enclosed to prevent leaking and contamination. c) Record maintenance. Records of the training of personnel in the recognition, proper handling, and disposition of prohibited waste shall be maintained in the operating record and be available for review by Metro. 3. Upon discovery, the Franchisee shall remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the Franchisee unknowingly receives shall be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by the DEQ or local government.
5.6	**Storage and exterior stockpiles**	The Franchisee shall: a) Manage, contain, and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards; b) Maintain storage areas in an orderly manner and keep the areas free of litter; c) Position exterior stockpiles within footprints identified on the facility site plan or operating plan; and d) Not stockpile recovered or source-separated materials for longer than 180 days (6 months).
5.7	**Dust, airborne debris and litter**	The Franchisee shall operate the facility in a manner that minimizes and mitigates the generation of dust, airborne debris and litter, and shall prevent its migration beyond property boundaries. The Franchisee shall: a) Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to

		prevent any material from blowing off the load during transit; b) Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit; c) Maintain and operate all access roads and receiving, processing, storage, and reload areas in such a manner as to minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site; d) Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation; e) Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; and f) Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, shall be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Section 5.09.040 of the Metro Code.
5.8	**Odor**	1. The Franchisee shall operate the facility in a manner that prevents the generation of odors that are detectable off-site. 2. The Franchisee shall establish and follow procedures in the operating plan for minimizing odor at the facility.
5.9	**Vectors (e.g. birds, rodents, insects)**	1. The Franchisee shall operate the facility in a manner that is not conducive to the harborage of rodents, birds, insects, or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another. 2. If vectors are present or detected at the facility, the Franchisee shall implement vector control measures.
5.10	**Noise**	The Franchisee shall operate the facility in a manner that prevents the creation of noise sufficient to cause adverse

		off-site impacts and to the extent necessary to meet applicable regulatory standards and land-use regulations.
5.11	**Water contaminated by solid waste and solid waste leachate**	The Franchisee shall operate the facility consistent with an approved DEQ stormwater management plan or equivalent and shall: a) Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; and b) Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state, and federal laws and regulations.
5.12	**Access control**	1. The Franchisee shall control access to the facility as necessary to prevent unauthorized entry and dumping. 2. The Franchisee shall maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.
5.13	**Signage**	The Franchisee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, and legible from off-site during all hours and shall contain at least the following information: a) Name of the facility; b) Address of the facility; c) Emergency telephone number for the facility; d) Operating hours during which the facility is open for the receipt of authorized waste; e) Fees and charges; f) Metro's name and telephone number (503) 234-3000; g) A list of authorized and prohibited wastes; h) Vehicle / traffic flow information or diagram; i) Covered load requirements; and j) Directions not to queue on public roadways.
5.14	**Nuisance complaints**	1. The Franchisee shall respond to all nuisance complaints in timely manner (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), and shall keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the

		complaint. 2. If the facility receives a complaint, the Franchisee shall: a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); and b) Log all such complaints as provided by the operating plan. Each log entry shall be retained for one year and shall be available for inspection by Metro.
5.15	**Access to franchise document**	The Franchisee shall maintain a copy of this franchise on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.

6.0	**OPERATING PLAN**	
6.1	**Purpose**	This section lists the requirements associated with preparing and implementing a facility operating plan, and lists the procedures that must be included in the required facility operating plan.
6.2	**Plan compliance**	The Franchisee must operate the facility in accordance with an operating plan approved in writing by the COO. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this franchise. The Franchisee may amend or revise the operating plan from time to time, subject to written approval by the COO.
6.3	**Plan maintenance**	The Franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures, and requirements. The Franchisee must submit amendments and revisions of the operating plan to the COO for written approval prior to implementation.
6.4	**Access to operating plan**	The Franchisee shall maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
6.5	**Procedures for inspecting loads**	The operating plan shall establish: a) Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes; b) Procedures for identifying incoming and outgoing

		loads for waste classifications; c) A set of objective criteria for accepting and rejecting loads; and d) An asbestos testing protocol for all materials that appear to contain friable asbestos.
6.6	**Procedures for processing and storage of loads**	The operating plan shall establish procedures for: a) Processing authorized solid wastes; b) Reloading and transfer of authorized solid wastes; c) Managing stockpiles to ensure that they remain within the authorized weights, volumes and pile heights; d) Storing authorized solid wastes; and e) Minimizing storage times and avoiding delay in processing of authorized solid wastes.
6.7	**Procedures for managing prohibited wastes**	The operating plan shall establish procedures for managing, reloading, and transferring to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan shall establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.
6.8	**Procedures for odor prevention**	The operating plan shall establish procedures for preventing objectionable odors generated at the facility from being detected off the premises of the facility. The plan must include: a) A management plan that will be used to monitor and manage odors of any derivation including malodorous loads delivered to the facility; and b) Procedures for receiving and recording odor complaints, immediately investigating all odor complaints to determine the cause of odor emissions, and remedying promptly all odor problems at the facility.
6.9	**Procedures for dust prevention**	The operating plan shall establish procedures for preventing dust from blowing off the premises of the facility. The plan must include: a) A management plan that will be used to monitor and manage dust of any derivation; and b) Procedures for receiving and recording dust

		complaints, immediately investigating all dust complaints to determine the cause of dust emissions, and remedying promptly all dust problems at the facility.
6.10	**Procedures for emergencies**	The operating plan shall establish procedures to be followed in case of fire or other emergency.
6.11	**Procedures for nuisance complaints**	1. For every nuisance complaint (for example odor, dust, vibrations, and litter) received, the Franchisee shall record: a) The nature of the complaint; b) The date the complaint was received; c) The name, address and telephone number of the person or persons making the complaint; and d) Any actions taken by the operator in response to the complaint (whether successful or unsuccessful). 2. The Franchisee shall make records of such information available to Metro upon request. The Franchisee shall retain each complaint record for a period of not less than one year.
6.12	**Closure protocol**	The Franchisee shall establish protocol for closure and restoration of the site in the event of a long-term cessation of operations as provided in Metro Code Section 5.01.060(c)(3).
6.13	**Financial assurance**	The Franchisee shall maintain financial assurance in the amount of $25,000 for the cost of the facility's closure and maintain such financial assurance in a form approved by Metro for the term of this franchise.

7.0	**FEES AND RATE SETTING**	
7.1	**Purpose**	This section of the franchise specifies fees payable by the Franchisee, and describes rate regulation by Metro.
7.2	**Annual fee**	The Franchisee shall pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
7.3	**Rates not regulated**	The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro.

7.4	**Metro fee and tax imposed on disposal**	The Franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.

8.0	**RECORD KEEPING AND REPORTING**	
8.1	**Purpose**	This section of the franchise describes record keeping and reporting requirements. The Franchisee shall effectively monitor facility operation and maintain accurate records of the information described in this section.
8.2	**Reporting requirements**	1. For all solid waste and materials the Franchisee is authorized to receive under Section 3.0 of this franchise, the Franchisee shall keep and maintain accurate records of the amount of such materials the Franchisee receives, recovers, recycles, reloads, and disposes. 2. The Franchisee shall keep and maintain complete and accurate records of the following for all transactions: a) Ticket Number (should be the same as the ticket number on the weight slips); b) Customer account numbers identifying incoming customers and outgoing destinations; c) Description whether the load was incoming to the facility or outgoing from the facility; d) Material Category: Code designating the following types of material (more detail, such as differentiating yard debris, is acceptable): (1) incoming source-separated recyclable materials by type; (2) incoming non-putrescible waste; (3) incoming putrescible waste (4) outgoing recyclable materials by type; (5) outgoing non-putrescible waste; (6) outgoing putrescible waste; e) Origin: Code designating the following origin of material: (1) from inside Metro boundaries; (2) from within Multnomah, Clackamas and Washington Counties but outside Metro boundaries; and (3) from another location outside Metro boundaries: i. Any load containing any amount of waste from within the Metro region shall be reported as if the entire load was generated from inside the Metro region. ii. If the Franchisee elects to report all loads delivered to the facility as being generated

		from inside the Metro region, then the Franchisee is not required to designate the origin of loads as described above in Subsections (e)(2) and (e)(3). f) Date the load was received at, transferred within, or transmitted from the facility; g) Time the load was received at, transferred within, or transmitted from the facility; h) Indicate whether Franchisee accepted or rejected the load; i) Net weight of the load; and j) The fee charged to the generator of the load.
8.3	**Record transmittals**	Franchisee shall transmit to Metro records required under Section 8.0 and the corresponding summary report derived from such records no later than fifteen days following the end of each month in a format prescribed by Metro.
8.4	**Material recovery reporting**	The Franchisee shall provide the results of its quarterly sampling of processing residual, as provided in Section 3.6 of this franchise, to Metro as a component of its monthly report no later than fifteen days following the end of the each quarter in a format prescribed by Metro.
8.5	**Account number listing**	Within five business days of Metro's request, Franchisee shall provide Metro with a listing that cross-references the account numbers used in the transaction database with the company's name and address.
8.6	**Transactions based on scale weights**	Except for minimum fee transactions for small, lightweight loads, the Franchisee shall record each inbound and outbound transaction electronically based on actual and accurate scale weights using the Franchisee's on-site scales.
8.7	**DEQ submittals**	The Franchisee shall provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
8.8	**Copies of enforcement actions provided to Metro**	The Franchisee shall ensure Metro receives copies of any notice of violation or noncompliance, citation, or any other similar enforcement actions issued to the Franchisee by any federal, state, or local government other than Metro, and related to the operation of the facility.

8.9	**Unusual occurrences**	1. The Franchisee shall keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. 2. If a breakdown of the Franchisee's equipment occurs that will substantially impact the ability of the facility to remain in compliance, or create off-site impacts, the Franchisee shall notify Metro within 24 hours. 3. The Franchisee shall report any facility fires, accidents, emergencies, and other significant incidents to Metro within 12 hours of the discovery of their occurrence.
8.10	**Changes in ownership**	1. Any change in control of Franchisee or the transfer of a controlling interest of Franchisee shall require prior written notice to Metro. "Transfer of a controlling interest of Franchisee" includes without limitation the transfer of 10% or more of the ownership of Franchisee to or from a single entity. Metro may modify this franchise under Section 11.3 to require the new ownership of Franchisee to assume all the rights and obligations of this franchise. 2. The Franchisee may not lease, assign, mortgage, sell, or otherwise transfer control of the franchise unless the Franchisee follows the requirements of Metro Code Section 5.01.090.

9.0	**INSURANCE REQUIREMENTS**	
9.1	**Purpose**	This section describes the types of insurance that the Franchisee shall purchase and maintain at the Franchisee's expense, covering the Franchisee, its employees, and agents.
9.2	**General liability**	The Franchisee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.
9.3	**Automobile**	The Franchisee shall carry automobile bodily injury and property damage liability insurance.

9.4	**Coverage**	Insurance coverage shall be a minimum of $500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than $1,000,000.
9.5	**Additional insureds**	Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS.
9.6	**Worker's Compensation Insurance**	The Franchisee, its subcontractors, if any, and all employers working under this franchise, is subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. The Franchisee shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If the Franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
9.7	**Notification**	The Franchisee shall give at least 30 days written notice to the COO of any lapse or proposed cancellation of insurance coverage.

10.0	**ENFORCEMENT**	
10.1	**Generally**	Enforcement of this franchise shall be as specified in Metro Code Chapter 5.01.
10.2	**Authority vested in Metro**	The power and right to regulate, in the public interest, the exercise of the privileges granted by this franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against Franchisee.
10.3	**No enforcement limitations**	This franchise shall not be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this franchise be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this franchise or the Franchisee's operation of the facility.

10.4	**Penalties**	Each violation of a franchise condition shall be punishable by penalties as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation.

11.0	**AMENDMENT, MODIFICATION, SUSPENSION, AND REVOCATION**	
11.1	**Amendment by agreement**	At any time during the term of the franchise, either the COO or the Franchisee may propose amendments to this franchise. If either the COO or the Franchisee proposes amendments to this franchise, both parties shall make good faith efforts to arrive at consensus on the intent and implementing language of said amendments.
11.2	**Amendment by Metro Council action**	Except as provided in Section 11.3, the provisions of this franchise shall remain in effect unless the Metro Council: a) Amends the Metro Code, amends the Regional Solid Waste Management Plan, or implements other legislation of broad applicability that affects the class of facilities of which this Franchisee is a member; and b) Adopts an ordinance amending this franchise to implement the policy, code or process specified by said ordinance.
11.3	**Modification, suspension or revocation by Metro for cause**	The COO may, at any time before the expiration date, modify, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to: a) Violation of the terms or conditions of this franchise, Metro Code, or any applicable statute, rule, or standard; b) Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this franchise; c) Failure to disclose fully all relevant facts; d) A significant release into the environment from the facility; e) Significant change in the character of solid waste received or in the operation of the facility; f) Any change in ownership or control; g) A request from the local government stemming from

		impacts resulting from facility operations; and h) Compliance history of the Franchisee.

12.0	**GENERAL OBLIGATIONS**	
12.1	**Compliance with law**	The Franchisee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this franchise as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the franchise document, as well as any existing at the time of the issuance of the franchise but not cited or attached, and permits or conditions issued or modified during the term of the franchise.
12.2	**Deliver waste to appropriate destinations**	The Franchisee shall ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.
12.3	**Right of inspection and audit**	1. Authorized representatives of Metro may take photographs, collect samples of materials, and perform such inspection or audit as the COO deems appropriate, and shall be permitted access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 12.5 of this franchise, Metro's right to inspect shall include the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of Franchisee that are directly related to the operation of the facility. 2. The Franchisee shall permit access to the facility premises to authorized representatives of Metro,

		including personnel on contract to Metro, at all reasonable times during business hours with or without notice to determine whether the Franchisee meets the minimum level of recovery as provided in Section 3.6 of this franchise. The Franchisee shall provide: a) Access to all areas where it generates, manages, stores, and reloads processing residual, including without limitation to transfer vehicles; b) Access to facility personnel and equipment to collect, segregate, contain, and weigh individual samples of processing residual; and c) A safe, covered location away from working areas and vehicle traffic where authorized representatives of Metro may conduct an analysis of the Franchisee's processing residual.
12.4	**Confidential information**	The Franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the Franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The Franchisee shall prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt of a request for disclosure of information identified by Franchisee as confidential, Metro shall provide Franchisee written notice of the request. The Franchisee shall have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. The Franchisee shall pay any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. This Section 12.0 shall not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such representatives agree to continue to treat such information as confidential and make good faith efforts not to disclose such information

12.5	**Compliance by agents**	The Franchisee shall be responsible for ensuring that its agents and contractors operate in compliance with this franchise.

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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 08-1192 FOR THE PURPOSE OF APPROVING THE TRANSFER STATION FRANCHISE RENEWAL APPLICATION OF WASTE MANAGEMENT OF OREGON, INC. AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED FRANCHISE FOR TROUTDALE TRANSFER STATION

August 21, 2008 Prepared by: Warren Johnson

BACKGROUND

On August 11, 2008, Waste Management of Oregon, Inc. (WMO), dba Troutdale Transfer Station (TTS), submitted to Metro a solid waste facility franchise renewal application pursuant to Metro Code Section 5.01.087(b). The Metro Code specifies that the Council shall approve the renewal of a Solid Waste Facility Franchise unless it determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.070. Metro Code Section 5.01.087(b) requires that the Chief Operating Officer formulate recommendations regarding whether the proposed renewal meets the issuance criteria provided in Section 5.01.070.

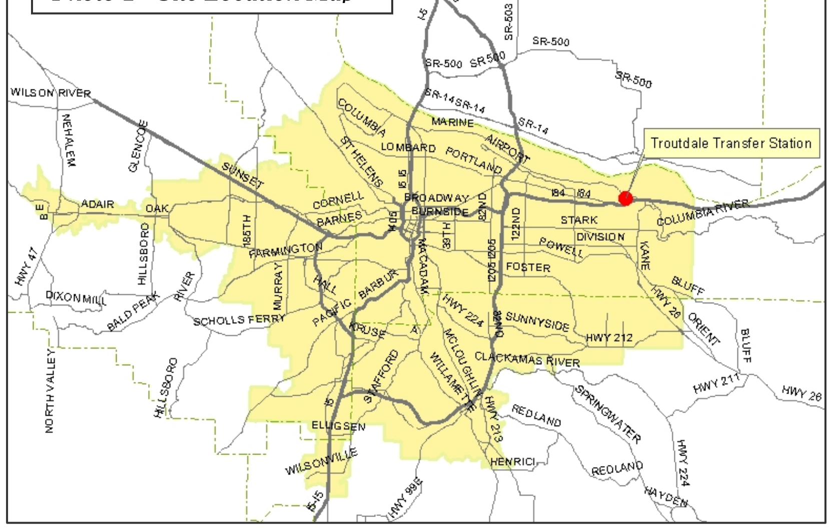
Approval of Ordinance No. 08-1192 will authorize the Chief Operating Officer to issue a renewed transfer station franchise to TTS for a term of five years.

THE APPLICANT

The applicant, WMO, is the owner and operator of TTS, an existing solid waste facility located at 869 NW Eastwind Drive, in Troutdale (Metro Council District 1). TTS commenced operation in 1996 as a material recovery facility. The facility currently holds a Metro-issued franchise (No. F-001-03) to operate a transfer station authorized to receive putrescible waste, perform material recovery on non-putrescible waste, and accept source-separated recyclable materials.

Under the terms of the existing franchise (No. F-001-03), TTS is authorized to accept up to 65,000 tons of putrescible waste generated from within the Metro region per fiscal year. In May 2004, the Chief Operating Officer authorized a temporary increase in the facility's tonnage authorization in accordance with Metro Code Section 5.01.131(c). In Metro fiscal years 2003-04 and 2004-05, the facility's annual tonnage limit was increased to 68,250 tons. The franchise tonnage limit then reverted back to 65,000 tons in fiscal year 2005-06.

Photo 1 - Site Location Map



In addition to its franchise, the applicant currently holds a Metro Non-System License (NSL) that authorizes the delivery of putrescible solid waste directly to the Columbia Ridge Landfill in Gilliam County, Oregon and, under emergency conditions, to the Riverbend Landfill in Yamhill County, Oregon (NSL No. N-001-06).


Photo 2 - Aerial photo of facility

The applicant has requested a renewal of its solid waste facility franchise (No. F-001-03), which is set to expire on December 31, 2008. This is the second renewal of its transfer station franchise.

The applicant requested a tonnage limit increase in its franchise renewal application. Specifically, WMO requested that Metro increase the tonnage limit authorized in the TTS franchise from 65,000 tons to 78,000 tons of putrescible waste per year. WMO reported that this 13,000-ton increase would benefit the Metro region by reducing the number vehicle miles traveled by waste collection vehicles. As discussed in Section 4 of this document, the proposed franchise renewal includes an increased tonnage authorization and a tonnage authorization growth allowance. With the exception of a tonnage increase, the applicant has not requested any other changes to its current franchise provisions.

Table 1 summarizes the annual amount of solid waste that the TTS received and the facility's annual average recovery rate for each Metro fiscal year during the existing franchise period. The putrescible waste tonnage figures provided below include only the waste that the facility received from within the Metro region. In addition, the average facility recovery rate figures provided below were used in determining eligibility for the facility's Regional System Fee and Excise Tax credits. These recovery rates are calculated differently than the minimum compliance rate stipulated in Metro Code Chapter 5.01.

Table 1. Amount of Solid Waste Received and Average Annual Recovery Rate for the TTS

Fiscal Year (June 30th through July 1st)	Putrescible Waste Received (Tons)	Non-Putrescible Waste Received (Tons)	Average Facility Recovery Rate
2004-05	67,997	18,893	31.8%
2005-06	64,995	14,694	29.4%
2006-07	64,532	18,795	30.8%
2007-08	64,722	13,840	36.3%

METRO CODE PROVISIONS RELATED TO FRANCHISE RENEWALS

1. Application

Metro Code Section 5.01.087(b) stipulates that a franchisee seeking renewal of a solid waste facility franchise shall file a completed application for renewal accompanied by payment of an application fee of $500 not less than 120 days prior to the expiration of the franchise term.

On August 11, 2008, WMO submitted to Metro a complete solid waste facility franchise renewal application accompanied by an application fee of $500. The applicant filed its renewal application more than 120 days prior to the expiration date of its current franchise. The current franchise term expires on December 31, 2008. WMO filed its renewal application as required by Metro Code Section 5.01.087(b).

2. Compliance with the Criteria Contained in Metro Code Section 5.01.070

Metro Code Section 5.01.087(b) stipulates that the Chief Operating Officer shall formulate recommendations regarding whether the franchise renewal meets the criteria contained in Metro Code Section 5.01.070 and the Metro Council shall approve renewal of a solid waste facility franchise unless it finds that the proposed renewal is not in the public interest or does not meet the criteria contained in that section. In addition, Section 5.01.087(b) stipulates that the Council may attach conditions or limitations to the renewed franchise.

Metro Code Section 5.01.070 governs the evaluation and issuance of franchises, and only subsections (c) and (f) of that section establish criteria for the approval of franchise applications.

A. Metro Code Section 5.01.070(c) criteria evaluation follows:

i. Applicant Qualifications

The applicant is well known to Metro as an operator of a Metro-franchised solid waste facility and as a long-standing solid waste management company in the Metro area. The applicant has operated its facility for approximately 12 years and has extensive experience in recycling, solid waste collection, transfer, and disposal. Staff concludes that the applicant is fully qualified to operate and manage this facility in a competent and efficient manner.

ii. Compliance with the Regional Solid Waste Management Plan (RSWMP)

On July 24, 2008, Council adopted Ordinance No. 07-1162A (for the purpose of adopting the RSWMP, 2008-2018 Update). The RSWMP 2008-2018 Update replaces the 1995-2005 RSWMP and becomes effective on October 22, 2008.

Regarding the new Plan (RSWMP 2008-2018), Chapter III entitled, *Future direction and regional policies,* includes the following regional policy statements:

> ***7.0 New facilities****: The current system of transfer stations provides reasonable access for haulers and sufficient capacity for the consolidation and transfer of solid waste to disposal facilities.*

The rationale for providing access to transfer stations is to maintain service levels by reducing drive time for haulers, reducing congestion at existing facilities, and adding opportunity to recover materials. An efficient disposal system depends on both capacity and accessibility. The applicant's facility is part of the current system of transfer stations and, therefore, the proposed franchise renewal is consistent with this policy.

> ***8.0 Facility ownership****: Transfer facilities in the regional solid waste system may be publicly or privately owned.*

The applicant's facility is a privately owned transfer station and is consistent with this policy.

> ***10.0 System regulation****: Solid waste facilities accepting waste generated within the region will be regulated to ensure they are operated in an acceptable manner and are consistent with the policies of this Plan. All facilities performing post-collection material recovery shall meet minimum recovery requirements.*

The proposed franchise renewal will ensure that the facility is operated in an acceptable manner and consistent with policies of the RSWMP 2008-2018 Update. The proposed franchise requires the facility to perform material recovery at the minimum rate stipulated in Metro Code Chapter 5.01.

In addition to the above policies, Chapter V entitled, *Sustainable operations*, includes goals and objectives that are intended to guide evaluation and implementation of sustainable operations practices. In particular, Chapter V includes the following statement regarding monitoring and implementation methods:

> *Metro will establish and coordinate a sustainable operations work group of policy and technical participants. The work group will develop priorities and strategies for achieving the objectives, and will report on progress annually to the Regional Solid Waste Advisory Committee and Metro Council.*

The proposed franchise renewal is neutral with regard to Chapter V and is not inconsistent with the sustainable operations goals.

The solid waste management activities to be renewed under this franchise at WRI are consistent with the RSWMP.

iii. <u>Meeting the Requirements of Metro Code Section 5.01.060</u>

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

The applicant seeks a franchise renewal and, in accordance with Metro Code provisions, has filed a completed application for renewal accompanied by payment of the application fee of $500. Accordingly, staff finds that the application was properly filed.

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

This information was included in the franchise renewal application form and accordingly, staff finds that the application was properly filed.

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

(1) Proof of insurance;

(2) A duplicate copy of all applications and permits required by the Oregon Department of Environmental Quality (DEQ);

(3) A duplicate copy of any DEQ required closure plan or if not required by the DEQ then a closure document describing closure protocol;

(4) Copies of DEQ required financial assurance documents or if not required by the DEQ proof of financial assurance for the cost of closure of the facility;

(5) Signed consent by the property owner to the proposed use of the property;

(6) Proof that the applicant has received proper land use approval; and

(7) Copies of any other permits required from other governmental agencies.

All of the information described in Metro Code Section 5.01.060(c) is up to date and is included in the existing franchise file of the applicant; accordingly staff finds that the required information has been submitted.

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

An analysis of these factors is provided below in Section 2B of this document.

(e) *Notwithstanding any other provision in this section, the Chief Operating Officer shall not accept for filing any application for authority to operate a new Transfer Station until December 31, 2008.*

This proposed franchise renewal is not subject to the requirement set forth in Metro Code Section 5.01.060(e). This provision pertains to a proposed facility making an initial application for a new franchise, not a renewal.

iv. Compliance with Regulatory Requirements

The applicant currently operates under authority of a Metro Solid Waste Facility Franchise (No. F-001-03), a Metro NSL (No. N-001-06), a Solid Waste Disposal Site Permit (No. 459) issued by the DEQ, and a National Pollutant Discharge Elimination System Industrial Stormwater General Permit 1200-COLS (No. 16467) issued by the DEQ. In addition, the applicant has received land use authorization from the City of Troutdale.

According to recent communication with Jack Hanna (City of Troutdale), TTS is currently in compliance with the City's code requirements and the facility has not received any notices of violation or enforcement actions within the last five years.

On October 4, 1996, the DEQ issued Solid Waste Disposal Site Permit No. 459 (the "Permit") to WMO authorizing it to accept non-putrescible waste for the purpose of material recovery. On August 3, 1998, the DEQ amended the Permit authorizing the facility to also accept putrescible waste. The term of the Permit was set to expire on August 31, 2006. On March 3, 2006, WMO submitted a permit renewal application to the DEQ. The DEQ received this renewal application prior to the expiration date of the facility's Permit. Due to a significant backlog of applications, the DEQ has not yet reviewed WMO's renewal application. Although the Permit has expired, the DEQ has allowed WMO to continue operating TTS under the terms of the Permit until a final decision is made on the renewal application. According to recent communication with Stephanie Rawson (DEQ), WMO is currently in compliance with its Permit and the facility has not received any notices of violation or enforcement actions from the DEQ within the last five years.

On December 31, 2003, Metro issued Solid Waste Facility Franchise No. F-001-03 (the "Franchise") to WMO authorizing it to perform material recovery on non-putrescible waste and accept putrescible waste for transfer. The term of the Franchise is set to expire on December 31, 2008. During the term of the Franchise, WMO has received one Notice of Violation for failing to maintain the Metro-required recovery rate at the TTS. On September 23, 2005, Metro issued Notice of Violation No. NOV-148-05 to WMO for dropping slightly below 25-percent recovery for the month of August 2005. Metro calculated the recovery rate based on a 12-month rolling average. There was no penalty associated with this minor recovery rate violation. Metro afforded WMO an opportunity to abate the violation by taking immediate corrective action to improve material recovery operations at TTS.

Metro has conducted 41 site inspections at TTS between the dates of January 1, 2004 and July 31, 2008. Staff has found the facility to be a well-run operation with no observable reason to suspect impending problems or issues. TTS is currently in compliance with its NSL and

Franchise. With the exception of the above referenced violation, the facility has not received any notices of violation or enforcement actions from Metro during the term of the Franchise.

Staff concludes that the applicant has sufficiently complied, and staff has no reason to believe that the facility will not continue to comply, with all applicable regulatory requirements.

B. Metro Code Section 5.01.070(f) states:

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

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

This issue was examined above in Section 2A(ii) of this document entitled, Compliance with the Regional Solid Waste Management Plan (RSWMP). As previously discussed, staff concludes that the solid waste management activities to be renewed under this franchise are consistent with the RSWMP.

(2) The effect that granting a Franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region;

Ordinance 08-1192 provides for a 5,000-ton increase in WMO's annual putrescible waste authorization. The tonnage shifts expected in response to this Ordinance (about 5,000 tons *from* Metro transfer stations *to* TTS) would cause a small increase in the cost of disposal and recycling services for the citizens of the region. A small increase in disposal charges around the region should be offset, at least in part, by reduced off-route transportation costs, resulting in a net increase to consumers of no more than about $91,000 per year, equivalent to about 6-7¢ per ton disposed. This effect would be separate from (additive with) cost impacts that result from other tonnage shifts in the region (e.g., from an increase in Willamette Resources, Inc.'s tonnage authorization).

Metro's costs change as tonnage shifts away from Metro Central and Metro South transfer stations. These changes are reflected in the costs to operate the transfer stations and to transport and dispose of the waste. Generally these costs decline as tonnage shifts away, while Metro's unit (per-ton) costs increase due to cost recovery of fixed (and "sticky") costs from fewer tons.

Assuming that 5,000 tons will be diverted from Metro's transfer stations (3,000 tons from Metro Central, and 2,000 tons from Metro South), Metro could fully recover its costs with a 6-7¢ per ton increase in its tonnage charge. If Metro adopted such an increase, and if other privately-owned facilities matched this increase—as has been common practice in the past—then region wide, the cost of disposal would increase by the same 6-7¢ per ton. On about 1.4 million tons disposed, that amounts to about $91,000 annually.

At the same time, some transportation efficiencies may be realized when the shifting tonnage seeks out a closer transfer station in Troutdale. If such transportation efficiencies are realized, then reduced transportation costs (for fuel, labor, etc.) could offset some of the increase in disposal costs. The value of these efficiencies is expected to be small relative to the increase in the cost of disposal.

Note that Metro's cost recovery for regional programs (e.g., the Regional System Fee) and per-ton cost of landfilling (e.g., contractual price at Columbia Ridge Landfill)—two common sources of fiscal impact when tonnage shifts—will be unaffected in this instance because no change is anticipated in regional disposal tonnage (the revenue base for regional programs), and all shifted tonnage is expected to be landfilled in a Waste Management-owned landfill, leaving Metro's price for disposal at Columbia Ridge Landfill unchanged.

If Metro's rate structure (i.e., cost and revenue allocations) and costs remain relatively constant, then additional tonnage shifts (e.g., in response to future increases in local transfer station allocations) can be expected to have proportionally about the same per-ton impact on the cost of solid waste disposal and recycling services for the citizens of the region.

(3) Whether granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents;

Metro staff is not aware of any facility incidents or operating procedures that have adversely affected the health, safety and welfare of Metro's residents in the 12 years that the facility has been operating. Likewise, the DEQ has not cited the facility for any violations within the last five years. The operator's experience and track record, together with the regulatory environment in which WMO operates, leads staff to conclude that it is unlikely that the applicant, will adversely affect the public health, safety and welfare.

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

Metro staff is not aware of any complaints or excessive impacts on the surrounding neighborhood in the 12 years that the facility has been operating. The operator's experience and track record leads staff to conclude that it is unlikely that WMO would unreasonably adversely impact the surrounding neighborhood.

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

This issue was examined above in Section 2A(iv) of this document. As previously discussed, staff finds that, notwithstanding one violation during the term of its existing Franchise, the applicant is likely to comply with regulations and standards if the franchise is renewed.

3. Compliance with the Criteria Contained in Metro Code Section 5.01.075(c)

Metro Code Section 5.01.075(c) stipulates that a franchise authorizing the acceptance of mixed non-putrescible waste for the purpose of conducting material recovery shall be subject to the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Metro Code Section 5.01.132, and the general performance goals related to the following: environment, health and safety, nuisances, material recovery, reloading, and record keeping.

On May 8, 2007, Metro adopted administrative procedures outlining new standards for material recovery facilities (Administrative Procedures No. 501 Section 7 – *Standards for Non-Putrescible Mixed Waste Material Recovery Facilities and Non-Putrescible Mixed Waste Reload Facilities*). The standards include design requirements and operating conditions that were specifically developed, and approved in administrative procedures, in order to meet the general performance goals specified in Metro Code Section 5.01.075(c).

TTS is an existing facility that is designed and operated in a manner that currently meets or exceeds all of these standards and performance goals.

4. Chief Operating Officer's Recommendation and Recommended Franchise Conditions

Based on the information presented above, the Chief Operating Officer finds that the franchise renewal application meets the criteria in Metro Code Section 5.01.070. The Chief Operating Officer also finds that the proposed franchise renewal is in the public interest. The Chief Operating Officer therefore recommends that the Metro Council approve a franchise renewal to TTS subject to the requirements listed in Metro Code Chapter 5.01; and further subject to several new conditions and technical updates, which are incorporated into the draft franchise attached as Exhibit A to Ordinance No. 08-1192.

The substantive changes included in the proposed franchise are described below. In particular, Subsections A and B describe conditions that are based upon the direction that staff received during the Metro Council Work Session on August 12, 2008. The Council had agreed with staff recommendations to include these conditions in the franchises, based upon the *Wet Waste Allocation Project DRAFT Final Report*, dated August 4, 2008. Subsection C describes the new conditions that were included in the proposed franchise to reflect the material recovery facility standards adopted by Metro Council via Ordinance No. 07-1138 on February 22, 2007 and the corresponding administrative procedures that were subsequently issued by the Chief Operating Officer on May 8, 2007. Subsection D describes the new conditions that were included to reflect the Enhanced Dry Waste Recovery Program that was adopted by Metro Council via Ordinance No. 07-1147B on August 17, 2007.

New Conditions:

A. Tonnage Authorization – The proposed franchise stipulates that the franchisee shall accept no more than 70,000 tons of putrescible waste within each calendar year. This is a 5,000-ton increase over the 65,000-ton limit that was previously established by Metro Council in October 2001 (Ordinance No. 01-916C). As drafted, this limitation is applicable to all putrescible waste generated or originating from within the Metro region. In addition to the increase, the tracking period for the tonnage limit has been adjusted from a fiscal year to a calendar year basis.

   The applicant requested authority to accept up to 78,000 tons of putrescible waste per year in its application. However, the applicant did not provide sufficient information to justify such a tonnage increase as provided in Metro Code Chapter 5.01. Therefore, the Chief Operating Officer's recommendation to include a 70,000-ton limit in the proposed franchise is based upon the direction that staff received during the Metro Council Work Session on August 12, 2008.

B. Tonnage Authorization Growth Allowance – The proposed franchise stipulates that effective January 1, 2011 the Chief Operating Officer may increase the tonnage authorization of the franchise based on a growth allowance for the disposal of putrescible waste as provided in Metro Code Chapter 5.01. The initial 5,000-ton increase, described above in Section 4A, is intended to address growth for the first two years of the franchise. As such, it is unlikely that the Chief Operating Officer will approve additional tonnage increases for this franchise until this growth allowance provision becomes effective on January 1, 2011. Metro will consider methods for assigning the annual growth allowance, as provided in this section, through a potential Code amendment and the development of administrative procedures.

C. Material Recovery Facility Standards - The proposed franchise includes conditions that require the franchisee to conduct material recovery operations on non-putrescible waste in accordance with the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Metro Code Section 5.01.132 (Administrative Procedures No. 501 Section 7 – *Standards for Non-Putrescible Mixed Waste Material Recovery Facilities and Non-Putrescible Mixed Waste Reload Facilities*). The proposed franchise conforms with the above referenced material recovery standards and the general performance goals.

D. Enhanced Dry Waste Recovery Program – The proposed franchise requires the franchisee to perform material recovery on non-putrescible waste at the rate stipulated in Metro Code Chapter 5.01. Specifically, the franchisee's processing residual shall not contain more than 15 percent, by weight, of cardboard and wood pieces greater than 12 inches in size and metal pieces greater than eight inches in size. In addition, the proposed franchise requires the franchisee to take quarterly samples of its processing residual and provide Metro with access to the site in order to analyze the waste.

ANALYSIS / INFORMATION

1. Known Opposition

There is no known opposition.

2. Legal Antecedents

Current provisions of Metro Code Chapter 5.01, entitled “Solid Waste Facility Regulation.” In particular:

- Metro Code Section 5.01.045(b) stipulates that a Solid Waste Facility Franchise shall be required for the person operating a transfer station.
- Metro Code Section 5.01.087(b) stipulates that the Metro Council shall approve or deny renewals of Solid Waste Facility Franchises.

3. Anticipated Effects

Adoption of Ordinance No. 08-1192 would authorize the Chief Operating Officer to issue a renewed Solid Waste Facility Franchise to TTS for a term of five years.

4. Budget Impacts

Ordinance No. 08-1192 authorizes the renewal of an existing solid waste facility franchise with a 5,000-ton increase in its facility tonnage cap. The tonnage shifts expected in response to this Ordinance (about 5,000 tons *from* Metro transfer stations *to* TTS) would cause a decrease of approximately $250,000 in the Solid Waste and Recycling budget because Metro would no longer incur the cost of transferring, transporting, and disposing of the 5,000 tons of solid waste diverted to TTS.

For a fuller discussion of the rate effects and ratepayer impacts, see the analysis provided above in Section 2B(2) of this document.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance No. 08-1192.

WJ:bjl
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Agenda Item Number 5.3

Ordinance No. 08-1193, For the Purpose of Approving the Transfer Station Franchise Renewal Application of Pride Recycling Company Authorizing the Chief Operating Officer to Issue a Renewed Franchise.

First Reading

Metro Council Meeting
Thursday, September 18, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE TRANSFER STATION FRANCHISE RENEWAL APPLICATION OF PRIDE RECYCLING COMPANY AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED FRANCHISE	))))))	ORDINANCE NO. 08-1193 Introduced by Michael J. Jordan, Chief Operating Officer, with the concurrence of David Bragdon, Metro Council President

WHEREAS, Metro Code Section 5.01.045(b)(2) stipulates that a Metro Solid Waste Facility Franchise shall be required for the person owning or controlling a facility that operates a Transfer Station; and

WHEREAS, Pride Recycling Company operates a transfer station and holds a Metro Solid Waste Facility Franchise Number F-002-03, which will expire on December 31, 2008; and

WHEREAS, Pride Recycling Company filed a completed application seeking a renewal of its franchise pursuant to Metro Code Section 5.01.087(b); and

WHEREAS, the moratorium on applications for new transfer stations pursuant to Metro Code Section 5.01.060(e) does not apply to this renewal application; and

WHEREAS, Metro Code Section 5.01.087(b) stipulates that the Council shall approve or deny renewals of solid waste facility franchises, that the Chief Operating Officer shall formulate recommendations regarding whether the renewal meets the criteria in Metro Code Section 5.01.070, and that the Council shall approve renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Metro Code Section 5.01.070; and

WHEREAS, the Chief Operating Officer formulated recommendations on the criteria listed in Metro Code Section 5.01.070 as required by Metro Code Section 5.01.087(b); and

WHEREAS, the Chief Operating Officer recommends that the franchise be renewed together with specific conditions as provided in Exhibit A to this Ordinance entitled “Solid Waste Facility Franchise;” and

WHEREAS, the Metro Council finds that the proposed renewal is in the public interest and meets the criteria contained in Metro Code Section 5.01.070; and

WHEREAS, the Metro Council finds that the terms, conditions, and limitations contained in Exhibit A to this Ordinance are appropriate; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The transfer station renewal franchise application of Pride Recycling Company is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Ordinance entitled “Solid Waste Facility Franchise.”

2. The Chief Operating Officer is authorized to issue to Pride Recycling Company a renewed Solid Waste Facility Franchise substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this _______ day of _______________ 2008.

____
David Bragdon, Council President

Attest:

____
Christina Billington, Recording Secretary

Approved as to Form:

____
Daniel B. Cooper, Metro Attorney

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2736
TEL 503-797-1650 | FAX 503-813-7544

METRO

SOLID WASTE FACILITY FRANCHISE
No. F-002-08

FRANCHISEE:	**FACILITY NAME AND LOCATION:**
Pride Recycling Company PO Box 1150 Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179	Pride Recycling Company 13910 SW Tualatin-Sherwood Road Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179
OPERATOR:	**PROPERTY OWNER:**
Pride Recycling Company 13910 SW Tualatin-Sherwood Road Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179	Mike and Cindy Leichner PO Box 1150 Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179

This franchise replaces and supersedes the provisions of Metro Solid Waste Facility Franchise No. F-002-03. Metro grants this franchise to the Franchisee named above. The Franchisee is authorized to operate and maintain a solid waste facility and to accept the solid wastes and perform the activities authorized by and subject to the conditions stated in this Franchise.

ISSUED BY METRO

______________________________________ ____________________

Michael Jordan, Metro Chief Operating Officer Date

TABLE OF CONTENTS

1.0	ISSUANCE	
1.1	**Franchisee**	Pride Recycling Company 13910 SW Tualatin-Sherwood Road Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179
1.2	**Corporate affiliation**	Pride Recycling Company 13910 SW Tualatin-Sherwood Road Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179
1.3	**Contact**	Mike Leichner, Tel. (503) 625-0725 Fax. (503) 625-6179 e-mail: mike@pridedisposal.com
1.4	**Franchise number**	When referring to this franchise, please cite: Metro Solid Waste Facility Franchise No. F-002-08.
1.5	**Term**	The term commences on January 1, 2009, and shall terminate on December 31, 2013, unless amended, modified, suspended, or revoked under the provisions of Section 11.0 of this franchise.
1.6	**Renewal**	The Franchisee may apply for a franchise renewal as provided in Metro Code Section 5.01.087.
1.7	**Facility name and mailing address**	Pride Recycling Company PO Box 1150 Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179
1.8	**Operator**	Pride Recycling Company 13910 SW Tualatin-Sherwood Road Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179
1.9	**Facility premises description**	Tax Lot Identification No. 2S128C000101 and No. 2S128C000105, City of Sherwood, Washington County, State of Oregon

1.10	**Property owner**	Mike and Cindy Leichner PO Box 1150 Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179
1.11	**Permission to operate**	Franchisee warrants that it has obtained the property owner's consent to operate the facility as specified in this franchise.

2.0	**CONDITIONS AND DISCLAIMERS**	
2.1	**Guarantees**	This franchise shall not vest any right or privilege in the Franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise.
2.2	**Non-exclusive franchise**	This franchise shall not in any way limit Metro from granting other solid waste franchises within Metro's boundaries.
2.3	**Property rights**	This franchise does not convey any property rights in either real or personal property.
2.4	**Amendment and modification**	Except as provided in Section 11.0 of this franchise, no amendment or modification shall be effective unless approved by the Metro Council.
2.5	**No recourse**	The Franchisee shall have no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement of the franchise or in the event Metro determines that the franchise or any part thereof is invalid.
2.6	**Indemnification**	The Franchisee shall indemnify Metro, the Council, the Chief Operating Officer (the "COO"), and any of their employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the granting of this franchise or the Franchisee's performance of or failure to perform any of its obligations under the Franchise or Metro Code Chapter 5.01, including without limitation patent infringement and any claims or disputes involving subcontractors.
2.7	**Binding nature**	This franchise is binding on the Franchisee. The Franchisee is liable for all acts and omissions of the Franchisee's contractors and agents.

2.8	**Waivers**	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 11.0 and be in writing and signed by the COO.
2.9	**Effect of waiver**	Waiver of a term or condition of this franchise shall not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.10	**Choice of law**	The franchise shall be construed, applied, and enforced in accordance with the laws of the State of Oregon.
2.11	**Enforceability**	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise shall not be affected.
2.12	**Franchise not a waiver**	This franchise does not relieve any owner, operator, or the Franchisee from the obligation to obtain all required permits, franchises, or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.13	**Franchise not limiting**	This franchise does not limit the power of a federal, state, or local agency to enforce any provision of law relating to the facility.
2.14	**Definitions**	Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01.

3.0	**AUTHORIZATIONS**	
3.1	**Purpose**	This section of the franchise describes the wastes that the Franchisee is authorized to accept at the facility and the waste-related activities the Franchisee is authorized to perform at the facility.
3.2	**General conditions on solid waste**	The Franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The Franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
3.3	**General conditions on activities**	The Franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.

3.4	**Acceptance and management of putrescible solid waste**	1. The Franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 12.2 of this franchise. The Franchisee also is authorized to accept putrescible waste for material recovery. 2. The Franchisee shall receive, manage, store, reload, and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers. 3. The Franchisee is authorized to accept putrescible waste generated inside the Metro region only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
3.5	**Acceptance and management of mixed non-putrescible solid waste**	1. The Franchisee is authorized to accept mixed non-putrescible solid waste for material recovery. 2. The Franchise shall receive, sort, store, reload, and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover prior to processing, within 12 hours of receipt, or by the end of the business day, whichever is earlier. 3. The Franchisee is authorized to accept mixed non-putrescible waste from all customers including public self-haul.
3.6	**Material recovery required**	1. The Franchisee shall perform material recovery on mixed non-putrescible wastes. The Franchisee shall ensure that the facility is designed and operated to assure materials are recovered in a timely manner and to protect the quality of non-putrescible waste that has not yet undergone material recovery. The Franchisee must perform recovery at no less than the minimum level stipulated in Metro Code Chapter 5.01. 2. The Franchisee shall take quarterly samples of processing residual that are statistically valid and representative of the facility's residual. Each sample required by this section shall weigh at least 300 pounds.

3.7	**Management of processing residual from material recovery**	The Franchisee shall store, reload, and transfer all non-putrescible waste processing residual on an impervious surface and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers.
3.8	**Acceptance of source-separated recyclable materials**	1. The Franchisee shall provide a place for collecting source-separated recyclable materials on the facility premises. 2. The Franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.
3.9	**Acceptance of yard debris**	The Franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The Franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.10	**Acceptance of source-separated food waste**	The Franchisee is authorized to accept source-separated food waste that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The Franchisee may accept source-separated food waste only for reloading to authorized facilities for composting or other useful purposes as described in an operating plan and approved in writing by the COO.
3.11	**Acceptance of untreated wood**	The Franchisee is authorized to accept for processing and reloading, source-separated, untreated and unpainted wood waste, for example untreated lumber and wood pallets. The Franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.12	**Acceptance of painted and treated wood**	The Franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by the COO. The Franchisee shall not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock, or any other product unless otherwise described in an operating plan

		and approved in writing by the COO.
3.13	**Acceptance of electronics devices**	The Franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer, and other similar functions related to preparing these materials for reuse, recycling, or disposal as required by the Oregon Department of Environmental Quality (DEQ).
3.14	**Acceptance of inert material**	The Franchise is authorized to accept inert materials for purposes of classifying, consolidating, transfer, and other similar functions related to preparing these materials for useful purposes.

4.0	**LIMITATIONS AND PROHIBITIONS**	
4.1	**Purpose**	This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility.
4.2	**Tonnage authorization**	The Franchisee is authorized to accept up to 70,000 tons of putrescible waste generated inside the Metro region within each calendar year. The Franchisee shall not accept solid waste generated outside the Metro region if to do so would limit the Franchisee from accepting 70,000 tons of putrescible waste, or any non-putrescible waste, generated inside the Metro region.
4.3	**Tonnage authorization growth allowance**	Effective January 1, 2011, the COO will amend Section 4.2 of this franchise to increase the tonnage authorization based on a growth allowance as established in Metro Code Chapter 5.01.
4.4	**Prohibited waste**	The Franchisee shall not knowingly receive, process, reload, or dispose of any solid waste not authorized by this franchise. The Franchisee shall not knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the DEQ.
4.5	**Prohibition on mixing**	1. The Franchisee shall not mix or commingle any source-separated recyclable materials, source-separated yard debris or wood wastes brought to the facility with any unprocessed solid wastes or solid wastes destined for disposal.

		2. The Franchisee shall not mix or commingle putrescible solid waste with non-putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris. 3. The Franchisee shall not mix or commingle non-putrescible solid waste with putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.
4.6	**Prohibition of size reduction on non-putrescible waste**	The Franchisee shall not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, or processing residual consolidation or loading operations, and such size reduction is described and approved by the COO in an operating plan.
4.7	**No disposal of recyclable materials**	The Franchisee shall not transfer source-separated recyclable materials to a disposal site, including without limitation landfills and incineration facilities.
4.8	**Composting prohibited**	The Franchisee shall not keep yard debris on site long enough for more than negligible biological decomposition to begin.
4.9	**Limits not exclusive**	This franchise shall not be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

5.0	**OPERATING CONDITIONS**	
5.1	**Purpose and general performance goals**	This section of the franchise describes criteria and standards for the operation of the facility. The Franchisee shall operate in a manner that meets the following general performance goals: a) Environment. The Franchisee shall design and operate the facility to preclude the creation of undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste, asbestos and other prohibited wastes. b) Health and safety. The Franchisee shall design and operate the facility to preclude the creation of conditions that may degrade public health and safety

		including, but not limited to, fires, vectors, pathogens and airborne debris. c) Nuisances. The Franchisee shall design and operate the facility to preclude the creation of nuisance conditions including, but not limited to, litter, dust, odors, and noise.
5.2	**Qualified operator**	1. The Franchisee shall, during all hours of operation, provide an operating staff employed by the facility and qualified and competent to carry out the functions required by this franchise and to otherwise ensure compliance with Metro Code Chapter 5.01. 2. Facility personnel, as relevant to their job duties and responsibilities, shall be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan. 3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.
5.3	**Fire prevention**	The Franchisee shall provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from processing and storage areas.
5.4	**Adequate vehicle accommodation**	The Franchisee shall: a) Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. Access roads shall be maintained to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather. b) Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles shall not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances. c) Post signs to inform customers not to queue on public roadways. d) Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site tarping and untarping of loads.

5.5	**Managing prohibited wastes**	1. The Franchisee shall reject prohibited waste upon discovery and shall properly manage and dispose of prohibited waste when unknowingly received. 2. The Franchisee shall implement a load-checking program to prevent the acceptance of waste that is prohibited by the franchise. This program must include at a minimum: a) Visual inspection. As each load is tipped, a qualified operator shall visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise. b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas shall be covered and enclosed to prevent leaking and contamination. c) Record maintenance. Records of the training of personnel in the recognition, proper handling, and disposition of prohibited waste shall be maintained in the operating record and be available for review by Metro. 3. Upon discovery, the Franchisee shall remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the Franchisee unknowingly receives shall be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by the DEQ or local government.
5.6	**Storage and exterior stockpiles**	The Franchisee shall: a) Manage, contain, and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards; b) Maintain storage areas in an orderly manner and keep the areas free of litter; c) Position exterior stockpiles within footprints identified on the facility site plan or operating plan; and d) Not stockpile recovered or source-separated materials for longer than 180 days (6 months).
5.7	**Dust, airborne debris and litter**	The Franchisee shall operate the facility in a manner that minimizes and mitigates the generation of dust, airborne debris and litter, and shall prevent its migration beyond

		property boundaries. The Franchisee shall: a) Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit; b) Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit; c) Maintain and operate all access roads and receiving, processing, storage, and reload areas in such a manner as to minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site; d) Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation; e) Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; and f) Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, shall be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Section 5.09.040 of the Metro Code.
5.8	**Odor**	1. The Franchisee shall operate the facility in a manner that prevents the generation of odors that are detectable off-site. 2. The Franchisee shall establish and follow procedures in the operating plan for minimizing odor at the facility.
5.9	**Vectors (e.g. birds, rodents, insects)**	1. The Franchisee shall operate the facility in a manner that is not conducive to the harborage of rodents, birds, insects, or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another. 2. If vectors are present or detected at the facility, the Franchisee shall implement vector control measures.

5.10	**Noise**	The Franchisee shall operate the facility in a manner that prevents the creation of noise sufficient to cause adverse off-site impacts and to the extent necessary to meet applicable regulatory standards and land-use regulations.
5.11	**Water contaminated by solid waste and solid waste leachate**	The Franchisee shall operate the facility consistent with an approved DEQ stormwater management plan or equivalent and shall: a) Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; and b) Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state, and federal laws and regulations.
5.12	**Access control**	1. The Franchisee shall control access to the facility as necessary to prevent unauthorized entry and dumping. 2. The Franchisee shall maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.
5.13	**Signage**	The Franchisee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, and legible from off-site during all hours and shall contain at least the following information: a) Name of the facility; b) Address of the facility; c) Emergency telephone number for the facility; d) Operating hours during which the facility is open for the receipt of authorized waste; e) Fees and charges; f) Metro's name and telephone number (503) 234-3000; g) A list of authorized and prohibited wastes; h) Vehicle / traffic flow information or diagram; i) Covered load requirements; and j) Directions not to queue on public roadways.
5.14	**Nuisance complaints**	1. The Franchisee shall respond to all nuisance complaints in timely manner (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), and shall keep a record of such complaints and any action taken to

		respond to the complaints, including actions to remedy the conditions that caused the complaint. 2. If the facility receives a complaint, the Franchisee shall: a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); and b) Log all such complaints as provided by the operating plan. Each log entry shall be retained for one year and shall be available for inspection by Metro.
5.15	**Access to franchise document**	The Franchisee shall maintain a copy of this franchise on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.

6.0	**OPERATING PLAN**	
6.1	**Purpose**	This section lists the requirements associated with preparing and implementing a facility operating plan, and lists the procedures that must be included in the required facility operating plan.
6.2	**Plan compliance**	The Franchisee must operate the facility in accordance with an operating plan approved in writing by the COO. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this franchise. The Franchisee may amend or revise the operating plan from time to time, subject to written approval by the COO.
6.3	**Plan maintenance**	The Franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures, and requirements. The Franchisee must submit amendments and revisions of the operating plan to the COO for written approval prior to implementation.
6.4	**Access to operating plan**	The Franchisee shall maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
6.5	**Procedures for inspecting loads**	The operating plan shall establish: a) Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes; b) Procedures for identifying incoming and outgoing loads for waste classifications;

		c) A set of objective criteria for accepting and rejecting loads; and d) An asbestos testing protocol for all materials that appear to contain friable asbestos.
6.6	**Procedures for processing and storage of loads**	The operating plan shall establish procedures for: a) Processing authorized solid wastes; b) Reloading and transfer of authorized solid wastes; c) Managing stockpiles to ensure that they remain within the authorized weights, volumes and pile heights; d) Storing authorized solid wastes; and e) Minimizing storage times and avoiding delay in processing of authorized solid wastes.
6.7	**Procedures for managing prohibited wastes**	The operating plan shall establish procedures for managing, reloading, and transferring to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan shall establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.
6.8	**Procedures for odor prevention**	The operating plan shall establish procedures for preventing objectionable odors generated at the facility from being detected off the premises of the facility. The plan must include: a) A management plan that will be used to monitor and manage odors of any derivation including malodorous loads delivered to the facility; and b) Procedures for receiving and recording odor complaints, immediately investigating all odor complaints to determine the cause of odor emissions, and remedying promptly all odor problems at the facility.
6.9	**Procedures for dust prevention**	The operating plan shall establish procedures for preventing dust from blowing off the premises of the facility. The plan must include: a) A management plan that will be used to monitor and manage dust of any derivation; and b) Procedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions, and remedying promptly all dust problems at the

		facility.
6.10	**Procedures for emergencies**	The operating plan shall establish procedures to be followed in case of fire or other emergency.
6.11	**Procedures for nuisance complaints**	1. For every nuisance complaint (for example odor, dust, vibrations, and litter) received, the Franchisee shall record: a) The nature of the complaint; b) The date the complaint was received; c) The name, address and telephone number of the person or persons making the complaint; and d) Any actions taken by the operator in response to the complaint (whether successful or unsuccessful). 2. The Franchisee shall make records of such information available to Metro upon request. The Franchisee shall retain each complaint record for a period of not less than one year.
6.12	**Closure protocol**	The Franchisee shall establish protocol for closure and restoration of the site in the event of a long-term cessation of operations as provided in Metro Code Section 5.01.060(c)(3).
6.13	**Financial assurance**	The Franchisee shall maintain financial assurance in the amount of $25,000 for the cost of the facility's closure and maintain such financial assurance in a form approved by Metro for the term of this franchise.

7.0	**FEES AND RATE SETTING**	
7.1	**Purpose**	This section of the franchise specifies fees payable by the Franchisee, and describes rate regulation by Metro.
7.2	**Annual fee**	The Franchisee shall pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
7.3	**Rates not regulated**	The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro.
7.4	**Metro fee and tax imposed on disposal**	The Franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.

8.0	**RECORD KEEPING AND REPORTING**	
8.1	**Purpose**	This section of the franchise describes record keeping and reporting requirements. The Franchisee shall effectively monitor facility operation and maintain accurate records of the information described in this section.
8.2	**Reporting requirements**	1. For all solid waste and materials the Franchisee is authorized to receive under Section 3.0 of this franchise, the Franchisee shall keep and maintain accurate records of the amount of such materials the Franchisee receives, recovers, recycles, reloads, and disposes. 2. The Franchisee shall keep and maintain complete and accurate records of the following for all transactions: a) Ticket Number (should be the same as the ticket number on the weight slips); b) Customer account numbers identifying incoming customers and outgoing destinations; c) Description whether the load was incoming to the facility or outgoing from the facility; d) Material Category: Code designating the following types of material (more detail, such as differentiating yard debris, is acceptable): (1) incoming source-separated recyclable materials by type; (2) incoming non-putrescible waste; (3) incoming putrescible waste (4) outgoing recyclable materials by type; (5) outgoing non-putrescible waste; (6) outgoing putrescible waste; e) Origin: Code designating the following origin of material: (1) from inside Metro boundaries; (2) from within Multnomah, Clackamas and Washington Counties but outside Metro boundaries; and (3) from another location outside Metro boundaries: i. Any load containing any amount of waste from within the Metro region shall be reported as if the entire load was generated from inside the Metro region. ii. If the Franchisee elects to report all loads delivered to the facility as being generated from inside the Metro region, then the Franchisee is not required to designate the origin of loads as described above in Subsections (e)(2) and (e)(3). f) Date the load was received at, transferred within, or transmitted from the facility;

		g) Time the load was received at, transferred within, or transmitted from the facility; h) Indicate whether Franchisee accepted or rejected the load; i) Net weight of the load; and j) The fee charged to the generator of the load.
8.3	**Record transmittals**	Franchisee shall transmit to Metro records required under Section 8.0 and the corresponding summary report derived from such records no later than fifteen days following the end of each month in a format prescribed by Metro.
8.4	**Material recovery reporting**	The Franchisee shall provide the results of its quarterly sampling of processing residual, as provided in Section 3.6 of this franchise, to Metro as a component of its monthly report no later than fifteen days following the end of the each quarter in a format prescribed by Metro.
8.5	**Account number listing**	Within five business days of Metro's request, Franchisee shall provide Metro with a listing that cross-references the account numbers used in the transaction database with the company's name and address.
8.6	**Transactions based on scale weights**	Except for minimum fee transactions for small, lightweight loads, the Franchisee shall record each inbound and outbound transaction electronically based on actual and accurate scale weights using the Franchisee's on-site scales.
8.7	**DEQ submittals**	The Franchisee shall provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
8.8	**Copies of enforcement actions provided to Metro**	The Franchisee shall ensure Metro receives copies of any notice of violation or noncompliance, citation, or any other similar enforcement actions issued to the Franchisee by any federal, state, or local government other than Metro, and related to the operation of the facility.
8.9	**Unusual occurrences**	1. The Franchisee shall keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. 2. If a breakdown of the Franchisee's equipment occurs that will substantially impact the ability of the facility to remain in

		compliance, or create off-site impacts, the Franchisee shall notify Metro within 24 hours. 3. The Franchisee shall report any facility fires, accidents, emergencies, and other significant incidents to Metro within 12 hours of the discovery of their occurrence.
8.10	**Changes in ownership**	1. Any change in control of Franchisee or the transfer of a controlling interest of Franchisee shall require prior written notice to Metro. "Transfer of a controlling interest of Franchisee" includes without limitation the transfer of 10% or more of the ownership of Franchisee to or from a single entity. Metro may modify this franchise under Section 11.3 to require the new ownership of Franchisee to assume all the rights and obligations of this franchise. 2. The Franchisee may not lease, assign, mortgage, sell, or otherwise transfer control of the franchise unless the Franchisee follows the requirements of Metro Code Section 5.01.090.

9.0	**INSURANCE REQUIREMENTS**	
9.1	**Purpose**	This section describes the types of insurance that the Franchisee shall purchase and maintain at the Franchisee's expense, covering the Franchisee, its employees, and agents.
9.2	**General liability**	The Franchisee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.
9.3	**Automobile**	The Franchisee shall carry automobile bodily injury and property damage liability insurance.
9.4	**Coverage**	Insurance coverage shall be a minimum of $500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than $1,000,000.
9.5	**Additional insureds**	Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS.
9.6	**Worker's Compensation Insurance**	The Franchisee, its subcontractors, if any, and all employers working under this franchise, is subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. The Franchisee shall provide Metro with certification of Workers'

		Compensation insurance including employer's liability. If the Franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
9.7	**Notification**	The Franchisee shall give at least 30 days written notice to the COO of any lapse or proposed cancellation of insurance coverage.

10.0	**ENFORCEMENT**	
10.1	**Generally**	Enforcement of this franchise shall be as specified in Metro Code Chapter 5.01.
10.2	**Authority vested in Metro**	The power and right to regulate, in the public interest, the exercise of the privileges granted by this franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against Franchisee.
10.3	**No enforcement limitations**	This franchise shall not be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this franchise be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this franchise or the Franchisee's operation of the facility.
10.4	**Penalties**	Each violation of a franchise condition shall be punishable by penalties as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation.

11.0	**AMENDMENT, MODIFICATION, SUSPENSION, AND REVOCATION**	
11.1	**Amendment by agreement**	At any time during the term of the franchise, either the COO or the Franchisee may propose amendments to this franchise. If either the COO or the Franchisee proposes amendments to this franchise, both parties shall make good faith efforts to arrive at consensus on the intent and implementing language of said amendments.

11.2	**Amendment by Metro Council action**	Except as provided in Section 11.3, the provisions of this franchise shall remain in effect unless the Metro Council: a) Amends the Metro Code, amends the Regional Solid Waste Management Plan, or implements other legislation of broad applicability that affects the class of facilities of which this Franchisee is a member; and b) Adopts an ordinance amending this franchise to implement the policy, code or process specified by said ordinance.
11.3	**Modification, suspension or revocation by Metro for cause**	The COO may, at any time before the expiration date, modify, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to: a) Violation of the terms or conditions of this franchise, Metro Code, or any applicable statute, rule, or standard; b) Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this franchise; c) Failure to disclose fully all relevant facts; d) A significant release into the environment from the facility; e) Significant change in the character of solid waste received or in the operation of the facility; f) Any change in ownership or control; g) A request from the local government stemming from impacts resulting from facility operations; and h) Compliance history of the Franchisee.

12.0	**GENERAL OBLIGATIONS**	
12.1	**Compliance with law**	The Franchisee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this franchise as if specifically set forth herein. Such conditions and permits include those cited

		within or attached as exhibits to the franchise document, as well as any existing at the time of the issuance of the franchise but not cited or attached, and permits or conditions issued or modified during the term of the franchise.
12.2	**Deliver waste to appropriate destinations**	The Franchisee shall ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.
12.3	**Right of inspection and audit**	1. Authorized representatives of Metro may take photographs, collect samples of materials, and perform such inspection or audit as the COO deems appropriate, and shall be permitted access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 12.5 of this franchise, Metro's right to inspect shall include the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of Franchisee that are directly related to the operation of the facility. 2. The Franchisee shall permit access to the facility premises to authorized representatives of Metro, including personnel on contract to Metro, at all reasonable times during business hours with or without notice to determine whether the Franchisee meets the minimum level of recovery as provided in Section 3.6 of this franchise. The Franchisee shall provide: a) Access to all areas where it generates, manages, stores, and reloads processing residual, including without limitation to transfer vehicles; b) Access to facility personnel and equipment to collect, segregate, contain, and weigh individual samples of processing residual; and c) A safe, covered location away from working areas and vehicle traffic where authorized representatives of Metro may conduct an analysis of the Franchisee's processing residual.
12.4	**Confidential information**	The Franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial

		statements, contracts and other similar written materials of the Franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The Franchisee shall prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt of a request for disclosure of information identified by Franchisee as confidential, Metro shall provide Franchisee written notice of the request. The Franchisee shall have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. The Franchisee shall pay any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. This Section 12.0 shall not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such representatives agree to continue to treat such information as confidential and make good faith efforts not to disclose such information
12.5	**Compliance by agents**	The Franchisee shall be responsible for ensuring that its agents and contractors operate in compliance with this franchise.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 08-1193 FOR THE PURPOSE OF APPROVING THE TRANSFER STATION FRANCHISE RENEWAL APPLICATION OF PRIDE RECYCLING COMPANY AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED FRANCHISE

August 21, 2008 Prepared by: Warren Johnson

BACKGROUND

On July 24, 2008, Pride Recycling Company (Pride) submitted to Metro a solid waste facility franchise renewal application pursuant to Metro Code Section 5.01.087(b). The Metro Code specifies that the Council shall approve the renewal of a Solid Waste Facility Franchise unless it determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.070. Metro Code Section 5.01.087(b) requires that the Chief Operating Officer formulate recommendations regarding whether the proposed renewal meets the issuance criteria provided in Section 5.01.070.

Approval of Ordinance No. 08-1193 will authorize the Chief Operating Officer to issue a renewed transfer station franchise to Pride for a term of five years.

THE APPLICANT

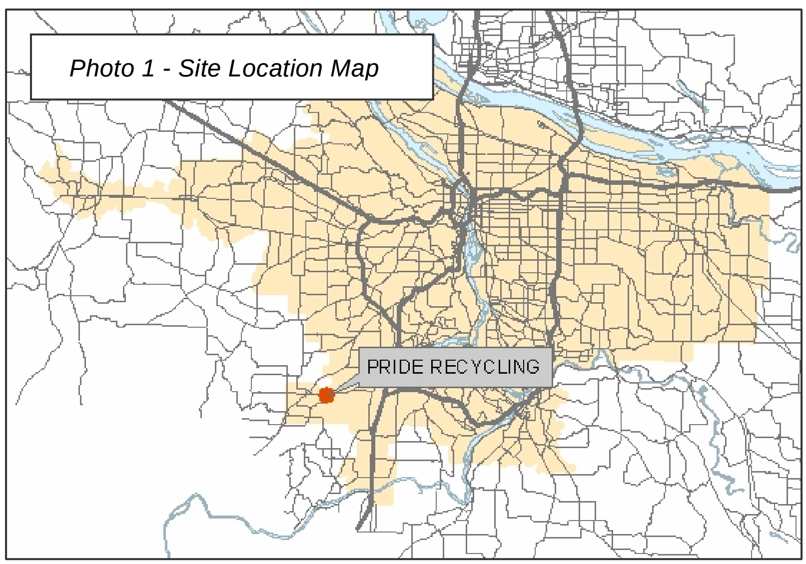

Photo 1 - Site Location Map

The applicant, Pride, is the owner and operator of an existing solid waste facility located at 13910 SW Tualatin-Sherwood Road in Sherwood (Metro Council District 3). Pride commenced operation in 1991 as a reload and material recovery facility. The facility currently holds a Metro-issued franchise (No. F-002-03) to operate a transfer station authorized to receive putrescible waste, perform material recovery on non-putrescible waste, and accept source-separated recyclable materials. Under the terms of the existing franchise (No. F-002-03), Pride is authorized to accept up to 65,000 tons of putrescible waste generated from within the Metro region per fiscal year.

In addition to its franchise, the applicant currently holds Metro Non-System Licenses (NSLs) that authorize the delivery of solid waste directly to Riverbend Landfill in Yamhill County, Oregon (NSL Nos. N-002-05 and N-002-07(2)).

The applicant has requested a renewal of its solid waste facility franchise (No. F-002-03), which is set to expire on December 31, 2008. This is the second renewal of its transfer station franchise. The applicant has requested no new authorizations, tonnage increase, or changes to its current franchise provisions.

Table 1 summarizes the annual amount of solid waste that Pride received and the facility's annual average recovery rate for each Metro fiscal year during the existing franchise period. The putrescible waste tonnage figures provided below include only the waste that the facility received from within the Metro region. In addition, the average facility recovery rate figures provided below were used in determining eligibility for the facility's Regional System Fee and Excise Tax credits. These recovery rates are calculated differently than the minimum compliance rate stipulated in Metro Code Chapter 5.01.

Table 1. Amount of Solid Waste Received and Average Annual Recovery Rate for Pride

Fiscal Year (June 30th through July 1st)	Putrescible Waste Received (Tons)	Non-Putrescible Waste Received (Tons)	Average Facility Recovery Rate
2004-05	28,487	22,794	31.9%
2005-06	31,722	16,996	32.3%
2006-07	38,990	20,896	30.6%
2007-08	41,040	24,178	24.5%

METRO CODE PROVISIONS RELATED TO FRANCHISE RENEWALS

1. Application

Metro Code Section 5.01.087(b) stipulates that a franchisee seeking renewal of a solid waste facility franchise shall file a completed application for renewal accompanied by payment of an application fee of $500 not less than 120 days prior to the expiration of the franchise term.

Photo 2 - Aerial photo of facility

On July 24, 2008, Pride submitted to Metro a complete solid waste facility franchise renewal application accompanied by an application fee of $500. The applicant filed its renewal application more than 120 days prior to the expiration date of its current franchise. The current franchise term expires on December 31, 2008. Pride filed its renewal application as required by Metro Code Section 5.01.087(b).

2. Compliance with the Criteria Contained in Metro Code Section 5.01.070

Metro Code Section 5.01.087(b) stipulates that the Chief Operating Officer shall formulate recommendations regarding whether the franchise renewal meets the criteria contained in Metro Code Section 5.01.070 and the Metro Council shall approve renewal of a solid waste facility franchise unless it finds that the proposed renewal is not in the public interest or does not meet the criteria contained in that section. In addition, Section 5.01.087(b) stipulates that the Council may attach conditions or limitations to the renewed franchise.

Metro Code Section 5.01.070 governs the evaluation and issuance of franchises, and only subsections (c) and (f) of that section establish criteria for the approval of franchise applications.

A. Metro Code Section 5.01.070(c) criteria evaluation follows:

i. Applicant Qualifications

The applicant is well known to Metro as an operator of a Metro-franchised solid waste facility and as a long-standing solid waste management company in the Metro area. The applicant has operated its facility for over 17 years and has extensive experience in recycling, solid waste collection, transfer, and disposal. Staff concludes that the applicant is fully qualified to operate and manage this facility in a competent and efficient manner.

ii. Compliance with the Regional Solid Waste Management Plan (RSWMP)

On July 24, 2008, Council adopted Ordinance No. 07-1162A (for the purpose of adopting the RSWMP, 2008-2018 Update). The RSWMP 2008-2018 Update replaces the 1995-2005 RSWMP and becomes effective on October 22, 2008.

Regarding the new Plan (RSWMP 2008-2018), Chapter III entitled, *Future direction and regional policies*, includes the following regional policy statements:

> ***7.0 New facilities****: The current system of transfer stations provides reasonable access for haulers and sufficient capacity for the consolidation and transfer of solid waste to disposal facilities.*

The rationale for providing access to transfer stations is to maintain service levels by reducing drive time for haulers, reducing congestion at existing facilities, and adding opportunity to recover materials. An efficient disposal system depends on both capacity and accessibility. The applicant's facility is part of the current system of transfer stations and, therefore, the proposed franchise renewal is consistent with this policy.

> ***8.0 Facility ownership****: Transfer facilities in the regional solid waste system may be publicly or privately owned.*

The applicant's facility is a privately owned transfer station and is consistent with this policy.

> ***10.0 System regulation**: Solid waste facilities accepting waste generated within the region will be regulated to ensure they are operated in an acceptable manner and are consistent with the policies of this Plan. All facilities performing post-collection material recovery shall meet minimum recovery requirements.*

The proposed franchise renewal will ensure that the facility is operated in an acceptable manner and consistent with policies of the RSWMP 2008-2018 Update. The proposed franchise requires the facility to perform material recovery at the minimum rate stipulated in Metro Code Chapter 5.01.

In addition to the above policies, Chapter V entitled, *Sustainable operations*, includes goals and objectives that are intended to guide evaluation and implementation of sustainable operations practices. In particular, Chapter V includes the following statement regarding monitoring and implementation methods:

> *Metro will establish and coordinate a sustainable operations work group of policy and technical participants. The work group will develop priorities and strategies for achieving the objectives, and will report on progress annually to the Regional Solid Waste Advisory Committee and Metro Council.*

The proposed franchise renewal is neutral with regard to Chapter V and is not inconsistent with the sustainable operations goals.

The solid waste management activities to be renewed under this franchise at Pride are consistent with the RSWMP.

iii. Meeting the Requirements of Metro Code Section 5.01.060

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

The applicant seeks a franchise renewal and, in accordance with Metro Code provisions, has filed a completed application for renewal accompanied by payment of the application fee of $500. Accordingly, staff finds that the application was properly filed.

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

This information was included in the franchise renewal application form and accordingly, staff finds that the application was properly filed.

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

(1) Proof of insurance;

(2) A duplicate copy of all applications and permits required by the Oregon Department of Environmental Quality (DEQ);

(3) A duplicate copy of any DEQ required closure plan or if not required by the DEQ then a closure document describing closure protocol;

(4) Copies of DEQ required financial assurance documents or if not required by the DEQ proof of financial assurance for the cost of closure of the facility;

(5) Signed consent by the property owner to the proposed use of the property;

(6) Proof that the applicant has received proper land use approval; and

(7) Copies of any other permits required from other governmental agencies.

All of the information described in Metro Code Section 5.01.060(c) is up to date and is included in the existing franchise file of the applicant; accordingly staff finds that the required information has been submitted.

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

An analysis of these factors is provided below in Section 2B of this document.

(e) *Notwithstanding any other provision in this section, the Chief Operating Officer shall not accept for filing any application for authority to operate a new Transfer Station until December 31, 2008.*

This proposed franchise renewal is not subject to the requirement set forth in Metro Code Section 5.01.060(e). This provision pertains to a proposed facility making an initial application for a new franchise, not a renewal.

iv. <u>Compliance with Regulatory Requirements</u>

The applicant currently operates under authority of a Metro Solid Waste Facility Franchise (No. F-002-03), two Metro NSLs (No. N-002-05 and No. N-002-07(2)), a Solid Waste Disposal Site Permit (No. 422) issued by the DEQ, and a National Pollutant Discharge Elimination System

Industrial Stormwater General Permit 1200-Z (No. 16983) issued by the DEQ. In addition, the applicant has received land use authorization from the City of Sherwood.

According to recent communication with Jim Reed (City of Sherwood), Pride is currently in compliance with the City's code requirements and the facility has not received any notices of violation or enforcement actions within the last five years.

On February 6, 2003 the DEQ issued Solid Waste Disposal Site Permit No. 422 (the "Permit") to the applicant authorizing Pride to operate a transfer station and material recovery facility. The term of the Permit is set to expire on January 31, 2013. According to recent communication with Stephanie Rawson (DEQ), Pride is currently in compliance with its Permit and the facility has not received any notices of violation or enforcement actions from the DEQ within the last five years.

On December 31, 2003, Metro issued Solid Waste Facility Franchise No. F-002-03 (the "Franchise") to Pride authorizing it to perform material recovery on non-putrescible waste and accept putrescible waste for transfer. The term of the Franchise is set to expire on December 31, 2008.

Metro has conducted 44 site inspections at Pride between the dates of January 1, 2004 and July 31, 2008. Staff has found the facility to be a well-run operation with no observable reason to suspect impending problems or issues. Pride is currently in compliance with its NSLs and Franchise. Pride has not received any notices of violation or formal enforcement actions from Metro during the term of the Franchise.

Staff concludes that the applicant has sufficiently complied, and staff has no reason to believe that the facility will not continue to comply, with all applicable regulatory requirements.

B. Metro Code Section 5.01.070(f) states:

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

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

This issue was examined above in Section 2A(ii) of this document entitled, <u>Compliance with the Regional Solid Waste Management Plan (RSWMP)</u>. As previously discussed, staff concludes that the solid waste management activities to be renewed under this franchise are consistent with the RSWMP.

(2) The effect that granting a Franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region;

Ordinance 08-1193 provides for a 5,000-ton increase in Pride's annual putrescible waste authorization. The small tonnage shifts expected in response to this Ordinance (about 5,000 tons shifting *from* Forest Grove Transfer Station *to* Pride) should cause no material change in the cost of disposal and recycling for the citizens of the region. Metro's budget will not be affected, and any transportation efficiencies realized are expected to be small.

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

Metro staff is not aware of any facility incidents or operating procedures that have adversely affected the health, safety and welfare of Metro's residents in the 18 years that the facility has been operating. Likewise, the DEQ has not cited the facility for any violations within the last five years. The operator's experience and track record, together with the regulatory environment in which Pride operates, leads staff to conclude that it is unlikely that the applicant, will adversely affect the public health, safety and welfare.

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

Metro staff is not aware of any complaints or excessive impacts on the surrounding neighborhood in the 17 years that the facility has been operating. The operator's experience and track record leads staff to conclude that it is unlikely that Pride would unreasonably adversely impact the surrounding neighborhood.

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

This issue was examined above in Section 2A(iv) of this document. As previously discussed, staff finds that the applicant is likely to comply with regulations and standards if the franchise is renewed.

3. Compliance with the Criteria Contained in Metro Code Section 5.01.075(c)

Metro Code Section 5.01.075(c) stipulates that a franchise authorizing the acceptance of mixed non-putrescible waste for the purpose of conducting material recovery shall be subject to the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Metro Code Section 5.01.132, and the general performance goals related to the following: environment, health and safety, nuisances, material recovery, reloading, and record keeping.

On May 8, 2007, Metro adopted administrative procedures outlining new standards for material recovery facilities (Administrative Procedures No. 501 Section 7 – *Standards for Non-Putrescible Mixed Waste Material Recovery Facilities and Non-Putrescible Mixed Waste Reload Facilities*). The standards include design requirements and operating conditions that were specifically developed, and approved in administrative procedures, in order to meet the general performance goals specified in Metro Code Section 5.01.075(c).

Pride is an existing facility that is designed and operated in a manner that currently meets or exceeds all of these standards and performance goals.

4. Chief Operating Officer's Recommendation and Recommended Franchise Conditions

Based on the information presented above, the Chief Operating Officer finds that the franchise renewal application meets the criteria in Metro Code Section 5.01.070. The Chief Operating Officer also finds that the proposed franchise renewal is in the public interest. The Chief Operating Officer therefore recommends that the Metro Council approve a franchise renewal to Pride subject to the requirements listed in Metro Code Chapter 5.01; and further subject to several new conditions and technical updates, which are incorporated into the draft franchise attached as Exhibit A to Ordinance No. 08-1193.

The substantive changes included in the proposed franchise are described below. In particular, Subsections A and B describe conditions that are based upon the direction that staff received during the Metro Council Work Session on August 12, 2008. The Council had agreed with staff recommendations to include these conditions in the franchises, based upon the *Wet Waste Allocation Project DRAFT Final Report*, dated August 4, 2008. Subsection C describes the new conditions that were included in the proposed franchise to reflect the material recovery facility standards adopted by Metro Council via Ordinance No. 07-1138 on February 22, 2007 and the corresponding administrative procedures that were subsequently issued by the Chief Operating Officer on May 8, 2007. Subsection D describes the new conditions that were included to reflect the Enhanced Dry Waste Recovery Program that was adopted by Metro Council via Ordinance No. 07-1147B on August 17, 2007.

New Conditions:

A. Tonnage Authorization – The proposed franchise stipulates that the franchisee shall accept no more than 70,000 tons of putrescible waste within each calendar year. This is a 5,000-ton increase over the 65,000-ton limit that was previously established by Metro Council in October 2001 (Ordinance No. 01-916C). As drafted, this limitation is applicable to all putrescible waste generated or originating from within the Metro region. In addition to the increase, the tracking period for the tonnage limit has been adjusted from a fiscal year to a calendar year basis.

   The applicant has requested no new authorizations. However, the Chief Operating Officer's recommendation to include a 70,000-ton limit in the proposed franchise is based upon the direction that staff received during the Metro Council Work Session on August 12, 2008.

B. Tonnage Authorization Growth Allowance – The proposed franchise stipulates that effective January 1, 2011 the Chief Operating Officer may increase the tonnage authorization of the franchise based on a growth allowance for the disposal of putrescible waste as provided in Metro Code Chapter 5.01. The initial 5,000-ton increase, described above in Section 4A, is intended to address growth for the first two years of the franchise. As such, it is unlikely that the Chief Operating Officer will approve additional tonnage increases for this franchise until this growth allowance provision becomes effective on January 1, 2011. Metro will consider methods for assigning the annual growth allowance, as provided in this section, through a potential Code amendment and the development of administrative procedures.

C. Material Recovery Facility Standards - The proposed franchise includes conditions that require the franchisee to conduct material recovery operations on non-putrescible waste in accordance with the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Metro Code Section 5.01.132 (Administrative Procedures No. 501 Section 7 – *Standards for Non-Putrescible Mixed Waste Material Recovery Facilities and Non-Putrescible Mixed Waste Reload Facilities*). The proposed franchise conforms with the above referenced material recovery standards and the general performance goals.

D. Enhanced Dry Waste Recovery Program – The proposed franchise requires the franchisee to perform material recovery on non-putrescible waste at the rate stipulated in Metro Code Chapter 5.01. Specifically, the franchisee's processing residual shall not contain more than 15 percent, by weight, of cardboard and wood pieces greater than 12 inches in size and metal pieces greater than eight inches in size. In addition, the proposed franchise requires the franchisee to take quarterly samples of its processing residual and provide Metro with access to the site in order to analyze the waste.

ANALYSIS / INFORMATION

1. Known Opposition

There is no known opposition.

2. Legal Antecedents

Current provisions of Metro Code Chapter 5.01, entitled "Solid Waste Facility Regulation." In particular:

- Metro Code Section 5.01.045(b) stipulates that a Solid Waste Facility Franchise shall be required for the person operating a transfer station.

- Metro Code Section 5.01.087(b) stipulates that the Metro Council shall approve or deny renewals of Solid Waste Facility Franchises.

3. Anticipated Effects

Adoption of Ordinance No. 08-1193 would authorize the Chief Operating Officer to issue a renewed Solid Waste Facility Franchise to Pride for a term of five years.

4. Budget Impacts

Ordinance No. 08-1193 authorizes the renewal of an existing solid waste facility franchise with a 5,000-ton increase in its facility tonnage cap. The small tonnage shifts expected in response to this Ordinance (about 5,000 tons shifting *from* Forest Grove Transfer Station *to* Pride) should cause no material change in the cost of disposal and recycling for the citizens of the region. Metro's budget will not be affected, and any transportation efficiencies realized are expected to be small.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance No. 08-1193.

WJ:bjl
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Agenda Item Number 5.4

Ordinance No. 08-1194, For the Purpose of Approving the Transfer Station Franchise Renewal Application of Willamette Resources, Inc., Authorizing the Chief Operating Officer to Issue a Renewed Franchise.

First Reading

Metro Council Meeting
Thursday, September 18, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE TRANSFER STATION FRANCHISE RENEWAL APPLICATION OF WILLAMETTE RESOURCES, INC., AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED FRANCHISE	))))))	ORDINANCE NO. 08-1194 Introduced by Michael J. Jordan, Chief Operating Officer, with the concurrence of David Bragdon, Metro Council President

WHEREAS, Metro Code Section 5.01.045(b)(2) stipulates that a Metro Solid Waste Facility Franchise shall be required for the person owning or controlling a facility that operates a Transfer Station; and

WHEREAS, Willamette Resources, Inc. operates a transfer station and holds a Metro Solid Waste Facility Franchise Number F-005-03, which will expire on December 31, 2008; and

WHEREAS, Willamette Resources, Inc. filed a completed application seeking a renewal of its franchise pursuant to Metro Code Section 5.01.087(b); and

WHEREAS, the moratorium on applications for new transfer stations pursuant to Metro Code Section 5.01.060(e) does not apply to this renewal application; and

WHEREAS, Metro Code Section 5.01.087(b) stipulates that the Council shall approve or deny renewals of solid waste facility franchises, that the Chief Operating Officer shall formulate recommendations regarding whether the renewal meets the criteria in Metro Code Section 5.01.070, and that the Council shall approve renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Metro Code Section 5.01.070; and

WHEREAS, the Chief Operating Officer formulated recommendations on the criteria listed in Metro Code Section 5.01.070 as required by Metro Code Section 5.01.087(b); and

WHEREAS, the Chief Operating Officer recommends that the franchise be renewed together with specific conditions as provided in Exhibit A to this Ordinance entitled “Solid Waste Facility Franchise;” and

WHEREAS, the Metro Council finds that the proposed renewal is in the public interest and meets the criteria contained in Metro Code Section 5.01.070; and

WHEREAS, the Metro Council finds that the terms, conditions, and limitations contained in Exhibit A to this Ordinance are appropriate; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The transfer station renewal franchise application of Willamette Resources, Inc. is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Ordinance entitled “Solid Waste Facility Franchise.”

2. The Chief Operating Officer is authorized to issue to Willamette Resources, Inc. a renewed Solid Waste Facility Franchise substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this _______ day of _______________ 2008.

____
David Bragdon, Council President

Attest:

____
Christina Billington, Recording Secretary

Approved as to Form:

____
Daniel B. Cooper, Metro Attorney

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2736
TEL 503-797-1650 | FAX 503-813-7544

METRO

SOLID WASTE FACILITY FRANCHISE
No. F-005-08

FRANCHISEE:	FACILITY NAME AND LOCATION:
Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523	Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523
OPERATOR:	**PROPERTY OWNER:**
Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523	Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523

This franchise replaces and supersedes the provisions of Metro Solid Waste Facility Franchise No. F-005-03. Metro grants this franchise to the Franchisee named above. The Franchisee is authorized to operate and maintain a solid waste facility and to accept the solid wastes and perform the activities authorized by and subject to the conditions stated in this Franchise.

ISSUED BY METRO

Michael Jordan, Metro Chief Operating Officer

Date

TABLE OF CONTENTS

1.0	**ISSUANCE**	
1.1	**Franchisee**	Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523
1.2	**Corporate affiliation**	Allied Waste Industries, Inc. 18500 North Allied Way Phoenix, AZ 85054
1.3	**Contact**	Todd Irvine, General Manager Phone: (503) 570-0626 Fax: (503) 570-0523 e-mail: todd.irvine@awin.com
1.4	**Franchise number**	When referring to this franchise, please cite: Metro Solid Waste Facility Franchise No. F-005-08.
1.5	**Term**	The term commences on January 1, 2009, and shall terminate on December 31, 2013, unless amended, modified, suspended, or revoked under the provisions of Section 11.0 of this franchise.
1.6	**Renewal**	The Franchisee may apply for a franchise renewal as provided in Metro Code Section 5.01.087.
1.7	**Facility name and mailing address**	Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523
1.8	**Operator**	Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523
1.9	**Facility premises description**	Tax Lot Identification No. 3S102C001400 and No. 3S102C001500, City of Wilsonville, Washington County, State of Oregon

1.10	**Property owner**	Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523
1.11	**Permission to operate**	The Franchisee is the property owner.

2.0	**CONDITIONS AND DISCLAIMERS**	
2.1	**Guarantees**	This franchise shall not vest any right or privilege in the Franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise.
2.2	**Non-exclusive franchise**	This franchise shall not in any way limit Metro from granting other solid waste franchises within Metro's boundaries.
2.3	**Property rights**	This franchise does not convey any property rights in either real or personal property.
2.4	**Amendment and modification**	Except as provided in Section 11.0 of this franchise, no amendment or modification shall be effective unless approved by the Metro Council.
2.5	**No recourse**	The Franchisee shall have no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement of the franchise or in the event Metro determines that the franchise or any part thereof is invalid.
2.6	**Indemnification**	The Franchisee shall indemnify Metro, the Council, the Chief Operating Officer (the "COO"), and any of their employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the granting of this franchise or the Franchisee's performance of or failure to perform any of its obligations under the Franchise or Metro Code Chapter 5.01, including without limitation patent infringement and any claims or disputes involving subcontractors.
2.7	**Binding nature**	This franchise is binding on the Franchisee. The Franchisee is liable for all acts and omissions of the Franchisee's contractors and agents.

2.8	**Waivers**	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 11.0 and be in writing and signed by the COO.
2.9	**Effect of waiver**	Waiver of a term or condition of this franchise shall not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.10	**Choice of law**	The franchise shall be construed, applied, and enforced in accordance with the laws of the State of Oregon.
2.11	**Enforceability**	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise shall not be affected.
2.12	**Franchise not a waiver**	This franchise does not relieve any owner, operator, or the Franchisee from the obligation to obtain all required permits, franchises, or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.13	**Franchise not limiting**	This franchise does not limit the power of a federal, state, or local agency to enforce any provision of law relating to the facility.
2.14	**Definitions**	Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01.

3.0	**AUTHORIZATIONS**	
3.1	**Purpose**	This section of the franchise describes the wastes that the Franchisee is authorized to accept at the facility and the waste-related activities the Franchisee is authorized to perform at the facility.
3.2	**General conditions on solid waste**	The Franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The Franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
3.3	**General conditions on activities**	The Franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.

3.4	**Acceptance and management of putrescible solid waste**	1. The Franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 12.2 of this franchise. The Franchisee also is authorized to accept putrescible waste for material recovery. 2. The Franchisee shall receive, manage, store, reload, and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers. 3. The Franchisee is authorized to accept putrescible waste generated inside the Metro region only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
3.5	**Acceptance and management of mixed non-putrescible solid waste**	1. The Franchisee is authorized to accept mixed non-putrescible solid waste for material recovery. 2. The Franchise shall receive, sort, store, reload, and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover prior to processing, within 12 hours of receipt, or by the end of the business day, whichever is earlier. 3. The Franchisee is authorized to accept mixed non-putrescible waste from all customers including public self-haul.
3.6	**Material recovery required**	1. The Franchisee shall perform material recovery on mixed non-putrescible wastes. The Franchisee shall ensure that the facility is designed and operated to assure materials are recovered in a timely manner and to protect the quality of non-putrescible waste that has not yet undergone material recovery. The Franchisee must perform recovery at no less than the minimum level stipulated in Metro Code Chapter 5.01. 2. The Franchisee shall take quarterly samples of processing residual that are statistically valid and representative of the facility's residual. Each sample required by this section shall weigh at least 300 pounds.

3.7	**Management of processing residual from material recovery**	The Franchisee shall store, reload, and transfer all non-putrescible waste processing residual on an impervious surface and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers.
3.8	**Acceptance of source-separated recyclable materials**	1. The Franchisee shall provide a place for collecting source-separated recyclable materials on the facility premises. 2. The Franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.
3.9	**Acceptance of yard debris**	The Franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The Franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.10	**Acceptance of source-separated food waste**	The Franchisee is authorized to accept source-separated food waste that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The Franchisee may accept source-separated food waste only for reloading to authorized facilities for composting or other useful purposes as described in an operating plan and approved in writing by the COO.
3.11	**Acceptance of untreated wood**	The Franchisee is authorized to accept for processing and reloading, source-separated, untreated and unpainted wood waste, for example untreated lumber and wood pallets. The Franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.12	**Acceptance of painted and treated wood**	The Franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful purposes as

		described in an operating plan and approved in writing by the COO. The Franchisee shall not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock, or any other product unless otherwise described in an operating plan and approved in writing by the COO.
3.13	**Acceptance of electronics devices**	The Franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer, and other similar functions related to preparing these materials for reuse, recycling, or disposal as required by the Oregon Department of Environmental Quality (DEQ).
3.14	**Acceptance of inert material**	The Franchise is authorized to accept inert materials for purposes of classifying, consolidating, transfer, and other similar functions related to preparing these materials for useful purposes.

4.0	**LIMITATIONS AND PROHIBITIONS**	
4.1	**Purpose**	This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility.
4.2	**Tonnage authorization**	The Franchisee is authorized to accept up to 70,000 tons of putrescible waste generated inside the Metro region within each calendar year. The Franchisee shall not accept solid waste generated outside the Metro region if to do so would limit the Franchisee from accepting 70,000 tons of putrescible waste, or any non-putrescible waste, generated inside the Metro region.
4.3	**Tonnage authorization growth allowance**	Effective January 1, 2011, the COO will amend Section 4.2 of this franchise to increase the tonnage authorization based on a growth allowance as established in Metro Code Chapter 5.01.
4.4	**Prohibited waste**	The Franchisee shall not knowingly receive, process, reload, or dispose of any solid waste not authorized by this franchise. The Franchisee shall not knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the

		DEQ.
4.5	**Prohibition on mixing**	1. The Franchisee shall not mix or commingle any source-separated recyclable materials, source-separated yard debris or wood wastes brought to the facility with any unprocessed solid wastes or solid wastes destined for disposal. 2. The Franchisee shall not mix or commingle putrescible solid waste with non-putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris. 3. The Franchisee shall not mix or commingle non-putrescible solid waste with putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.
4.6	**Prohibition of size reduction on non-putrescible waste**	The Franchisee shall not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, or processing residual consolidation or loading operations, and such size reduction is described and approved by the COO in an operating plan.
4.7	**No disposal of recyclable materials**	The Franchisee shall not transfer source-separated recyclable materials to a disposal site, including without limitation landfills and incineration facilities.
4.8	**Composting prohibited**	The Franchisee shall not keep yard debris on site long enough for more than negligible biological decomposition to begin.
4.9	**Limits not exclusive**	This franchise shall not be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

5.0	**OPERATING CONDITIONS**	
5.1	**Purpose and general performance goals**	This section of the franchise describes criteria and standards for the operation of the facility. The Franchisee shall operate in a manner that meets the following general performance goals: a) Environment. The Franchisee shall design and

		operate the facility to preclude the creation of undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste, asbestos and other prohibited wastes. b) Health and safety. The Franchisee shall design and operate the facility to preclude the creation of conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris. c) Nuisances. The Franchisee shall design and operate the facility to preclude the creation of nuisance conditions including, but not limited to, litter, dust, odors, and noise.
5.2	**Qualified operator**	1. The Franchisee shall, during all hours of operation, provide an operating staff employed by the facility and qualified and competent to carry out the functions required by this franchise and to otherwise ensure compliance with Metro Code Chapter 5.01. 2. Facility personnel, as relevant to their job duties and responsibilities, shall be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan. 3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.
5.3	**Fire prevention**	The Franchisee shall provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from processing and storage areas.
5.4	**Adequate vehicle accommodation**	The Franchisee shall: a) Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. Access roads shall be maintained to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather. b) Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles shall not park or queue on public streets or roads except

		under emergency conditions or as provided by local traffic ordinances. c) Post signs to inform customers not to queue on public roadways. d) Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site tarping and untarping of loads.
5.5	**Managing prohibited wastes**	1. The Franchisee shall reject prohibited waste upon discovery and shall properly manage and dispose of prohibited waste when unknowingly received. 2. The Franchisee shall implement a load-checking program to prevent the acceptance of waste that is prohibited by the franchise. This program must include at a minimum: a) Visual inspection. As each load is tipped, a qualified operator shall visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise. b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas shall be covered and enclosed to prevent leaking and contamination. c) Record maintenance. Records of the training of personnel in the recognition, proper handling, and disposition of prohibited waste shall be maintained in the operating record and be available for review by Metro. 3. Upon discovery, the Franchisee shall remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the Franchisee unknowingly receives shall be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by the DEQ or local government.
5.6	**Storage and exterior stockpiles**	The Franchisee shall: a) Manage, contain, and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards; b) Maintain storage areas in an orderly manner and keep the areas free of litter;

		c) Position exterior stockpiles within footprints identified on the facility site plan or operating plan; and d) Not stockpile recovered or source-separated materials for longer than 180 days (6 months).
5.7	**Dust, airborne debris and litter**	The Franchisee shall operate the facility in a manner that minimizes and mitigates the generation of dust, airborne debris and litter, and shall prevent its migration beyond property boundaries. The Franchisee shall: a) Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit; b) Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit; c) Maintain and operate all access roads and receiving, processing, storage, and reload areas in such a manner as to minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site; d) Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation; e) Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; and f) Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, shall be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Section 5.09.040 of the Metro Code.
5.8	**Odor**	1. The Franchisee shall operate the facility in a manner that prevents the generation of odors that are detectable off-site.

		2. The Franchisee shall establish and follow procedures in the operating plan for minimizing odor at the facility.
5.9	**Vectors (e.g. birds, rodents, insects)**	1. The Franchisee shall operate the facility in a manner that is not conducive to the harborage of rodents, birds, insects, or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another. 2. If vectors are present or detected at the facility, the Franchisee shall implement vector control measures.
5.10	**Noise**	The Franchisee shall operate the facility in a manner that prevents the creation of noise sufficient to cause adverse off-site impacts and to the extent necessary to meet applicable regulatory standards and land-use regulations.
5.11	**Water contaminated by solid waste and solid waste leachate**	The Franchisee shall operate the facility consistent with an approved DEQ stormwater management plan or equivalent and shall: a) Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; and b) Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state, and federal laws and regulations.
5.12	**Access control**	1. The Franchisee shall control access to the facility as necessary to prevent unauthorized entry and dumping. 2. The Franchisee shall maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.
5.13	**Signage**	The Franchisee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, and legible from off-site during all hours and shall contain at least the following information: a) Name of the facility; b) Address of the facility; c) Emergency telephone number for the facility; d) Operating hours during which the facility is open for the receipt of authorized waste; e) Fees and charges;

		f) Metro's name and telephone number (503) 234-3000; g) A list of authorized and prohibited wastes; h) Vehicle / traffic flow information or diagram; i) Covered load requirements; and j) Directions not to queue on public roadways.
5.14	**Nuisance complaints**	1. The Franchisee shall respond to all nuisance complaints in timely manner (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), and shall keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint. 2. If the facility receives a complaint, the Franchisee shall: a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); and b) Log all such complaints as provided by the operating plan. Each log entry shall be retained for one year and shall be available for inspection by Metro.
5.15	**Access to franchise document**	The Franchisee shall maintain a copy of this franchise on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.

6.0	**OPERATING PLAN**	
6.1	**Purpose**	This section lists the requirements associated with preparing and implementing a facility operating plan, and lists the procedures that must be included in the required facility operating plan.
6.2	**Plan compliance**	The Franchisee must operate the facility in accordance with an operating plan approved in writing by the COO. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this franchise. The Franchisee may amend or revise the operating plan from time to time, subject to written approval by the COO.
6.3	**Plan maintenance**	The Franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures, and requirements. The Franchisee must submit amendments

		and revisions of the operating plan to the COO for written approval prior to implementation.
6.4	**Access to operating plan**	The Franchisee shall maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
6.5	**Procedures for inspecting loads**	The operating plan shall establish: a) Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes; b) Procedures for identifying incoming and outgoing loads for waste classifications; c) A set of objective criteria for accepting and rejecting loads; and d) An asbestos testing protocol for all materials that appear to contain friable asbestos.
6.6	**Procedures for processing and storage of loads**	The operating plan shall establish procedures for: a) Processing authorized solid wastes; b) Reloading and transfer of authorized solid wastes; c) Managing stockpiles to ensure that they remain within the authorized weights, volumes and pile heights; d) Storing authorized solid wastes; and e) Minimizing storage times and avoiding delay in processing of authorized solid wastes.
6.7	**Procedures for managing prohibited wastes**	The operating plan shall establish procedures for managing, reloading, and transferring to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan shall establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.
6.8	**Procedures for odor prevention**	The operating plan shall establish procedures for preventing objectionable odors generated at the facility from being detected off the premises of the facility. The plan must include: a) A management plan that will be used to monitor and manage odors of any derivation including malodorous loads delivered to the facility; and b) Procedures for receiving and recording odor

		complaints, immediately investigating all odor complaints to determine the cause of odor emissions, and remedying promptly all odor problems at the facility.
6.9	**Procedures for dust prevention**	The operating plan shall establish procedures for preventing dust from blowing off the premises of the facility. The plan must include: a) A management plan that will be used to monitor and manage dust of any derivation; and b) Procedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions, and remedying promptly all dust problems at the facility.
6.10	**Procedures for emergencies**	The operating plan shall establish procedures to be followed in case of fire or other emergency.
6.11	**Procedures for nuisance complaints**	1. For every nuisance complaint (for example odor, dust, vibrations, and litter) received, the Franchisee shall record: a) The nature of the complaint; b) The date the complaint was received; c) The name, address and telephone number of the person or persons making the complaint; and d) Any actions taken by the operator in response to the complaint (whether successful or unsuccessful). 2. The Franchisee shall make records of such information available to Metro upon request. The Franchisee shall retain each complaint record for a period of not less than one year.
6.12	**Closure protocol**	The Franchisee shall establish protocol for closure and restoration of the site in the event of a long-term cessation of operations as provided in Metro Code Section 5.01.060(c)(3).
6.13	**Financial assurance**	The Franchisee shall maintain financial assurance in the amount of $25,000 for the cost of the facility's closure and maintain such financial assurance in a form approved by Metro for the term of this franchise.

7.0	**FEES AND RATE SETTING**	
7.1	**Purpose**	This section of the franchise specifies fees payable by the Franchisee, and describes rate regulation by Metro.
7.2	**Annual fee**	The Franchisee shall pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
7.3	**Rates not regulated**	The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro.
7.4	**Metro fee and tax imposed on disposal**	The Franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.

8.0	**RECORD KEEPING AND REPORTING**	
8.1	**Purpose**	This section of the franchise describes record keeping and reporting requirements. The Franchisee shall effectively monitor facility operation and maintain accurate records of the information described in this section.
8.2	**Reporting requirements**	1. For all solid waste and materials the Franchisee is authorized to receive under Section 3.0 of this franchise, the Franchisee shall keep and maintain accurate records of the amount of such materials the Franchisee receives, recovers, recycles, reloads, and disposes. 2. The Franchisee shall keep and maintain complete and accurate records of the following for all transactions: a) Ticket Number (should be the same as the ticket number on the weight slips); b) Customer account numbers identifying incoming customers and outgoing destinations; c) Description whether the load was incoming to the facility or outgoing from the facility; d) Material Category: Code designating the following types of material (more detail, such as differentiating yard debris, is acceptable): (1) incoming source-separated recyclable materials by type; (2) incoming non-putrescible waste; (3) incoming putrescible waste

		(4) outgoing recyclable materials by type; (5) outgoing non-putrescible waste; (6) outgoing putrescible waste; e) Origin: Code designating the following origin of material: (1) from inside Metro boundaries; (2) from within Multnomah, Clackamas and Washington Counties but outside Metro boundaries; and (3) from another location outside Metro boundaries: i. Any load containing any amount of waste from within the Metro region shall be reported as if the entire load was generated from inside the Metro region. ii. If the Franchisee elects to report all loads delivered to the facility as being generated from inside the Metro region, then the Franchisee is not required to designate the origin of loads as described above in Subsections (e)(2) and (e)(3). f) Date the load was received at, transferred within, or transmitted from the facility; g) Time the load was received at, transferred within, or transmitted from the facility; h) Indicate whether Franchisee accepted or rejected the load; i) Net weight of the load; and j) The fee charged to the generator of the load.
8.3	**Record transmittals**	Franchisee shall transmit to Metro records required under Section 8.0 and the corresponding summary report derived from such records no later than fifteen days following the end of each month in a format prescribed by Metro.
8.4	**Material recovery reporting**	The Franchisee shall provide the results of its quarterly sampling of processing residual, as provided in Section 3.6 of this franchise, to Metro as a component of its monthly report no later than fifteen days following the end of the each quarter in a format prescribed by Metro.
8.5	**Account number listing**	Within five business days of Metro's request, Franchisee shall provide Metro with a listing that cross-references the account numbers used in the transaction database with the company's name and address.

8.6	**Transactions based on scale weights**	Except for minimum fee transactions for small, lightweight loads, the Franchisee shall record each inbound and outbound transaction electronically based on actual and accurate scale weights using the Franchisee's on-site scales.
8.7	**DEQ submittals**	The Franchisee shall provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
8.8	**Copies of enforcement actions provided to Metro**	The Franchisee shall ensure Metro receives copies of any notice of violation or noncompliance, citation, or any other similar enforcement actions issued to the Franchisee by any federal, state, or local government other than Metro, and related to the operation of the facility.
8.9	**Unusual occurrences**	1. The Franchisee shall keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. 2. If a breakdown of the Franchisee's equipment occurs that will substantially impact the ability of the facility to remain in compliance, or create off-site impacts, the Franchisee shall notify Metro within 24 hours. 3. The Franchisee shall report any facility fires, accidents, emergencies, and other significant incidents to Metro within 12 hours of the discovery of their occurrence.
8.10	**Changes in ownership**	1. Any change in control of Franchisee or the transfer of a controlling interest of Franchisee shall require prior written notice to Metro. "Transfer of a controlling interest of Franchisee" includes without limitation the transfer of 10% or more of the ownership of Franchisee to or from a single entity. Metro may modify this franchise under Section 11.3 to require the new ownership of Franchisee to assume all the rights and obligations of this franchise. 2. The Franchisee may not lease, assign, mortgage, sell, or otherwise transfer control of the franchise unless the Franchisee follows the requirements of Metro Code Section 5.01.090.

9.0	**INSURANCE REQUIREMENTS**	
9.1	**Purpose**	This section describes the types of insurance that the Franchisee shall purchase and maintain at the Franchisee's expense, covering the Franchisee, its employees, and agents.
9.2	**General liability**	The Franchisee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.
9.3	**Automobile**	The Franchisee shall carry automobile bodily injury and property damage liability insurance.
9.4	**Coverage**	Insurance coverage shall be a minimum of $500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than $1,000,000.
9.5	**Additional insureds**	Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS.
9.6	**Worker's Compensation Insurance**	The Franchisee, its subcontractors, if any, and all employers working under this franchise, is subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. The Franchisee shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If the Franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
9.7	**Notification**	The Franchisee shall give at least 30 days written notice to the COO of any lapse or proposed cancellation of insurance coverage.

10.0	**ENFORCEMENT**	
10.1	**Generally**	Enforcement of this franchise shall be as specified in Metro Code Chapter 5.01.

10.2	**Authority vested in Metro**	The power and right to regulate, in the public interest, the exercise of the privileges granted by this franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against Franchisee.
10.3	**No enforcement limitations**	This franchise shall not be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this franchise be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this franchise or the Franchisee's operation of the facility.
10.4	**Penalties**	Each violation of a franchise condition shall be punishable by penalties as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation.

11.0	**AMENDMENT, MODIFICATION, SUSPENSION, AND REVOCATION**	
11.1	**Amendment by agreement**	At any time during the term of the franchise, either the COO or the Franchisee may propose amendments to this franchise. If either the COO or the Franchisee proposes amendments to this franchise, both parties shall make good faith efforts to arrive at consensus on the intent and implementing language of said amendments.
11.2	**Amendment by Metro Council action**	Except as provided in Section 11.3, the provisions of this franchise shall remain in effect unless the Metro Council: a) Amends the Metro Code, amends the Regional Solid Waste Management Plan, or implements other legislation of broad applicability that affects the class of facilities of which this Franchisee is a member; and b) Adopts an ordinance amending this franchise to implement the policy, code or process specified by said ordinance.

11.3	**Modification, suspension or revocation by Metro for cause**	The COO may, at any time before the expiration date, modify, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to: a) Violation of the terms or conditions of this franchise, Metro Code, or any applicable statute, rule, or standard; b) Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this franchise; c) Failure to disclose fully all relevant facts; d) A significant release into the environment from the facility; e) Significant change in the character of solid waste received or in the operation of the facility; f) Any change in ownership or control; g) A request from the local government stemming from impacts resulting from facility operations; and h) Compliance history of the Franchisee.

12.0	**GENERAL OBLIGATIONS**	
12.1	**Compliance with law**	The Franchisee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this franchise as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the franchise document, as well as any existing at the time of the issuance of the franchise but not cited or attached, and permits or conditions issued or modified during the term of the franchise.
12.2	**Deliver waste to appropriate destinations**	The Franchisee shall ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances,

		orders and permits.
12.3	**Right of inspection and audit**	1. Authorized representatives of Metro may take photographs, collect samples of materials, and perform such inspection or audit as the COO deems appropriate, and shall be permitted access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 12.5 of this franchise, Metro's right to inspect shall include the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of Franchisee that are directly related to the operation of the facility. 2. The Franchisee shall permit access to the facility premises to authorized representatives of Metro, including personnel on contract to Metro, at all reasonable times during business hours with or without notice to determine whether the Franchisee meets the minimum level of recovery as provided in Section 3.6 of this franchise. The Franchisee shall provide: a) Access to all areas where it generates, manages, stores, and reloads processing residual, including without limitation to transfer vehicles; b) Access to facility personnel and equipment to collect, segregate, contain, and weigh individual samples of processing residual; and c) A safe, covered location away from working areas and vehicle traffic where authorized representatives of Metro may conduct an analysis of the Franchisee's processing residual.
12.4	**Confidential information**	The Franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the Franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The Franchisee shall prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's

		refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt of a request for disclosure of information identified by Franchisee as confidential, Metro shall provide Franchisee written notice of the request. The Franchisee shall have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. The Franchisee shall pay any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. This Section 12.0 shall not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such representatives agree to continue to treat such information as confidential and make good faith efforts not to disclose such information
12.5	**Compliance by agents**	The Franchisee shall be responsible for ensuring that its agents and contractors operate in compliance with this franchise.

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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 08-1194 FOR THE PURPOSE OF APPROVING THE TRANSFER STATION FRANCHISE RENEWAL APPLICATION OF WILLAMETTE RESOURCES, INC., AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED FRANCHISE

August 21, 2008 Prepared by: Warren Johnson

BACKGROUND

On July 17, 2008, Willamette Resources, Inc. (WRI) submitted to Metro a solid waste facility franchise renewal application pursuant to Metro Code Section 5.01.087(b). The Metro Code specifies that the Council shall approve the renewal of a Solid Waste Facility Franchise unless it determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.070. Metro Code Section 5.01.087(b) requires that the Chief Operating Officer formulate recommendations regarding whether the proposed renewal meets the issuance criteria provided in Section 5.01.070.

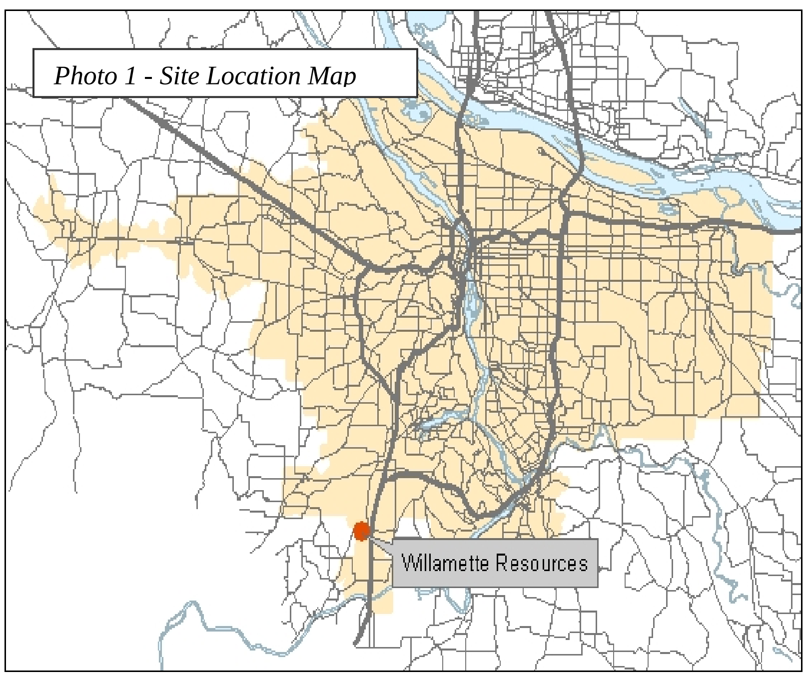
Approval of Ordinance No. 08-1194 will authorize the Chief Operating Officer to issue a renewed transfer station franchise to WRI for a term of five years.

THE APPLICANT

The applicant, WRI, is the owner and operator of an existing solid waste facility located at 10295 SW Ridder Road, in Wilsonville (Metro Council District 3). WRI commenced operation in 1994 as a material recovery facility. The facility currently holds a Metro-issued franchise (No. F-005-03) to operate a transfer station authorized to receive putrescible waste, perform material recovery on non-putrescible waste, and accept source-separated recyclable materials.

Under the terms of the existing franchise (No. F-005-03), WRI is authorized to accept up to 65,000 tons of putrescible waste generated from within the Metro region per fiscal year. In September 2004, the Chief Operating Officer authorized a temporary increase in the facility's tonnage authorization in accordance with Metro Code Section 5.01.131(c). In Metro fiscal years 2004-05 and 2005-06, the facility's annual tonnage limit was increased to 68,250 tons. The franchise tonnage limit then reverted back to 65,000 tons in fiscal year 2006-07.

Photo 1 - Site Location Map



In addition to its franchise, the applicant currently holds Metro Non-System Licenses (NSLs) that authorize the delivery of solid waste directly to Riverbend Landfill in Yamhill County, Oregon (NSL No. N-005-06); Coffin Butte Landfill in Benton County, Oregon (NSL No. N-005-005(3)); and the Covanta Waste-To-Energy Facility in Brooks, Oregon (NSL No. N-005-07(2)).

Photo 2 - Aerial photo of facility

The applicant has requested a renewal of its solid waste facility franchise (No. F-005-03), which is set to expire on December 31, 2008. This is the second renewal of its transfer station franchise. The applicant has requested no new authorizations, tonnage increase, or changes to its current franchise provisions.

Table 1 summarizes the annual amount of solid waste that WRI received and the facility's annual average recovery rate for each Metro fiscal year during the existing franchise period. The putrescible waste tonnage figures provided below include only the waste that the facility received from within the Metro region. In addition, the average facility recovery rate figures provided below were used in determining eligibility for the facility's Regional System Fee and Excise Tax credits. These recovery rates are calculated differently than the minimum compliance rate stipulated in Metro Code Chapter 5.01.

Table 1. Amount of Solid Waste Received and Average Annual Recovery Rate for WRI

Fiscal Year (June 30th through July 1st)	Putrescible Waste Received (Tons)	Non-Putrescible Waste Received (Tons)	Average Facility Recovery Rate
2004-05	66,966	53,456	31.3%
2005-06	58,468	86,307	31.1%
2006-07	58,311	81,472	27.9%
2007-08	58,590	56,478	35.5%

WRI is a wholly owned subsidiary of Allied Waste Industries (AWI), based in Phoenix, Arizona. According to the applicant, on June 23, 2008, AWI announced that the company would merge with Republic Services by the end of 2008. AWI later announced, on July 14, 2008, that Waste Management, Inc. had submitted to Republic Services an unsolicited proposal to acquire the company. Metro staff understands that the status of the reported merger has not yet been resolved and it will likely not be resolved before a decision is made on the franchise renewal application. The applicant has indicated that its renewal application is a status quo submittal that reflects the current status of WRI. The applicant also reported that it will keep Metro apprised of developments in this matter as pertinent information becomes available.

METRO CODE PROVISIONS RELATED TO FRANCHISE RENEWALS

1. Application

Metro Code Section 5.01.087(b) stipulates that a franchisee seeking renewal of a solid waste facility franchise shall file a completed application for renewal accompanied by payment of an application fee of $500 not less than 120 days prior to the expiration of the franchise term.

On July 17, 2008, WRI submitted to Metro a complete solid waste facility franchise renewal application accompanied by an application fee of $500. The applicant filed its renewal application more than 120 days prior to the expiration date of its current franchise. The current franchise term expires on December 31, 2008. WRI filed its renewal application as required by Metro Code Section 5.01.087(b).

2. Compliance with the Criteria Contained in Metro Code Section 5.01.070

Metro Code Section 5.01.087(b) stipulates that the Chief Operating Officer shall formulate recommendations regarding whether the franchise renewal meets the criteria contained in Metro Code Section 5.01.070 and the Metro Council shall approve renewal of a solid waste facility franchise unless it finds that the proposed renewal is not in the public interest or does not meet the criteria contained in that section. In addition, Section 5.01.087(b) stipulates that the Council may attach conditions or limitations to the renewed franchise.

Metro Code Section 5.01.070 governs the evaluation and issuance of franchises, and only subsections (c) and (f) of that section establish criteria for the approval of franchise applications.

A. Metro Code Section 5.01.070(c) criteria evaluation follows:

i. <u>Applicant Qualifications</u>

The applicant is well known to Metro as an operator of a Metro-franchised solid waste facility and as a long-standing solid waste management company in the Metro area. The applicant has operated its facility for over 13 years and has extensive experience in recycling, solid waste collection, transfer, and disposal. AWI also serves as the contract operator for the Metro transfer stations. Staff concludes that the applicant is fully qualified to operate and manage this facility in a competent and efficient manner.

ii. <u>Compliance with the Regional Solid Waste Management Plan (RSWMP)</u>

On July 24, 2008, Council adopted Ordinance No. 07-1162A (for the purpose of adopting the RSWMP, 2008-2018 Update). The RSWMP 2008-2018 Update replaces the 1995-2005 RSWMP and becomes effective on October 22, 2008.

Regarding the new Plan (RSWMP 2008-2018), Chapter III entitled, *Future direction and regional policies*, includes the following regional policy statements:

> ***7.0 New facilities****: The current system of transfer stations provides reasonable access for haulers and sufficient capacity for the consolidation and transfer of solid waste to disposal facilities.*

The rationale for providing access to transfer stations is to maintain service levels by reducing drive time for haulers, reducing congestion at existing facilities, and adding opportunity to recover materials. An efficient disposal system depends on both capacity and accessibility. The applicant's facility is part of the current system of transfer stations and, therefore, the proposed franchise renewal is consistent with this policy.

> ***8.0 Facility ownership****: Transfer facilities in the regional solid waste system may be publicly or privately owned.*

The applicant's facility is a privately owned transfer station and is consistent with this policy.

> ***10.0 System regulation****: Solid waste facilities accepting waste generated within the region will be regulated to ensure they are operated in an acceptable manner and are consistent with the policies of this Plan. All facilities performing post-collection material recovery shall meet minimum recovery requirements.*

The proposed franchise renewal will ensure that the facility is operated in an acceptable manner and consistent with policies of the RSWMP 2008-2018 Update. The proposed franchise requires the facility to perform material recovery at the minimum rate stipulated in Metro Code Chapter 5.01.

In addition to the above policies, Chapter V entitled, *Sustainable operations*, includes goals and objectives that are intended to guide evaluation and implementation of sustainable operations practices. In particular, Chapter V includes the following statement regarding monitoring and implementation methods:

> *Metro will establish and coordinate a sustainable operations work group of policy and technical participants. The work group will develop priorities and strategies for achieving the objectives, and will report on progress annually to the Regional Solid Waste Advisory Committee and Metro Council.*

The proposed franchise renewal is neutral with regard to Chapter V and is not inconsistent with the sustainable operations goals.

The solid waste management activities to be renewed under this franchise at WRI are consistent with the RSWMP.

iii. <u>Meeting the Requirements of Metro Code Section 5.01.060</u>

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

The applicant seeks a franchise renewal and, in accordance with Metro Code provisions, has filed a completed application for renewal accompanied by payment of the application fee of $500. Accordingly, staff finds that the application was properly filed.

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

This information was included in the franchise renewal application form and accordingly, staff finds that the application was properly filed.

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

(1) Proof of insurance;

(2) A duplicate copy of all applications and permits required by the Oregon Department of Environmental Quality (DEQ);

(3) A duplicate copy of any DEQ required closure plan or if not required by the DEQ then a closure document describing closure protocol;

(4) Copies of DEQ required financial assurance documents or if not required by the DEQ proof of financial assurance for the cost of closure of the facility;

(5) Signed consent by the property owner to the proposed use of the property;

(6) Proof that the applicant has received proper land use approval; and

(7) Copies of any other permits required from other governmental agencies.

All of the information described in Metro Code Section 5.01.060(c) is up to date and is included in the existing franchise file of the applicant; accordingly staff finds that the required information has been submitted.

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

An analysis of these factors is provided below in Section 2B of this document.

(e) Notwithstanding any other provision in this section, the Chief Operating Officer shall not accept for filing any application for authority to operate a new Transfer Station until December 31, 2008.

This proposed franchise renewal is not subject to the requirement set forth in Metro Code Section 5.01.060(e). This provision pertains to a proposed facility making an initial application for a new franchise, not a renewal.

iv. Compliance with Regulatory Requirements

The applicant currently operates under authority of a Metro Solid Waste Facility Franchise (No. F-005-03), three Metro NSLs (No. N-005-06, No. N-005-005(3), and No. N-005-07(2)), a Solid Waste Disposal Site Permit (No. 435) issued by the DEQ, and a National Pollutant Discharge Elimination System Industrial Stormwater General Permit 1200-Z (No. 14568) issued by the DEQ. In addition, the applicant has received land use authorization from the City of Wilsonville.

According to recent communication with Dan Pauly (City of Wilsonville), WRI is currently in compliance with the City's code requirements and the facility has not received any notices of violation or enforcement actions within the last five years.

On January 23, 1995, the DEQ issued Solid Waste Disposal Site Permit No. 435 (the "Permit") to WRI authorizing it to accept non-putrescible waste for the purpose of material recovery. On August 3, 1998, the DEQ amended the Permit authorizing the facility to also accept putrescible waste. The term of the Permit was set to expire on January 31, 2005. On October 3, 2004, WRI submitted a permit renewal application to the DEQ. The DEQ received this renewal application prior to the expiration date of the facility's Permit. Due to a significant backlog of applications, the DEQ has not yet reviewed WRI's renewal application. Although the Permit has expired, the DEQ has allowed WRI to continue operating under the terms of the Permit until a final decision is made on the renewal application. According to recent communication with Stephanie Rawson (DEQ), WRI is currently in compliance with its Permit and the facility has not received any notices of violation or enforcement actions from the DEQ within the last five years.

On December 31, 2003, Metro issued Solid Waste Facility Franchise No. F-005-03 (the "Franchise") to WRI authorizing it to perform material recovery on non-putrescible waste and accept putrescible waste for transfer. The term of the Franchise is set to expire on December 31, 2008. During the term of the Franchise, WRI has received one Notice of Violation for exceeding its tonnage limitation in an NSL. On August 31, 2007, Metro issued Notice of Violation No. NOV-182-07 to WRI for violating the calendar year tonnage limitation stipulated in NSL No. N-005-015(3). WRI had exceeded its 45,000-ton limitation by 342 tons. There was no penalty associated with this minor tonnage cap violation. Metro afforded WRI an opportunity to abate the violation by submitting a letter describing the additional procedures that it would implement to prevent a recurrence of the violation. WRI submitted the letter as requested and, subsequently, the violation was deemed abated.

Metro has conducted 40 site inspections at WRI between the dates of January 1, 2004 and July 31, 2008. Staff has found the facility to be a well-run operation with no observable reason to suspect impending problems or issues. WRI is currently in compliance with its NSLs and Franchise. With the exception of the above referenced NSL violation, the facility has not received any notices of violation or enforcement actions from Metro during the term of the Franchise.

Staff concludes that the applicant has sufficiently complied, and staff has no reason to believe that the facility will not continue to comply, with all applicable regulatory requirements.

B. Metro Code Section 5.01.070(f) states:

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

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

This issue was examined above in Section 2A(ii) of this document entitled, <u>Compliance with the Regional Solid Waste Management Plan (RSWMP)</u>. As previously discussed, staff concludes that the solid waste management activities to be renewed under this franchise are consistent with the RSWMP.

(2) The effect that granting a Franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region;

Ordinance 08-1194 provides for a 5,000-ton increase in WRI's annual putrescible waste authorization. The tonnage shifts expected in response to this Ordinance (about 5,000 tons *from* Metro transfer stations *to* WRI) would cause a small increase in the cost of disposal and recycling services for the citizens of the region. A small increase in disposal charges around the region should be offset, at least in part, by reduced off-route transportation costs, resulting in a net increase to consumers of no more than about $91,000 per year, equivalent to about 6-7¢ per ton disposed. This effect would be separate from (additive with) cost impacts that result from other tonnage shifts in the region (e.g., from an increase in Troutdale Transfer Station's tonnage authorization).

Metro's costs change as tonnage shifts away from Metro Central and Metro South transfer stations. These changes are reflected in the costs to operate the transfer stations and to transport and dispose of the waste. Generally these costs decline as tonnage shifts away, while Metro's unit (per-ton) costs increase due to cost recovery of fixed (and "sticky") costs from fewer tons.

Assuming that 5,000 tons will be diverted from Metro's transfer stations (2,000 tons from Metro Central, and 3,000 tons from Metro South), Metro could fully recover its costs with a 6-7¢ per ton increase in its tonnage charge. If Metro adopted such an increase, and if other privately-owned facilities matched this increase—as has been common practice in the past—then region wide, the cost of disposal would increase by the same 6-7¢ per ton. On about 1.4 million tons disposed, that amounts to about $91,000 annually.

At the same time, some transportation efficiencies may be realized when the shifting tonnage seeks out a closer transfer station in WRI. If such transportation efficiencies are realized, then reduced transportation costs (for fuel, labor, etc.) could offset some of the increase in disposal costs. The value of these efficiencies is expected to be small relative to the increase in the cost of disposal.

Note that Metro's cost recovery for regional programs (e.g., the Regional System Fee) and per-ton cost of landfilling (e.g., contractual price at Columbia Ridge Landfill)—two common sources of fiscal impact when tonnage shifts—will be unaffected in this instance because no change is anticipated in regional disposal tonnage (the revenue base for regional programs), and all shifted tonnage is expected to be landfilled in a Waste Management-owned landfill, leaving Metro's price for disposal at Columbia Ridge Landfill unchanged.

If Metro's rate structure (i.e., cost and revenue allocations) and costs remain relatively constant, then additional tonnage shifts (e.g., in response to future increases in local transfer station allocations) can be expected to have proportionally about the same per-ton impact on the cost of solid waste disposal and recycling services for the citizens of the region.

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

Metro staff is not aware of any facility incidents or operating procedures that have adversely affected the health, safety and welfare of Metro's residents in the 13 years that the facility has been operating. Likewise, the DEQ has not cited the facility for any violations within the last five years. The operator's experience and track record, together with the regulatory environment in which WRI operates, leads staff to conclude that it is unlikely that the applicant, will adversely affect the public health, safety and welfare.

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

Metro staff is not aware of any complaints or excessive impacts on the surrounding neighborhood in the 13 years that the facility has been operating. The operator's experience and track record leads staff to conclude that it is unlikely that WRI would unreasonably adversely impact the surrounding neighborhood.

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

This issue was examined above in Section 2A(iv) of this document. As previously discussed, staff finds that, notwithstanding one NSL violation during the term of its existing Franchise, the applicant is likely to comply with regulations and standards if the franchise is renewed.

3. Compliance with the Criteria Contained in Metro Code Section 5.01.075(c)

Metro Code Section 5.01.075(c) stipulates that a franchise authorizing the acceptance of mixed non-putrescible waste for the purpose of conducting material recovery shall be subject to the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Metro Code Section 5.01.132, and the general performance goals related to the following: environment, health and safety, nuisances, material recovery, reloading, and record keeping.

On May 8, 2007, Metro adopted administrative procedures outlining new standards for material recovery facilities (Administrative Procedures No. 501 Section 7 – *Standards for Non-Putrescible Mixed Waste Material Recovery Facilities and Non-Putrescible Mixed Waste Reload Facilities*). The standards include design requirements and operating conditions that were specifically developed, and approved in administrative procedures, in order to meet the general performance goals specified in Metro Code Section 5.01.075(c).

WRI is an existing facility that is designed and operated in a manner that currently meets or exceeds all of these standards and performance goals.

4. Chief Operating Officer's Recommendation and Recommended Franchise Conditions

Based on the information presented above, the Chief Operating Officer finds that the franchise renewal application meets the criteria in Metro Code Section 5.01.070. The Chief Operating Officer also finds that the proposed franchise renewal is in the public interest. The Chief Operating Officer therefore recommends that the Metro Council approve a franchise renewal to WRI subject to the requirements listed in Metro Code Chapter 5.01; and further subject to several new conditions and technical updates, which are incorporated into the draft franchise attached as Exhibit A to Ordinance No. 08-1194.

The substantive changes included in the proposed franchise are described below. In particular, Subsections A and B describe conditions that are based upon the direction that staff received during the Metro Council Work Session on August 12, 2008. The Council had agreed with staff recommendations to include these conditions in the franchises, based upon the *Wet Waste Allocation Project DRAFT Final Report,* dated August 4, 2008. Subsection C describes the new conditions that were included in the proposed franchise to reflect the material recovery facility standards adopted by Metro Council via Ordinance No. 07-1138 on February 22, 2007 and the corresponding administrative procedures that were subsequently issued by the Chief Operating Officer on May 8, 2007. Subsection D describes the new conditions that were included to reflect the Enhanced Dry Waste Recovery Program that was adopted by Metro Council via Ordinance No. 07-1147B on August 17, 2007.

New Conditions:

A. <u>Tonnage Authorization</u> – The proposed franchise stipulates that the franchisee shall accept no more than 70,000 tons of putrescible waste within each calendar year. This is a 5,000-ton increase over the 65,000-ton limit that was previously established by Metro Council in October 2001 (Ordinance No. 01-916C). As drafted, this limitation is applicable to all putrescible waste generated or originating from within the Metro region. In addition to the increase, the tracking period for the tonnage limit has been adjusted from a fiscal year to a calendar year basis.

   The applicant has requested no new authorizations. However, the Chief Operating Officer's recommendation to include a 70,000-ton limit in the proposed franchise is based upon the direction that staff received during the Metro Council Work Session on August 12, 2008.

B. <u>Tonnage Authorization Growth Allowance</u> – The proposed franchise stipulates that effective January 1, 2011 the Chief Operating Officer may increase the tonnage authorization of the franchise based on a growth allowance for the disposal of putrescible waste as provided in Metro Code Chapter 5.01. The initial 5,000-ton increase, described above in Section 4A, is intended to address growth for the first two years of the franchise. As such, it is unlikely that the Chief Operating Officer will approve additional tonnage increases for this franchise until this growth allowance provision becomes effective on January 1, 2011. Metro will consider methods for assigning the annual growth allowance, as provided in this section, through a potential Code amendment and the development of administrative procedures.

C. <u>Material Recovery Facility Standards</u> - The proposed franchise includes conditions that require the franchisee to conduct material recovery operations on non-putrescible waste in accordance with the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Metro Code Section 5.01.132 (Administrative Procedures No. 501 Section 7 – *Standards for Non-Putrescible Mixed Waste Material Recovery Facilities and Non-Putrescible Mixed Waste Reload Facilities*). The proposed franchise conforms with the above referenced material recovery standards and the general performance goals.

D. <u>Enhanced Dry Waste Recovery Program</u> – The proposed franchise requires the franchisee to perform material recovery on non-putrescible waste at the rate stipulated in Metro Code Chapter 5.01. Specifically, the franchisee's processing residual shall not contain more than 15 percent, by weight, of cardboard and wood pieces greater than 12 inches in size and metal pieces greater than eight inches in size. In addition, the proposed franchise requires the franchisee to take quarterly samples of its processing residual and provide Metro with access to the site in order to analyze the waste.

ANALYSIS / INFORMATION

1. Known Opposition

There is no known opposition.

2. Legal Antecedents

Current provisions of Metro Code Chapter 5.01, entitled "Solid Waste Facility Regulation." In particular:

- Metro Code Section 5.01.045(b) stipulates that a Solid Waste Facility Franchise shall be required for the person operating a transfer station.

- Metro Code Section 5.01.087(b) stipulates that the Metro Council shall approve or deny renewals of Solid Waste Facility Franchises.

3. Anticipated Effects

Adoption of Ordinance No. 08-1194 would authorize the Chief Operating Officer to issue a renewed Solid Waste Facility Franchise to WRI for a term of five years.

4. Budget Impacts

Ordinance No. 08-1194 authorizes the renewal of an existing solid waste facility franchise with a 5,000-ton increase in its facility tonnage cap. The tonnage shifts expected in response to this Ordinance (about 5,000 tons *from* Metro transfer stations *to* WRI) would cause a decrease of approximately $250,000 in the Solid Waste and Recycling budget because Metro would no longer incur the cost of transferring, transporting, and disposing of the 5,000 tons of solid waste diverted to WRI.

For a fuller discussion of the rate effects and ratepayer impacts, see the analysis provided above in Section 2B(2) of this document.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance No. 08-1194.

WJ:bjl
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Agenda Item Number 5.5

Ordinance No. 08-1195, For the Purpose of Amending Metro Code Chapter 5.05 to Include Tualatin Valley Waste Recovery on the List of Designated Facilities.

First Reading

Metro Council Meeting
Thursday, September 18, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.05 TO INCLUDE TUALATIN VALLEY WASTE RECOVERY ON THE LIST OF DESIGNATED FACILITIES	)))))	ORDINANCE NO. 08-1195 Introduced by Michael J. Jordan, Chief Operating Officer, with the concurrence of David Bragdon, Metro Council President

WHEREAS, Metro Code Section 5.05.030 authorizes the Metro Council to add and delete facilities from the list of designated facilities set forth in that Section; and

WHEREAS, Waste Management, Inc., has made application to Metro seeking designated facility status for Tualatin Valley Waste Recovery by requesting that Metro add Tualatin Valley Waste Recovery to the list of designated facilities set forth in Metro Code Section 5.05.030; and

WHEREAS, as set forth in the staff report accompanying this Ordinance, the Chief Operating Officer analyzed the criteria set forth in Metro Code section 5.05.030(b) that the Metro Council must consider when it determines whether to add a facility to the list of designated facilities in Section 5.05.030(a); and

WHEREAS, the Chief Operating Officer recommends approval of this Ordinance; now therefore,

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

Metro Code Section 5.05.030(a) is amended to add the following provision as subsection 13:

(13) Tualatin Valley Waste Recovery. The Tualatin Valley Waste Recovery facility, 3205 SE Minter Bridge Road, Hillsboro, Oregon, subject to the terms of an agreement between Metro and the owner of the Tualatin Valley Waste Recovery facility authorizing receipt of solid waste generated within Metro only as follows:

(A) As specified in an agreement entered into between Metro and the owner of the Tualatin Valley Waste Recovery facility authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the facility solid wastes not specified in the agreement.

ADOPTED by the Metro Council this _______ day of _______________ 2008.

____
David Bragdon, Council President

Attest:

____
Christina Billington, Recording Secretary

Approved as to Form:

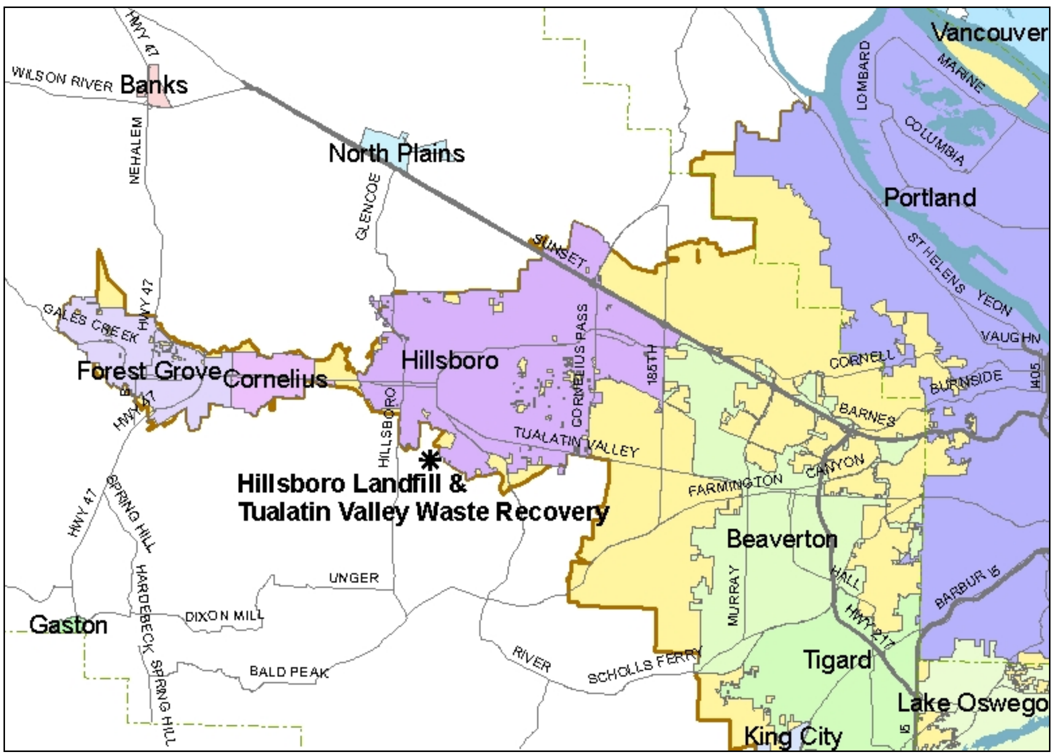
____
Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 08-1195, AMENDING METRO CODE CHAPTER 5.05 TO INCLUDE TUALATIN VALLEY WASTE RECOVERY ON THE LIST OF METRO DESIGNATED FACILITIES

August 20, 2008 Prepared by: Bill Metzler

The proposed Ordinance, if approved by Council, will list the Tualatin Valley Waste Recovery ("TVWR") facility in Code as a designated facility authorized to receive non-putrescible waste generated from within the Metro boundary for the purpose of conducting material recovery. Upon listing, the Chief Operating Officer (COO) may then enter into a formal Designated Facility Agreement ("DFA") with the facility on behalf of Metro. TVWR is located adjacent to the Hillsboro Landfill and is just outside the Metro boundary

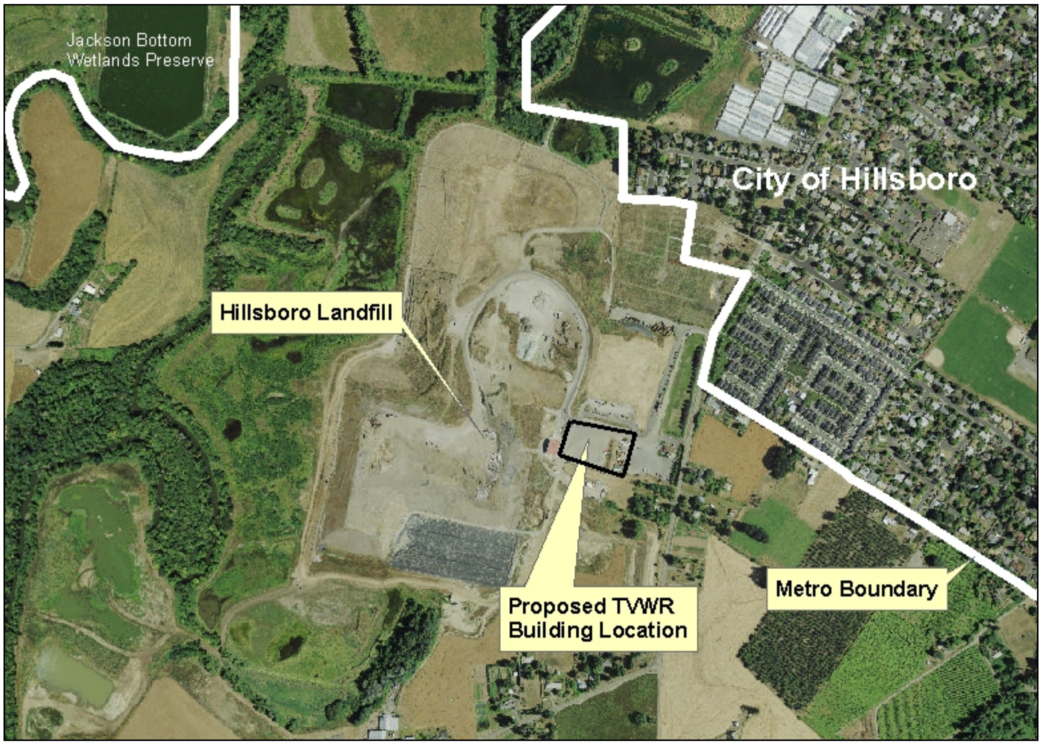


Site location map of Tualatin Valley Waste Recovery and Hillsboro Landfill

BACKGROUND

Tualatin Valley Waste Recovery ("TVWR") is a Waste Management, Inc. owned material recovery facility located at 3205 SE Minter Bridge Road, Hillsboro, Oregon and borders the Metro jurisdictional boundary. TVWR is located adjacent to the Hillsboro Landfill, also owned by Waste Management, Inc.

TVWR currently operates only as a source-separated recycling depot accepting primarily source-separated loads of glass, metal, yard debris, wood waste and concrete. In 2004 TVWR was issued a DEQ solid waste permit as a material recovery facility (Permit No. 1280) authorized to accept only select mixed loads of “dry” (non-putrescible) wastes generated at commercial, industrial, construction and demolition sites, and from the public, source-separated recyclable materials, and limited amounts of tires. However, TVWR has not operated as a mixed non-putrescible waste material recovery facility. TVWR currently operates only as a source-separated recycling depot.

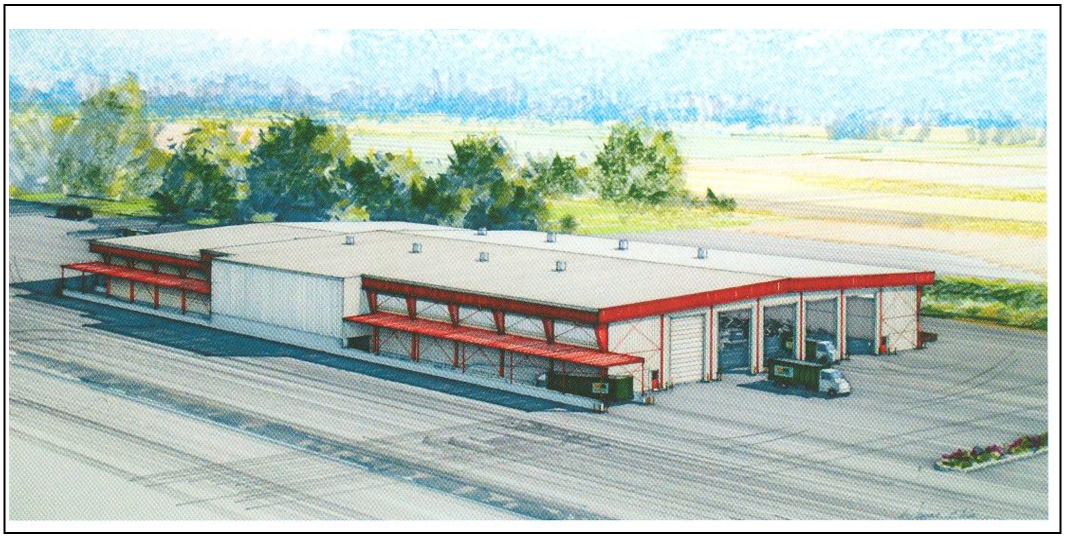


Proposed TVWR building site location, Hillsboro Landfill and Metro Boundary (airphoto)

<u>Proposed improvements at TVWR</u>

According to information provided by Waste Management, Inc., TVWR is currently obtaining permits to undertake a substantial facility expansion with an estimated date of completion of April 22, 2009 (Earth Day). The proposed facility will be authorized by the DEQ to accept mixed non-putrescible waste and recyclables for the purpose of conducting material recovery. However, Waste Management, Inc. representatives have indicated to Metro that the proposed facility may not be finished until July 2009 or later pending issuance of local permits and availability of construction materials.

The proposed facility will include construction of a new, fully enclosed 65,000 square foot metal building with a translucent roof to lower energy consumption. In addition, the facility will collect rainwater from the roof to be stored for operational and fire suppression needs, and will be partially powered by solar cells. The proposed facility will be built following the guidelines from the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, and intends to be certified under the “Gold Standard” for LEED rating.



Waste Management, Inc. illustration of proposed TVWR facility

Designated Facility Agreement to establish consistency with EDWRP

On August 16, 2007, in an effort to increase the recovery of solid waste, the Metro Council approved Ordinance No. 07-1147B adopting the Enhanced Dry Waste Recovery Program (EDWRP). The ordinance requires that by January 1, 2009 all mixed non-putrescible waste generated in the Metro region be delivered to a material recovery facility ("MRF") for processing before disposal. In order to ensure compliance with EDWRP requirements, the residual from such processing must be delivered for disposal to landfills designated by Metro to only accept processing residual, which includes the Hillsboro Landfill. Upon entering into a DFA with Metro, NSLs will not be issued for non-putrescible waste deliveries to the TVWR facility.

In response to these changes, TVWR has requested designated facility status as a MRF so that it may accept and process non-putrescible waste generated from within the Metro region after December 31, 2008. The proposed ordinance, if approved by Council, will list TVWR in the Code as a designated facility authorized to accept non-putrescible waste for the purpose of conducting material recovery, along with other designated facilities already listed. If the Council lists TVWR as a designated facility, the COO will negotiate a DFA with Waste Management, Inc.

The DFA for the TVWR facility will include standard provisions included in other DFAs, and will also include provisions that ensure non-putrescible waste generated from the Metro region is managed in accordance with applicable EDWRP requirements established in Metro Code Section 5.05.030(g) for the operation of a material recovery facility as follows:

> *(g) An agreement between Metro and a designated facility that, after December 31, 2008, authorizes the facility to accept non-putrescible waste that has not yet undergone material recovery, is not comprised of processing residual, and originated or was generated within Metro boundaries shall:*
>
> *(1) Require such designated facility to perform material recovery on such waste; and*

(2) *Demonstrate, in a manner that can be verified and audited, that such processing achieves material recovery substantially comparable to that required of in-region material recovery facilities by Metro Code subsections 5.01.125(a) and (b) by either:*

(A) *Meeting such material recovery requirements for all non-putrescible waste received at the facility, whether or not from within Metro boundaries; or*

(B) *Keeping all non-putrescible waste received from within Metro boundaries segregated from other waste throughout processing, keeping processing residual from such processing segregated from other solid waste after processing, and meeting such material recovery requirements for all such non-putrescible waste.*

(3) *Demonstrate, in a manner that can be verified and audited, that such facility substantially complies with (A) the performance goals described in Metro Code Sections 5.01.067(i) (as amended by Section 1 of Metro Ordinance No. 07-1138) and 5.01.075(c) (as amended by Section 2 of Metro Ordinance No. 07-1138), and (B) the performance standards, design requirements, and operating requirements applicable to licensed and franchised material recovery facilities operating within the Metro region and adopted by Metro as administrative procedures pursuant to Metro Code Section 5.01.132 (as amended by Section 3 of Metro Ordinance No. 07-1138).*

<u>Waste Management, Inc. to Seek a Variance</u>

The Metro Code requirements in Chapter 5.05 implementing the EDWRP provisions go into effect on December 31, 2008. However, Waste Management, Inc. has indicated that the proposed TVWR facility will not likely be completed and fully operational until April 22, 2009 or perhaps even later in 2009 due to local permit timeframes and questionable availability of construction materials. Therefore, a DFA with Waste Management, Inc. cannot be developed that authorizes TVWR to accept non-putrescible waste from the Metro region until TVWR can either:

1) Meet the EDWRP requirements as specified in Metro Code Chapter 5.05, or
2) Obtain a variance from specific EDWRP Code provisions.

If Waste Management, Inc. pursues a variance request, then the Metro Council would decide whether or not to grant a variance, and a DFA would be developed by the COO to reflect the decision of the Council.

TVWR and the Hillsboro Landfill

TVWR is located adjacent to the Hillsboro Landfill, also owned by Waste Management, Inc. The Hillsboro Landfill operates under a DEQ Solid Waste Disposal Site Permit (No. 112) and was listed in Metro Code Chapter 5.05 as a designated facility of the system in 1993. Correspondingly, Metro and the Hillsboro Landfill entered in to a DFA on April 20, 1993 (Metro Contract No. 902858), and the COO is currently negotiating a new DFA with Waste Management, Inc. in compliance with EDWRP requirements.

In accordance with EDWRP requirements established in Metro Code Section 5.05.030(c), Metro's existing DFA with the Hillsboro Landfill will be amended by December 31, 2008 to ensure that all non-putrescible waste undergoes material recovery prior to disposal. In particular, the Hillsboro Landfill DFA will stipulate that after December 31, 2008, the Hillsboro Landfill can only accept processed non-putrescible waste (processing residual from a MRF) from authorized facilities for disposal in the landfill.

If TVWR is approved by the Council as a designated facility, then TVWR, in accordance with the provisions of its Metro DFA, will be able to accept unprocessed non-putrescible waste from the Metro region, where dry waste will be recovered at TVWR prior to disposal of the residual at the Hillsboro Landfill. The practical effect will be that some 80,000 tons of unprocessed non-putrescible waste delivered to the Hillsboro Landfill (based on tons reported for 2007), coming from the Metro region, must be diverted to one or more MRFs for processing. As a result of the waste recovery at TVWR, Waste Management, Inc. has indicated that the life of the Hillsboro Landfill could be extended by an additional 25-30 years.

ANALYSIS/INFORMATION

1. Known Opposition

Staff is not aware of any opposition to the proposed ordinance. Waste Management, Inc. held a public information meeting for neighbors to discuss the proposed new MRF on August 7, 2008 and received generally positive comments from the public that attended.

2. Legal Antecedents

Metro Code Section 5.05.030(a) contains a list of designated facilities. Metro Code Section 5.05.030(b) states that, pursuant to a duly enacted ordinance, the Metro Council may add facilities to the list. In deciding whether to designate an additional facility, the Council shall consider several factors listed in the Code. Below are the factors that must be considered, with each factor followed by a brief analysis.

(1) *The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination (Metro Code Section 5.05.030(b)(1));*

Metro staff have not found any evidence that TVWR has accepted wastes that were not permitted by the DEQ to accept, therefore the potential for future risk of environmental contamination at TVWR appears to be minimal. TVWR currently accepts source-separated loads of glass, metal, yard debris, wood waste and concrete, and operates under a DEQ solid waste permit. As a source separated material recovery facility accepting only limited types of non-putrescible and source-separated wastes, the facility has no known history of accepting wastes that pose a future risk of environmental contamination.

(2) The record of regulatory compliance of the facility's owner and operator with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations (Metro Code Section 5.05.030(b)(2));

The DEQ considers the current source-separated recycling depot operation to be well run, and in compliance with federal and state requirements. The facility is also reported to have a good compliance record with local (Washington County) public health, safety and environmental rules and regulations. TVWR is permitted by the DEQ, however, the current permit will need to be modified for the new facility.

Waste Management, Inc. also owns and operates the adjacent Hillsboro Landfill, which has a DEQ permit and a Metro DFA for disposal of non-putrescible waste. Hillsboro Landfill also has a good record of regulatory compliance with Metro, Washington County and the DEQ. Other Waste Management, Inc. facilities that are franchised by Metro include the Troutdale Transfer Station (Metro Franchise No. F-001-03), and Forest Grove Transfer Station (Metro Franchise No. FR-004). Both transfer stations have good records of substantive regulatory compliance with Metro ordinances and generally cooperate with Metro in enforcement of such ordinances. Waste Management, Inc. also owns and operates the Columbia Ridge Landfill, which is permitted by the DEQ, and is a Metro designated facility for certain wastes generated in the Metro region. The Columbia Ridge Landfill is also Metro's waste disposal contractor. Both the Hillsboro Landfill and the Columbia Ridge Landfill have good records of regulatory compliance and cooperation with Metro and the DEQ. Additionally, Waste Management, Inc. owns and operates the Riverbend Landfill which is located in Yamhill County, outside the Metro region, and has a good record of regulatory compliance and cooperation with Metro, Yamhill County and the DEQ.

(3) The adequacy of operational practices and management controls at the facility (Metro Code Section 5.05.030(b)(3));

TVWR plans to use operational practices and management controls that are typical of material recovery facilities and considered by the DEQ to be adequate for the protection of health, safety, and the environment. Metro will review and approve TVWR's operating plan prior to operational start-up. Moreover, the proposed improvements at the facility that include constructing a new fully enclosed 65,000 square foot LEED certified building will result in significant operating improvements and management controls at the facility.

(4) *The expected impact on the region's recycling and waste reduction efforts (Metro Code Section 5.05.030(b)(4));*

Listing a new designated facility to conduct material recovery on unprocessed non-putrescible waste - that was previously landfilled - will result in additional processing capacity for the region and will have a positive impact on the region's recovery rate and waste reduction efforts.

Based on Hillsboro Landfill tonnage reports from 2007, staff estimates that the effect of approving TVWR as a designated facility will likely result in some 80,000 tons per year of unprocessed non-putrescible waste from the Metro region will be diverted from Hillsboro Landfill to TVWR for processing. If TVWR maintains a 25% recovery rate, then an additional 20,000 tons of material will be recovered from Metro area waste, which translates into adding about two-thirds (2/3) of an additional percentage point[1] toward the regional recovery goal of 64%. The Metro region is achieving a 55.5% recovery rate based on 2006 data from the DEQ.

However, in its application to be listed as a designated facility, Waste Management, Inc. has indicated that TVWR anticipates accepting 160,000 tons of non-putrescible waste from the Metro region annually, and plans to recover 48,000 tons from that waste, resulting in a 30% recovery rate. These higher recovery numbers could add 1.5 percentage points to the regional recovery rate.

(5) *The consistency of the designation with Metro's existing contractual arrangements (Metro Code Section 5.05.030(b)(5));*

Approval of the proposed DFA will not conflict with Metro's disposal contract or any other of its existing contractual arrangements. Waste Management, Inc. is Metro's disposal contractor for putrescible waste. The waste authorized under the proposed DFA for TVWR is non-putrescible and not subject to the contract provisions, and therefore delivery of non-putrescible Metro area waste to TVWR is consistent with the disposal agreement.

(6) *The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement (Metro Code Section 5.05.030(b)(6));*

As an out-of-region non-designated facility, TVWR has not previously been subject to Metro ordinances or agreements, as it is a proposed new facility. However, the Hillsboro Landfill, which is a Metro designated facility (Metro DFA Contract No. 902858), has been generally cooperative with Metro's Regulatory Affairs Division.

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[1] One additional percentage point would be the equivalent of an additional 22,000 tons of recovered material.

Waste Management, Inc. also owns and operates the adjacent Hillsboro Landfill, which has a DEQ permit and a Metro DFA for disposal of non-putrescible waste. Hillsboro Landfill also has a good record of regulatory compliance with Metro, Washington County and the DEQ. Other Waste Management, Inc. facilities that are franchised by Metro include the Troutdale Transfer Station (Metro Franchise No. F-001-03), and Forest Grove Transfer Station (Metro Franchise No. FR-004). Both transfer stations have good records of substantive regulatory compliance with Metro ordinances and generally cooperate with Metro in enforcement of Metro ordinances. Waste Management, Inc. also owns and operates the Columbia Ridge Landfill, which is permitted by the DEQ, and is a Metro designated facility for certain wastes generated in the Metro region. The Columbia Ridge Landfill is also Metro's waste disposal contractor. Both the Hillsboro Landfill and the Columbia Ridge Landfill have good records of regulatory compliance and cooperation with Metro and the DEQ. Additionally, Waste Management, Inc. owns and operates the Riverbend Landfill which is located in Yamhill County, outside the Metro region, and has a good record of regulatory compliance and cooperation with Metro, Yamhill County and the DEQ.

(7) Other benefits or detriments accruing to residents of the region from Council action in designating a facility (Metro Code Section 5.05.030(b)(7));

The potential benefits of listing TVWR as a designated facility are listed below under Anticipated Effects. Staff does not anticipate that any detriments will accrue to residents of the region as a result of the proposed listing.

3. Anticipated Effects

- Collection of Metro regional system fees and excise tax on processing residual that is landfilled.
- Enhanced implementation of EDWRP provisions and more efficient administration through a DFA.
- Significant additional material recovery from wastes previously landfilled - estimated to be between 20,000 tons per year to 40,000 tons per year, depending on operating capacity.
- Extend the life of the Hillsboro Landfill by 25-30 years.
- A "Gold Standard" LEED certified MRF. According to information provided by Waste Management, Inc., the proposed TVWR facility is designed to be certified by the Leadership in Energy and Environmental Design (LEED) Green Building Rating System to the Gold Standard. The facility will be built with minimal amounts of waste, energy efficiency, water savings and several other criteria in order to achieve LEED certification.

4. Budget impacts

Adopting this Ordinance will help enable implementation of EDWRP, whose budget impacts have already been considered by the Metro Council in its adoption of Ordinance 07-1147B. Designation of TVWR is consistent with EDWRP and is not expected to alter the budget impact projection contained in the EDWRP Ordinance staff report.

TVWR will receive only unprocessed non-putrescible waste for the purpose of conducting material recovery on waste generated in the Metro region under the authority of the proposed DFA. This wastestream is unlikely to be diverted from Metro transfer stations or other MRFs since it has typically been delivered to the Hillsboro Landfill. The processing residual resulting from material recovery at TVWR will be delivered to a designated facility (the Hillsboro Landfill) where regional system fees and excise tax will be collected and remitted to Metro.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Ordinance No. 08-1195.

BM:bjl
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Queue

Agenda Item Number 5.6

Ordinance No. 08-1197, For the Purpose of Amending Metro Code Chapter 5.05 to Include Riverbend Landfill on the List of Designated Facilities.

First Reading

Metro Council Meeting
Thursday, September 18, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.05 TO INCLUDE RIVERBEND LANDFILL ON THE LIST OF DESIGNATED FACILITIES	)))))	ORDINANCE NO. 08-1197 Introduced by Michael J. Jordan, Chief Operating Officer, with the concurrence of David Bragdon, Metro Council President

WHEREAS, Metro Code Section 5.05.030 authorizes the Metro Council to add and delete facilities from the list of designated facilities set forth in that Section; and

WHEREAS, Waste Management, Inc., has made application to Metro seeking designated facility status for Riverbend Landfill by requesting that Metro add Riverbend Landfill to the list of designated facilities set forth in Metro Code Section 5.05.030; and

WHEREAS, as set forth in the staff report accompanying this Ordinance, the Chief Operating Officer analyzed the criteria set forth in Metro Code section 5.05.030(b) that the Metro Council must consider when it determines whether to add a facility to the list of designated facilities in Section 5.05.030(a); and

WHEREAS, the Chief Operating Officer recommends approval of this Ordinance; now therefore,

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

Metro Code Section 5.05.030(a) is amended to add the following provision as subsection 14:

(14) Riverbend Landfill. Riverbend Landfill, 13469 SW Highway 18, McMinnville, Oregon, subject to the terms of an agreement between Metro and the owner of Riverbend Landfill authorizing receipt of solid waste generated within Metro only as follows:

(A) As specified in an agreement entered into between Metro and the owner of Riverbend Landfill authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the facility solid wastes not specified in the agreement.

ADOPTED by the Metro Council this _______ day of _______________ 2008.

____
David Bragdon, Council President

Attest:

____
Christina Billington, Recording Secretary

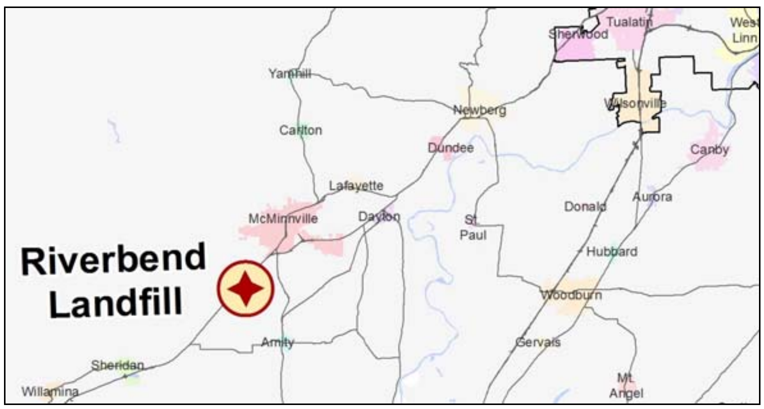
____
Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 08-1197, AMENDING METRO CODE CHAPTER 5.05 TO INCLUDE RIVERBEND LANDFILL ON THE LIST OF DESIGNATED FACILITIES

August 27, 2008 Prepared by: Steve Kraten

The proposed Ordinance, if approved by the Council, will list the Riverbend Landfill ("RLF") in Code as a designated facility, authorized to receive non-putrescible waste and cleanup material generated from within the Metro boundary. The landfill would be responsible for collecting and remitting regional system fees and excise tax to Metro on this waste. Upon listing, the Chief Operating Officer ("COO") may then enter into a formal Designated Facility Agreement ("DFA") with the landfill on behalf of Metro. Metro Council will continue to allocate putrescible waste to the landfill via non-system licenses, as it does with other landfills.



BACKGROUND

RLF is permitted as a RCRA Subtitle D[1] landfill by the Oregon Department of Environmental Quality ("DEQ"). The landfill is owned by Waste Management, Inc. and located at 13469 SW Highway 18, four miles southwest of McMinnville, Oregon, and 44 miles from Metro Regional Center. Subtitle D disposal permits allow disposal of municipal solid waste and cleanup material. Permitting and monitoring of Subtitle D landfills is a state responsibility when a state has been approved by United States Environmental Protection Agency to implement a solid waste disposal permit program. RLF's current Solid Waste Disposal Site Permit to operate the landfill was issued by the DEQ in 1999. It is scheduled to expire on December 1, 2009. The landfill is situated in a "Public Works/Safety District" zone in which landfills are a permitted use, and operates under a license agreement with Yamhill County, in addition to the DEQ permit.

[1] Subtitle D is a designation of the federal Resource Conservation and Recovery Act ("RCRA") that establishes landfill standards for municipal solid waste ("MSW").

Current Metro Non-System Licenses for Solid Waste Deliveries to Riverbend Landfill

Presently, 97,000 tons of non-putrescible waste and 442,160 tons of municipal solid waste[2] (putrescible and non-putrescible waste) are authorized to be delivered to RLF under non-system licenses ("NSLs") issued directly to generators and haulers by Metro. During 2007, 90,183 tons of non-putrescible waste and 240,219 tons of municipal solid waste were actually delivered. During 2007, RLF accepted 686,631 tons of waste from all sources, with 238,023 tons reported as originating from within Yamhill County. Metro-area waste thus accounted for 48 percent of the waste delivered to RLF in 2007. The proposed designated facility listing and agreement does not include putrescible waste. Putrescible waste deliveries will continue to require authorization from the Metro Council under NSLs issued to the generators or haulers delivering the waste to the landfill.

Both Metro-owned transfer stations and the Troutdale Transfer Station, owned by Waste Management, Inc., have delivered small quantities of solid waste to RLF on an emergency basis. Examples of emergencies include closure of I-84 through the Columbia Gorge due to ice, and when equipment breaks down preventing compaction of waste into the type of transport trailers appropriate for the tippers used at the Columbia Ridge Landfill in Arlington, Oregon. Attachment A to this staff report is a list that details the current NSLs issued by Metro to generators and haulers authorizing delivery of non-putrescible and putrescible waste to the RLF. All the NSLs to RLF, except one[3], are set to expire on December 31, 2008.

Riverbend Landfill – Leachate retention pond in the foreground; working face of the landfill in the distance

[2] The term Municipal Solid Waste ("MSW") is used to denote general residential and commercial garbage picked up on hauling routes, usually in smaller containers, and collected together in a single truck without regard to putrescibility. This is in contrast to waste collected in large drop boxes or compactors which are dedicated specifically to either putrescible or non-putrescible waste.
[3] An NSL issued to Pride Recycling Company for MRF residual has an expiration date of December 31, 2009. However, this NSL will be terminated if the proposed DFA is approved.

Designated Facility Agreement to Establish Consistency within the Solid Waste System

On June 16, 2008, RLF submitted certification of its intent to seek designated facility status so that it may accept non-putrescible MRF residual generated from within the Metro region after January 1, 2009. The landfill also seeks to accept Metro-area cleanup material. The proposed ordinance, if approved by the Council, will list RLF in the Code as a designated facility, along with the other designated facilities already listed.

If the Council decides to list RLF, the Chief Operating Officer will seek to negotiate a DFA with Waste Management. The DFA will include standard provisions included in other landfill DFAs. Metro is seeking to establish as much uniformity as possible among all of the designated facilities and ensure that similarly situated facilities manage Metro area waste in a consistent manner while collecting and remitting Metro regional system fees and excise taxes. In particular, the DFA will ensure consistency with the Enhanced Dry Waste Recovery Program ("EDWRP")[4] authorizing only the acceptance of non-putrescible processing residual from MRFs and cleanup material. The landfill must also assist Metro in its determination of whether processing residual accepted at the landfill meets the recovery standard required by the Metro Code and Administrative Procedures.

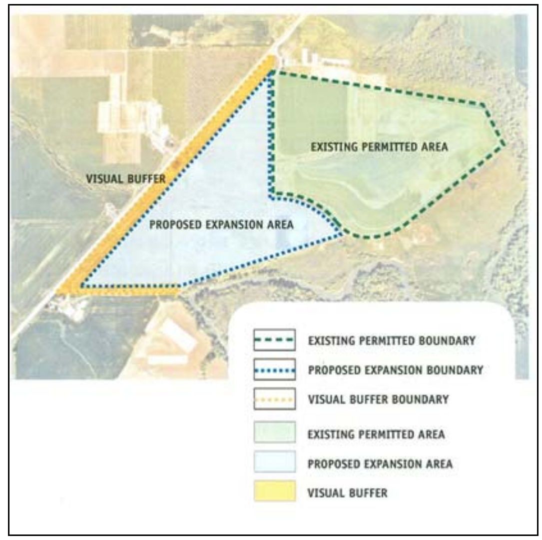
ANALYSIS/INFORMATION

1. Known Opposition

RLF has applied to Yamhill County for a permit to expand the landfill by 87 acres. Waste Management indicates that such an expansion would extend the useful life of the landfill from the current six years to 20 – 30 more years. Metro staff is aware that the owner of a property bordering the landfill is a leading opponent of the expansion and is seeking to mobilize others to oppose the landfill expansion by organizing under the title of the "Stop the Dump Expansion Committee" and pursuing a local ballot measure to stop the expansion. The measure[5] will be on the Yamhill County November 4, 2008 ballot. If passed, it will prohibit future expansion of the landfill within 2,000 feet of a flood plain but will not affect the expansion for which RLF has already applied. This individual promotes his views about the expansion through a website (www.mcdumpville.com). Waste Management also has a website about the proposed expansion (www.riverbendlandfill.com/plans-expand.asp).

[4] EDWRP requires that by January 1, 2009, all mixed non-putrescible waste generated in the Metro region be delivered to a material recovery facility for processing before disposal.
[5] The title of the measure will be "Prohibits landfill expansion, new landfills within 2000 feet of flood plain"

Aerial View



Proposed Expansion

2. Legal Antecedents

Metro Code Section 5.05.030(a) contains a list of nine designated facilities located outside the Metro region. Metro Code Section 5.05.030(b) states that, pursuant to a duly enacted ordinance, the Metro Council may add facilities to the list. In deciding whether to designate an additional facility, the Council shall consider several factors listed in the Code. Below are the factors that must be considered, with each factor followed by a brief analysis.

(1) *The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination;* [Code Section 5.05.030(b)(1)]

RLF first opened in 1982 as a municipal solid waste landfill under the ownership of City Sanitation Service, McMinnville's local private hauler. At that time the landfill was clay-lined but without a synthetic liner. The landfill was purchased by Sanifill in 1992, which was acquired by USA Waste in 1994. USA Waste subsequently merged with Waste Management, Inc. in 1998. RLF became a Subtitle D landfill in 1993, at which time the original unlined cells were capped and closed. Since 1993, the landfill has been filling only lined cells and operating with the required environmental controls required by the DEQ.

The landfill accepted asbestos containing materials earlier in its operation but has not done so for the past ten years. In 2006 RLF inadvertently accepted and landfilled a load of bagged subflooring and tile containing asbestos in violation of its DEQ permit. Other than that, Metro staff have not found any evidence that the landfill has accepted wastes that it was not permitted by DEQ to accept. It appears that the future risk of environmental contamination is likely to be minimal, provided that the synthetic liner system remains intact, leachate is collected and properly treated, groundwater is monitored for contamination migration, and the DEQ is diligent in its oversight of the facility.

(2) The record of regulatory compliance of the facility's owner and operator with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations; [Code Section 5.05.030(b)(2)]

The DEQ considers the landfill to be a well-run facility that is in compliance with federal and state requirements. In the past five years RLF has received one notice of non-compliance from DEQ for elevated levels of suspended solids in stormwater discharge. The facility is also reported to have a good compliance record with local (Yamhill County and the City of McMinnville) public health, safety and environmental rules and regulations.

Waste Management, Inc. also owns and operates the Hillsboro Landfill, which has a DEQ permit and a Metro DFA for disposal of non-putrescible waste. Hillsboro Landfill also has a good record of regulatory compliance with Metro, Washington County and the DEQ. Other Waste Management, Inc. facilities that are franchised by Metro include the Troutdale Transfer Station (Metro Franchise No. F-001-03), and Forest Grove Transfer Station (Metro Franchise No. 004). Both transfer stations have good records of substantive regulatory compliance with Metro ordinances and generally cooperate with Metro in enforcement of such ordinances. Waste Management, Inc. also owns and operates the Columbia Ridge Landfill, which is permitted by the DEQ and is a Metro designated facility for certain wastes generated in the Metro region. Hillsboro Landfill and Columbia Ridge Landfill both have good records of regulatory compliance and cooperation with Metro and the DEQ.

(3) The adequacy of operational practices and management controls at the facility; [Code Section 5.05.030(b)(3)]

RLF uses operational practices and management controls that are typical of a modern engineered Subtitle D landfill and considered by the DEQ to be adequate for the protection of health, safety, and the environment. In addition, the landfill has a 14-acre poplar plantation irrigated with leachate from the landfill. The uptake potential of the trees is estimated to exceed the amount of leachate. The landfill captures methane gas that is presently flared off. However, Waste Management, Inc. plans to install generators that will utilize landfill gas to supply electric power to the McMinnville PUD grid. Electricity generated in this manner is considered to be “green power.”

There has been an issue with litter blowing from the landfill into trees that border the neighboring property. The landfill has recently installed a taller litter fence in order to mitigate this problem. The landfill also mistakenly sank a ground water monitoring well on the neighbor’s property but has offered to mitigate that situation.

(4) The expected impact on the region's recycling and waste reduction efforts; [Code Section 5.05.030(b)(4)]

Under the proposed DFA, the only dry waste[6] RLF will accept is MRF processing residual and cleanup material. The landfill will not be eligible to accept unprocessed dry waste from the Metro region. Therefore, the proposed DFA is consistent with the implementation of the Enhanced Dry Waste Recovery Program ("EDWRP") and will provide the region with a nearby disposal option for MRF residual. This is expected to have a positive impact on the region's recycling and waste reduction efforts.

RLF's most significant role in the region's solid waste system will continue to be as a significant disposal site for the region's putrescible waste. During 2007, 81 percent of the waste delivered to RLF from within Metro was putrescible, which is not subject to the recovery standard. Metro area dry waste accounted for the remaining 19 percent of waste delivered to RLF, which was largely processing residual from Metro-area MRFs.

(5) The consistency of the designation with Metro's existing contractual arrangements; [Code Section 5.05.030(b)(5)]

Metro has committed to deliver 90 percent of the total tons of putrescible waste that Metro delivers to general purpose landfills to facilities operated by Metro's waste disposal contract operator, Waste Management, Inc. The majority of the Metro region waste delivered to RLF has been putrescible waste delivered under NSLs. Since RLF is a Waste Management facility, delivery of Metro-area waste to RLF is consistent with the disposal contract. The waste authorized under the proposed DFA is non-putrescible and not subject to this requirement, therefore approval of the proposed DFA will not conflict with Metro's disposal contract or any other of its existing contractual arrangements.

(6) The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement; [Code Section 5.05.030(b)(6)]

As an out-of-region non-designated facility, RLF has not previously been subject to Metro ordinances or agreements. However, RLF has voluntarily cooperated and assisted Metro's Regulatory Affairs Division in its investigations of haulers that have delivered waste to RLF in violation of Metro's flow control ordinance.

(7) Other benefits or detriments accruing to residents of the region from Council action in designating a facility.... [Code Section 5.05.030(b)(7)]

[6] The terms "dry" and "non-putrescible" are used synonymously. Putrescible waste is often referred to as "wet waste."

The potential benefits of listing RLF as a designated facility are listed below under Anticipated Effects. Staff does not anticipate that any detriments will accrue to residents of the region as a result of the proposed listing.

3. Anticipated Effects

- Collection of regional system fees and excise tax on processing residual that is landfilled.
- Enhanced implementation of EDWRP provisions and more efficient administration through a DFA;
- Enhanced ability to monitor waste classification at the facility;

4. Budget impacts

No budget impact is anticipated from the adoption of this Ordinance since most waste is already going under NSLs. The only dry waste RLF will receive under authority of the proposed DFA will be MRF processing residual and cleanup material. Therefore, construction and demolition debris (“C&D”) haulers will not be allowed to use the landfill for waste that has not been first processed at a MRF. The bulk of the Metro area waste accepted by RLF will likely be putrescible waste delivered under the authority of NSLs issued to transfer stations (see Attachment A). MRF residual and cleanup material is unlikely to flow to Metro transfer stations. However, it must be delivered to designated facilities where it will pay regional system fees and excise tax. Accordingly, Metro’s per-ton costs should not change as a result.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Ordinance No. 08-1197.

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ATTACHMENT A

SOLID WASTE CURRENTLY AUTHORIZED BY METRO
FOR DELIVERY TO THE RIVERBEND LANDFILL UNDER NSLs

Name of Non-System Licensee (All expire on Dec. 31, 2008)	**Tons of Waste Authorized**	**Type of Waste Authorized**	**Tons Delivered in Calendar 2007**
1. Forest Grove Transfer Station	175,000	putrescible waste	158,973
2. Gray & Company	1,000	putrescible wastes	568
3. Greenway Recycling LLC*	10,000	MRF processing residual	0
4. KB Recycling Inc.*	12,000	MRF processing residual.	8,546
5. Newberg Garbage Service Inc. via Newberg Transfer &Recycling Center.	160	putrescible waste	123
6. Pride Recycling Company*	65,000	MRF processing residual and putrescible solid waste	43,333
7. Pride Recycling Company+	25,000	MRF processing residual.	64,149
8. Waste Management of Oregon*	50,000	non-hazardous special waste, construction debris and alternative daily cover	17,488
9. Troutdale Transfer Station*	65,000	putrescible and non-putrescible waste and special waste on an emergency basis	388
10. Willamette Resources, Inc. *	115,000	putrescible and non-putrescible waste and MRF processing residual	25,113
11. B&J Garbage via Canby Transfer Station	12,000	putrescible waste	4,629
12. West Linn Refuse & Recycling, Inc. via Canby Transfer Station	9,000	putrescible waste	7,092

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* NSLs will be modified or eliminated if the proposed DFA is approved. The remaining NSLs will be renewed to authorize the delivery of wet waste only.
+ This NSL has an expiration date of Dec. 31, 2009 but is for MRF residual and will be terminated if the proposed DFA is approved.

Agenda Item Number 6.1

Ordinance No. 08-1199, For the Purpose of Annexing Lands on the East Side of NW Helvetia Road, South of West Union Road, and North of Jacobson Road to the Metro Jurisdictional Boundary.

Second Reading

Metro Council Meeting
Thursday, September 18, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ANNEXING LANDS ON THE EAST SIDE OF NW HELVETIA RD. SOUTH OF WEST UNION RD. AND NORTH OF JACOBSON RD. TO THE METRO JURISDICTIONAL BOUNDARY	)	ORDINANCE NO. 08-1199
	)	Introduced by Council President, David Bragdon

WHEREAS, the duty and authority to review and approve annexations to the Metro jurisdictional boundary is granted to Metro pursuant to Oregon Revised Statute 268.354 (3) (c); and

WHEREAS, Metro received a complete petition from the property owners and registered voters of a certain tract of land depicted on the attached map and described in Exhibit A to this ordinance, requesting that their property be annexed to Metro; and

WHEREAS, Metro received written consent from a majority of the electors in the territory to be annexed and owners of more than half the land in the territory proposed to be annexed, as required by ORS 198.855 (3); and

WHEREAS, Metro Council in Ordinance No. 02-1040B, For the Purpose of Amending the Metro Urban Growth Boundary, the Regional Framework Plan and the Metro Code in order to Increase the Capacity of the Boundary to Accommodate Population Growth to the Year 2022 adopted on June 24, 2004 to include the territory described in Exhibit A; and

WHEREAS, a report was prepared as required by law and Metro having considered the report and the testimony at the public hearing, does hereby favor annexation of the subject property based on the findings and reasons for decision attached hereto as Exhibit B; now therefore

THE METRO COUNCIL ORDAINS;

The territory described in Exhibit A and depicted on the attached map is hereby annexed to the Metro jurisdictional boundary.

ADOPTED by the Metro Council this _____ day of _______________ 2008.

____
David Bragdon, Council President

ATTEST:

____
Christina Billington, Recording Secretary

Approved as to Form

____
Daniel Cooper, Metro Attorney

Ordinance No. 08-1199
Exhibit A
Legal/Territorial Description of Property

City of Hillsboro
Annex 3-08: Baker et. al.
Proposed legal description
MF June 2, 2008

Exhibit 'A', page 1

PARCEL 1

A tract of land located in the northeast one-quarter and northwest one-quarter of Section 15, Township 1 North, Range 2 West, Willamette Meridian, Washington County, Oregon, being more particularly described as follows:

Beginning at the southwest corner Lot 14, Lennox Acres, a duly recorded subdivision in said county;

thence North 17°06'41" East, along the west boundary of said lot, a distance of 1198.76 feet to centerline of NW West Union Road;

thence South 86°30'55" East, along the centerline of said road, a distance of 1264.42 feet to a point of curvature therein;

thence, continuing along said centerline, along the arc of a 718.89 foot radius curve to the right, through a central angle of 20°38'30" an arc distance of 258.99 feet, the chord of which bears South 76°11'40" East, 257.59 feet to a point of tangency therein;

thence continuing along said centerline, South 65°52'25" East a distance of 261.18 feet to its intersection with the east boundary of the 500 foot wide Bonneville Power Administration power line right-of-way as described in Book 702,Page 303, in deed records of said county;

thence South 7°17'33" West, along said east boundary, a distance of 31.34 feet to the south right-of-way line of NW West Union Road;

thence along said south right-of-way line, North 65°52'25" West a distance of 270.25 feet to a point of curvature therein;

thence, continuing along south right-of-way line, along the arc of a 688.89 foot radius curve to the left, through a central angle of 20°38'30" an arc distance of 248.18 feet, the chord of which bears North 76°11'40" West, 246.84 feet to a point of tangency therein;

thence, continuing along south right-of-way line, North 86°30'55" West a distance of 119.22 feet to the east boundary Lot 12, Lennox Acres;

thence South 17° 06'10" West, along said east boundary, a distance of 1081.26 feet to the north right-of-way line of NW Pubols Road;

thence South 89° 38' 40" East, along said right-of-way line, a distance of 813.06 feet to its intersection with the east boundary of the 500 foot wide Bonneville Power Administration power line right-of-way as described in Book 702,Page 303, in deed records of said county;

thence South 7°17'33" West, along said east boundary, a distance of 20.15 feet to the centerline of NW Pubols Road;

thence North 89°38'40" West, along said centerline, a distance of 1986.52 feet to the place of beginning.

PARCEL 2

A tract of land located in the southeast one-quarter and southwest one-quarter of Section 15, Township 1 North, Range 2 West, Willamette Meridian, Washington County, Oregon, being more particularly described as follows:

Beginning at the northeast corner of Parcel 2, Partition Plat 1992-091, a duly recorded subdivision in said county;

thence tracing the boundary of said plat through the following seven courses:

South 0°20'08" West a distance of 490.17 feet to an angle point therein;
North 89°39'52"West a distance of 100.00 feet to an angle point therein;
South 0°19'25" West a distance of 150.35 feet to an angle point therein;
North 89°40'13" West a distance of 123.11 feet to an angle point therein;
North 81°59'17" West a distance of 396.08 feet to an angle point therein;
North 50°13'55" West a distance of 127.43 to a point;

thence, leaving said boundary, North 72°53'10" West a distance of 60.36 feet to the centerline of NW Helvetia Road (C.R. A-142);

thence along said centerline, tracing the arc of a 1432.40 foot radius non-tangent curve to the right, an arc distance of 126.10 feet, through a central angle of 5°02'38", the chord of which bears North 13°32'35" East, 126.06';

thence North 17°06'50" East, along the said centerline, a distance of 799.79 feet to the projection of the southerly boundary of that tract of land described in deed to Junhi and Haesoon Hong, recorded 12/06/1994 as document number 94109096 in deed records of said county;

thence South 72°53'10" East, along said projection and southerly boundary, a distance of 710.0 feet to the southeast corner of said Hong tract;

thence North 17°06'50" East, along the east boundary of said Hong tract, a distance of 621.68 feet to the northeast corner thereof an a point on the south boundary of Lennox Acres;

thence South 89° 39'30" East, along the south boundary of said Lennox Acres, a distance of 1697.18 feet to its intersection with the west boundary of the 500 foot wide Bonneville Power Administration power line right-of-way as described in Book 702, Page 303, in deed records of said county;

thence South 7°17'33" West, along said west boundary, a distance of 1425.33 feet to the north right-of-way line of NW Jacobson Road (C.R. 2579);

thence North 89°40'16" West, along said right-of-way line, a distance of 535.84 feet to a point of curvature therein;

thence, tracing said right-of-way line, along the arc of a 2035.0 foot radius curve to the left, through a central of 4°57'49", an arc distance of 176.29 feet , the chord of which bears South 87°50'49" West, 176.24 feet, to a point of reverse curvature;

thence, tracing said right-of-way line, along the arc of a 1965.0 foot radius curve to the right, through a central of 4°57'26", an arc distance of 170.01 feet , the chord of which bears South 87°50'38" West, 169.96 feet, to the east boundary of the Coan tract as described in document number 2003-079510, recorded 5-19-2003 in deed record of said county ;

thence North 0°20'08" East, along said east boundary, a distance of 640.05 feet to the northeast corner thereof;

thence North 89°38'42" West, along the north boundary of said Coan tract, a distance of 990.00 feet to the place of beginning.

ANNEXATION CERTIFIED
BY______
JUN 0 3 2008
WASHINGTON COUNTY A & T
CARTOGRAPHY

Ordinance No. 08-1199
Exhibit B

FINDINGS

Based on the study and the public hearing, the Council found:

1. The territory is located on the west edge of the District on the east side of NW Helvetia Rd. north of NW Jacobson Rd. and south of West Union Road. The territory contains 99.41 acres and 2 single family dwellings, two commercial structures and is valued at $255,630.

2. The annexation is being sought to continue the process which will lead to development of the property. The property has been included in the Urban Growth Boundary and annexed to the City of Hillsboro. The City developed the Concept Plan for the area (Helvetia Area Industrial Plan) and adopted it on February 5, 2008. The Metro Functional Plan requires that the entity responsible for the Concept Plan make annexation to the Metro jurisdictional boundary a requirement of the Plan. This annexation will meet that requirement.

3. Oregon Revised Statute 198.850 (2) directs the Council to consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.

   A second set of criteria can be found in Chapter 3.09 of the Metro Code. That Code states:

   > (e) The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions that demonstrate:
   >
   > 1. The affected territory lies within the UGB;
   > 2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services; and
   > 3. The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS chapter 195.

   Additionally Metro Code 3.09.050 (b) requires issuance of a report that addresses:

   > (1) The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
   > (2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
   > (3) The proposed effective date of the boundary change."

a. Tax Lot 300 abutting West Union Road slopes gradually to the south. The other properties adjacent to NW Jacobson Rd., slope towards the north west and contain agricultural fields.

To the south (across NW Jacobson) lies an industrial subdivision. To the east, inside the Urban Growth Boundary (UGB), is farmland. To the north and west, outside the UGB, lies farmland.

5. This territory abuts the Metro jurisdictional boundary on the south and east.

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall " . . . *ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS 195."* ORS 197.015 says "Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components." The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Plan and the Regional Transportation Plan.

The Urban Growth Management Functional Plan contains only one provision in its Title 11 component which speaks to annexations and prescribes a directly applicable standard or criterion for an annexation boundary change. Title 11, Section 3.07.1110.A, Interim Protection of Areas Brought into the Urban Growth Boundary, concerns "annexations" of land added to the UGB. It requires local comprehensive plan amendments for land added to the UGB to include "provisions for annexation to the (Metro) district and to a city or any necessary service district prior to urbanization of the territory . . . to provide all required urban services". By its terms, this Title 11 provision requires local comprehensive plans to assure the provision of adequate public facilities and services to land added to the UGB. This is to be accomplished through annexation of such lands to the Metro District, the affected city and/or any special service district responsible for providing such facilities and services to the land prior to its urban development. The land has been annexed to a City which can provide adequate urban services.

The Regional Transportation Plan was examined and found not to contain any directly applicable standards and criteria for boundary changes.

This area was added to the UGB by the Metro Council in 2004 (Metro Ordinance No. 04-1040B).

6. The territory was annexed to the City of Hillsboro on June 17, 2008. The territory has been designated HSID –Helvetia Area Special Industrial District. Because this area was only recently added to the Regional Urban Growth Boundary it was not included Urban Service Agreement adopted pursuant to ORS 195.

7. Water service is available from a Tualatin Valley Water district line in NW West Union Road 2000 feet west of the site. Sewer service is available from a City line along the western City limit line 1000 feet east of the site. The City has storm sewer lines adjacent in NW Jacobson Road and

2000 feet west in NW West Union Road. NW Helvetia Rd., West Union Rd. and Jacobson Road serve the site.

8. Metro provides a number of services on the regional level. Primary among these is regional land use planning and maintenance of the regional Urban Growth Boundary. Metro has provided this service to this site through the process of reviewing and approving the inclusion of this area in the UGB.

Metro provides some direct park service at what are basically regional park facilities and has an extensive green spaces acquisition program funded by the region's voters. Metro is responsible for solid waste disposal including the regional transfer stations and contracting for the ultimate disposal at Arlington. The District runs the Oregon Zoo and other regional facilities such as the Convention Center and the Performing Arts Center. These are all basically regional services provided for the benefit of and paid for by the residents within the region. These facilities are funded through service charges, excise taxes and other revenues including a small tax base for operating expenses at the Zoo and tax levies for bonded debt.

Metro has no service agreements with local governments that would be relative to district annexation in general or to this particular site.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Council concluded:

1. Oregon Revised Statutes 198 requires the Council to consider the local comprehensive plan when deciding a boundary change. The Council has reviewed the applicable comprehensive plan which is the Hillsboro Comprehensive Plan and finds that it contains no directly applicable criteria for making district boundary change decisions.

2. Oregon Revised Statutes 198 also requires consideration of "any service agreement executed between a local government and the affected district." As noted in Finding No. 6 the no Urban Service Agreement is in effect for this area.

3. Metro Code 3.09.070 (e) (1) establishes inclusion of the territory within the Urban Growth Boundary as one criterion for any annexation subject to the Metro rules. The Council has made such a determination as noted in Finding No. 5. Therefore the Council finds this proposed annexation to be consistent with that criterion.

4. The final criterion to be considered under the Metro Code 3.09.120 (e) (2) is “The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services.” As noted in Finding 6 the territory has been annexed to Hillsboro and as stated in Finding 7 the City has necessary urban services available. The Council concludes this criterion is met.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 08-1199 FOR THE PURPOSE OF ANNEXING LANDS ON THE EAST SIDE OF NW HELVETIA RD. SOUTH OF WEST UNION RD. AND NORTH OF JACOBSON RD. TO THE METRO JURISDICTIONAL BOUNDARY

Date: August 28, 2008 Prepared by: Ken Martin, Annexation Staff

SECTION I: APPLICATION SUMMARY

CASE:	AN-0208, Annexation To Metro Jurisdictional Boundary
APPLICANT:	Owners of 100% Land Area of Three Properties
PROPOSAL:	The petitioners are requesting annexation to the Metro boundary following the Metro Council's addition of the property to the Urban Growth Boundary and the subsequent annexation of the property to the city of Hillsboro on June 17, 2008.
LOCATION:	The territory is located on the north edge of the District on the east side of NW Helvetia Rd. north of NW Jacobson Rd. and south of West Union Road. (See Figure 1).
PLAN/ZONING	City of Hillsboro HSID – Helvetia Area Special Industrial District.
APPLICABLE REVIEW CRITERIA:	ORS Chapter 198, Metro Code 3.09

SECTION II: STAFF RECOMMENDATION

Staff recommends adoption of Ordinance No. 08-1199 approving Boundary Change Proposal No. AN-0208, annexation to Metro.

SECTION III: BACKGROUND INFORMATION

Initiation: Proposal No. AN-0208 was initiated by a consent petition of the property owners and registered voters. The petition meets the requirement for initiation set forth in ORS 198.855 (3) (double majority annexation law), ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040 (a) (which lists minimum requirements for petition).

Site Information: The territory is located on the west edge of the District on the east side of NW Helvetia Rd. north of NW Jacobson Rd. and south of West Union Road. The territory contains 99.41 acres and 2 single family dwellings, two commercial structures and is valued at $255,630.

REASON FOR ANNEXATION

The annexation is being sought to continue the process which will lead to development of the property. The property has been included in the Urban Growth Boundary and annexed to the City of Hillsboro. The City developed the Concept Plan for the area (Helvetia Area Industrial Plan) and adopted it on February 5, 2008. The Metro Functional Plan requires that the entity responsible for the Concept Plan make annexation to the Metro jurisdictional boundary a requirement of the Plan. This annexation will meet that requirement.

CRITERIA

Oregon Revised Statute 198.850 (2) directs the Council to consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.

A second set of criteria can be found in Chapter 3.09 of the Metro Code. That Code states:

> (e) The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions that demonstrate:
>
> 1. The affected territory lies within the UGB;
> 2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services; and
> 3. The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS chapter 195.

Additionally Metro Code 3.09.050 (b) requires issuance of a report that addresses:

(1) The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
(2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
(3) The proposed effective date of the boundary change."

LAND USE PLANNING

SITE CHARACTERISTICS

Tax Lot 300 abutting West Union Road slopes gradually to the south. The other properties adjacent to NW Jacobson Rd., slope towards the north west and contain agricultural fields.

To the south (across NW Jacobson) lies an industrial subdivision. To the east, inside the Urban Growth Boundary (UGB), is farmland. To the north and west, outside the UGB, lies farmland.

REGIONAL PLANNING

This territory abuts the Metro jurisdictional boundary on the south and east.

Regional Framework Plan

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall " . . . *ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS 195."* ORS 197.015 says "Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components." The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Plan and the Regional Transportation Plan.

The Urban Growth Management Functional Plan contains only one provision in its Title 11 component which speaks to annexations and prescribes a directly applicable standard or criterion for an annexation boundary change. Title 11, Section 3.07.1110.A, Interim Protection of Areas Brought into the Urban Growth Boundary, concerns "annexations" of land added to the UGB. It requires local comprehensive plan amendments for land added to the UGB to include "provisions for annexation to the (Metro) district and to a city or any necessary service district prior to urbanization of the territory . . . to provide all required urban services". By its terms, this Title 11 provision requires local comprehensive plans to assure the provision of adequate public facilities and services to land added to the UGB. This is to be accomplished through annexation of such lands to the Metro District, the affected city and/or any special service district responsible for providing such facilities and services to the land prior to its urban development. The land has been annexed to a City which can provide adequate urban services.

The Regional Transportation Plan was examined and found not to contain any directly applicable standards and criteria for boundary changes.

Urban Growth Boundary Change

This area was added to the UGB by the Metro Council in 2004 (Metro Ordinance No. 04-1040B).

CITY PLANNING

The territory was annexed to the City of Hillsboro on June 17, 2008. The territory has been designated HSID – Helvetia Area Special Industrial District. Because this area was only recently added to the Regional Urban Growth Boundary it was not included Urban Service Agreement adopted pursuant to ORS 195.

FACILITIES AND SERVICES

Public Services. Water service is available from a Tualatin Valley Water district line in NW West Union Road 2000 feet west of the site. Sewer service is available from a City line along the western City limit line 1000 feet east of the site. The City has storm sewer lines adjacent in NW Jacobson Road and 2000 feet west in NW West Union Road. NW Helvetia Rd., West Union Rd. and Jacobson Road serve the site.

Metro Services. Metro provides a number of services on the regional level. Primary among these is regional land use planning and maintenance of the regional Urban Growth Boundary. Metro has provided this service to this site through the process of reviewing and approving the inclusion of this area in the UGB.

Metro provides some direct park service at what are basically regional park facilities and has an extensive green spaces acquisition program funded by the region's voters. Metro is responsible for solid waste disposal including the regional transfer stations and contracting for the ultimate disposal at Arlington. The District runs the Oregon Zoo and other regional facilities such as the Convention Center and the Performing Arts Center. These are all basically regional services provided for the benefit of and paid for by the residents within the region. These facilities are funded through service charges, excise taxes and other revenues including a small tax base for operating expenses at the Zoo and tax levies for bonded debt.

Metro has no service agreements with local governments that would be relative to district annexation in general or to this particular site.

SECTION IV: ANALYSIS/INFORMATION

1. **Known Opposition -** There is no known opposition to this annexation. No one has contacted staff on this matter despite extensive notification which included posting and publishing of notices and notices to surrounding property owners.
2. **Legal Antecedents -** This annexation is a follow-up to the UGB change passed by the Council as Ordinance 04-1040B. The annexation is being processed under provisions of ORS 198 and Metro Code 3.09.
3. **Anticipated Effects -** No significant effect is anticipated. The uses allowed on this site will be under the control of the City of Hillsboro and as anticipated by the Metro UGB expansion.
4. **Budget Impacts -** None

SECTION V: SUMMARY AND RECOMMENDATION

This petition seeks to annex approximately 99.41 acres of land into the Metro Jurisdictional boundary in order to provide for future industrial development within the City of Hillsboro. Based on the study above and the proposed Findings and Reasons For Decision found in Attachment A, the staff recommends that Proposed Annexation No. AN-0208 be ***approved***. This approval should be implemented by adoption of Ordinance No. 08-1199 (attached).

Ordinance No. 08-1199 Attachment 2
FINDINGS

Based on the study and the public hearing, the Council found:

1. The territory is located on the west edge of the District on the east side of NW Helvetia Rd. north of NW Jacobson Rd. and south of West Union Road. The territory contains 99.41 acres and 2 single family dwellings, two commercial structures and is valued at $255,630.

2. The annexation is being sought to continue the process which will lead to development of the property. The property has been included in the Urban Growth Boundary and annexed to the City of Hillsboro. The City developed the Concept Plan for the area (Helvetia Area Industrial Plan) and adopted it on February 5, 2008. The Metro Functional Plan requires that the entity responsible for the Concept Plan make annexation to the Metro jurisdictional boundary a requirement of the Plan. This annexation will meet that requirement.

3. Oregon Revised Statute 198.850 (2) directs the Council to consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.

   A second set of criteria can be found in Chapter 3.09 of the Metro Code. That Code states:

   > (e) The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions that demonstrate:
   >
   > 1. The affected territory lies within the UGB;
   > 2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services; and
   > 3. The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS chapter 195.

   Additionally Metro Code 3.09.050 (b) requires issuance of a report that addresses:

   > (1) The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
   > (2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
   > (3) The proposed effective date of the boundary change."

a. Tax Lot 300 abutting West Union Road slopes gradually to the south. The other properties adjacent to NW Jacobson Rd., slope towards the north west and contain agricultural fields.

   To the south (across NW Jacobson) lies an industrial subdivision. To the east, inside the Urban

Growth Boundary (UGB), is farmland. To the north and west, outside the UGB, lies farmland.

5. This territory abuts the Metro jurisdictional boundary on the south and east.

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall " . . . *ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS 195."* ORS 197.015 says "Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components." The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

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The Regional Transportation Plan was examined and found not to contain any directly applicable standards and criteria for boundary changes.

This area was added to the UGB by the Metro Council in 2004 (Metro Ordinance No. 04-1040B).

6. The territory was annexed to the City of Hillsboro on June 17, 2008. The territory has been designated HSID –Helvetia Area Special Industrial District. Because this area was only recently added to the Regional Urban Growth Boundary it was not included Urban Service Agreement adopted pursuant to ORS 195.

7. Water service is available from a Tualatin Valley Water district line in NW West Union Road 2000 feet west of the site. Sewer service is available from a City line along the western City limit line 1000 feet east of the site. The City has storm sewer lines adjacent in NW Jacobson Road and 2000 feet west in NW West Union Road. NW Helvetia Rd., West Union Rd. and Jacobson Road serve the site.

8. Metro provides a number of services on the regional level. Primary among these is regional land use planning and maintenance of the regional Urban Growth Boundary. Metro has provided this service to this site through the process of reviewing and approving the inclusion of this area in the UGB.

Metro provides some direct park service at what are basically regional park facilities and has an extensive green spaces acquisition program funded by the region's voters. Metro is responsible for solid waste disposal including the regional transfer stations and contracting for the ultimate disposal at Arlington. The District runs the Oregon Zoo and other regional facilities such as the Convention Center and the Performing Arts Center. These are all basically regional services provided for the benefit of and paid for by the residents within the region. These facilities are funded through service charges, excise taxes and other revenues including a small tax base for operating expenses at the Zoo and tax levies for bonded debt.

Metro has no service agreements with local governments that would be relative to district annexation in general or to this particular site.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Council concluded:

1. Oregon Revised Statutes 198 requires the Council to consider the local comprehensive plan when deciding a boundary change. The Council has reviewed the applicable comprehensive plan which is the Hillsboro Comprehensive Plan and finds that it contains no directly applicable criteria for making district boundary change decisions.

2. Oregon Revised Statutes 198 also requires consideration of "any service agreement executed between a local government and the affected district." As noted in Finding No. 6 the no Urban Service Agreement is in effect for this area.

3. Metro Code 3.09.070 (e) (1) establishes inclusion of the territory within the Urban Growth Boundary as one criterion for any annexation subject to the Metro rules. The Council has made such a determination as noted in Finding No. 5. Therefore the Council finds this proposed annexation to be consistent with that criterion.

4. The final criterion to be considered under the Metro Code 3.09.120 (e) (2) is "The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services." As noted in Finding 6 the territory has been annexed to Hillsboro and as stated in Finding 7 the City has necessary urban services available. The Council concludes this criterion is met.

AN-02-08

Attachment 2
Ordinance No. 08-1199

1N2W15 | **Annexation to Metro Boundary** | WASHINGTON COUNTY

METRO

Data Resource Center
600 NE Grand Ave
Portland, OR 97232-2736
(503) 797-1742
http://www.metro-region.org/drc

Metro Boundary
Areas to be annexed

Ken Martin Consulting
P.O. Box 29079
Portland, OR 97296-9079
(503) 222-0955

KMC

1:10,000

Agenda Item 6.2

Ordinance No. 1198, For the Purpose of Amending the Regional Solid Waste Management Plan, 2008-2018 Update, to include a Business Recycling Requirement.

Second Reading

Metro Council Meeting
Thursday, September 18, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE REGIONAL SOLID WASTE MANAGEMENT PLAN, 2008-2018 UPDATE, TO INCLUDE A BUSINESS RECYCLING REQUIREMENT	)))))	ORDINANCE NO. 08-1198 Introduced by Michael Jordan, Chief Operating Officer, with the concurrence of David Bragdon, Council President

WHEREAS, on July 24, 2008, the Metro Council adopted Ordinance No. 07-1162A, For the Purpose of Adopting the Regional Solid Waste Management Plan, 2008-2018 Update (RSWMP), which when it is effective on October 22, 2008, will provide the Portland metropolitan area with policy and program direction for the next decade;

WHEREAS, ORS Chapter 459 requires Metro to prepare a Waste Reduction Program for the region and to submit the Waste Reduction Program to the Oregon Department of Environmental Quality for approval;

WHEREAS, Metro has included the Waste Reduction Program in the RSWMP;

WHEREAS, the Waste Reduction Program identifies businesses as holding the greatest potential for increasing material recovery in the Metro region;

WHEREAS, the opportunity to recycle has been provided to businesses for a reasonable period of time and a significant increase in business recycling is necessary to assist the Metro region in achieving waste reduction goals, conserving natural resources, and reducing greenhouse gas emissions;

WHEREAS, a program that requires businesses to recycle is an economically feasible and practical alternative to assist the Metro region in achieving waste reduction goals; and

WHEREAS, the Metro Council hereby approves of the amendment to the RSWMP to add a Business Recycling Requirement; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

The RSWMP Chapter VI, “Plan implementation, compliance and revision,” section I, “Plan compliance and enforcement” is amended to include a Business Recycling Requirement, as set forth in the attached Exhibit A.

ADOPTED by the Metro Council this _______ day of _______________ 2008.

David Bragdon, Council President

Attest:

Christina Billington, Recording Secretary

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Exhibit A
Amendment to the Regional Solid Waste Management Plan 2008-2018, Chapter VI, Section I

The provisions of amended Section I, "Plan compliance and enforcement," located on pages 48 to 49 of the Regional Solid Waste Management Plan, are amended to include the text below.

<u>Revisions to Section I., Plan compliance and enforcement (*shown in track changes*):</u>

While the success of the Plan depends primarily on maintaining cooperative working relationships among Metro, the DEQ, local governments and the private sector, in order to fulfill the recycling provisions set forth in state law and Chapter 5.10 of the Metro Code, the Plan also requires local governments:

1. Maintain recycling services that are consistent with the Regional Service Standard, or have a Metro-approved alternative program.
2. <u>Implement a Business Recycling Requirement</u>

~~Both the regional service standard and the alternative program review proces~~<u>These requirements</u> are described below.

<u>Addition of Section B., Compliance with the Business Recycling Requirement:</u>

In addition to the regional service standard, all jurisdictions in the region must comply with the Business Recycling Requirement. The purpose of the Business Recycling Requirement is to provide an opportunity for businesses to work with local governments to provide recycling education, to create a consistent standard throughout the Metro region, and to increase recycling, thereby assisting the Metro region in meeting recovery goals, conserving natural resources, and reducing greenhouse gas emissions. The elements of the Business Recycling Requirement are summarized below. More detailed information on the requirement is provided in Metro Code Chapter 5.10 and the related Administrative Procedures.

(1) **Local Government Implementation:** Local governments must adopt code language that complies with the following:

(a) Businesses shall source separate all recyclable paper, cardboard, glass and plastic bottles and jars, and aluminum and tin cans for reuse or recycling;

(b) Businesses and business recycling service customers shall ensure the provision of recycling containers for internal maintenance or work areas where recyclable materials may be collected, stored, or both; and

(c) Businesses and business recycling service customers shall post accurate signs where recyclable materials are collected, stored, or both that identify the materials that the business must source separate for reuse or recycling and that provide recycling instructions.

(2) **Business Exemptions:** Local governments may exempt a business from some or all of the Business Recycling Requirement as determined by designated local government staff.

(3) **Business Compliance:** Local governments shall establish a method for ensuring business compliance or enter into an intergovernmental agreement with Metro that provides for Metro to provide compliance services for the local government. Metro will provide compliance services to interested local governments through an intergovernmental agreement.

Metro will provide a model ordinance for use by local governments. Local governments will provide information related to program adoption, implementation and performance as outlined in the related Administrative Procedures. Those programs that appear out of compliance will be reviewed with the local jurisdiction and subject to enforcement procedures identified in Metro Code 5.10.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 08-1198, FOR THE PURPOSE OF AMENDING THE REGIONAL SOLID WASTE MANAGEMENT PLAN, 2008-2018 UPDATE, TO INCLUDE A BUSINESS RECYCLING REQUIREMENT

Date: August 18, 2008 Prepared by: Marta McGuire

BACKGROUND

Ordinance No. 08-1198 provides revisions to Chapter VI of the Regional Solid Waste Management Plan 2008-2018 to incorporate the Business Recycling Requirement (Ordinance No. 08-1200).

The Metro Council will consider adoption of the Business Recycling Requirement in Ordinance No. 08-1200. The staff report related to this ordinance provides the history and purpose of the Business Recycling Requirement.

The 2008-2018 Regional Solid Waste Management Plan (RSWMP or Plan) provides policy and program direction to the region's solid waste system for ten years and satisfies state requirements for a waste reduction program. Issues addressed in the Plan are resource conservation, toxicity reduction, sustainable operations and disposal system decisions.

The RSWMP is intended to guide all jurisdictions in the region, but some Plan content relates directly to decisions that will or may be made by Metro policy makers and staff. Over the past several years, Metro Council and regional stakeholders have been weighing the effectiveness of regulatory versus voluntary approaches to divert more highly recyclable materials from disposal in an effort to reach the region's waste reduction goal. Chapter II of the updated Plan identifies required business recycling as a program necessary to reach the region's 64 percent waste reduction goal. The adoption of the Business Recycling Requirement ordinance will implement this recommendation.

The Plan contains requirements that are binding on local governments as well as recommendations that are not binding. Chapter VI addresses the required elements of the Plan, and how the Plan's programs are implemented. The Business Recycling Requirement will be a required element of the Plan and must be enforceable to satisfy state law. Revisions to Chapter VI incorporate the compliance details of the Business Recycling Requirement. More detailed information on the Business Recycling Requirement will be provided in Metro Code Chapter 5.10 and the related Administrative Procedures.

INFORMATION/ANALYSIS

1. Known Opposition:

- The Wilsonville Chamber of Commerce adopted a resolution in opposition to the Business Recycling Requirement. The resolution cites that sufficient progress has been made on the statewide level and that emphasis should be placed on prevention, reuse and aggressive educational outreach efforts by local governments.

- At the July 2008 MPAC meeting, the representatives from Washington County, Lake Oswego and Oregon City voted against recommending adoption of the Business Recycling Requirement. Members of the Washington County Board of Commissioners have stated that adoption of the ordinance is beyond Metro's authority and impinges on local control of garbage collection.

2. **Legal Antecedents:** Ordinance No. 07-1162A, (For the Purpose of Adopting the Regional Solid Waste Management Plan, 2008-2018 Update), adopted July 2008; Ordinance No. 08-1183A, (For the Purpose of Amending the Metro Code Title V, Solid Waste, to Add, Chapter 5.10, Regional Solid Waste Management Plan, to Implement the Requirements of the 200-2018 Regional Solid Waste Management Plan), adopted July 2008; Metro Charter; Metro Code Title V Solid Waste; and ORS Chapters 268 and 459.

3. Anticipated Effects: Adoption of the Plan amendment will make the Business Recycling Requirement a required element of the RSWMP.

4. Budget Impacts: The Business Recycling Requirement calls for additional funding for expanded education, compliance and program evaluation. See staff report for the Business Recycling Requirement (Ordinance No. 08-1200).

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Ordinance No. 08-1198.

Agenda Item Number 6.3

Ordinance No. 08-1200, For the Purpose of Amending Metro Code Chapter 5.10, Regional Solid Waste Management Plan, by Adding Provisions to Implement the Business Recycling Requirement.

Second Reading

Metro Council Meeting
Thursday, September 18, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.10, REGIONAL SOLID WASTE MANAGEMENT PLAN, BY ADDING PROVISIONS TO IMPLEMENT THE BUSINESS RECYCLING REQUIREMENT	)))))	ORDINANCE NO. 08-1200 Introduced by Michael Jordan, Chief Operating Officer, with the concurrence of David Bragdon, Council President

WHEREAS, on July 24, 2008, the Metro Council adopted Ordinance No. 07-1162A, For the Purpose of Adopting the Regional Solid Waste Management Plan, 2008-2018 Update (RSWMP), which when it is effective on October 22, 2008, will provide the Portland metropolitan area with policy and program direction for the next decade;

WHEREAS, on July 24, 2008, the Metro Council adopted Ordinance No. 08-1183A, For the Purpose of Amending Metro Code Title V, Solid Waste, to Add Chapter 5.10, Regional Solid Waste Management Plan, to Implement the Requirements of the 2008-2018 Regional Solid Waste Management Plan, which will take effect on October 22, 2008;

WHEREAS, ORS Chapter 459 requires Metro to prepare a Waste Reduction Program for the region and to submit the Waste Reduction Program to the Oregon Department of Environmental Quality for approval;

WHEREAS, Metro has included the Waste Reduction Program in the RSWMP;

WHEREAS, Metro identifies the specific enforceable components of the Waste Reduction Program through changes to the Metro Code;

WHEREAS, the Metro Council adopted Ordinance No. 08-1198, For the Purpose of Amending the Regional Solid Waste Management Plan, 2008-2018 Update, to Include a Business Recycling Requirement, thereby identifying the Business Recycling Requirement as an enforceable component of the Waste Reduction Program; and

WHEREAS, the Metro Council hereby approves of the amendments to Metro Code Chapter 5.10 Regional Solid Waste Management Plan, attached hereto as Exhibit A, made pursuant to the RSWMP to implement the Business Recycling Requirement; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Metro Code Chapter 5.10, is amended as set forth in the attached Exhibit A.

ADOPTED by the Metro Council this _______ day of _______________ 2008.

____
David Bragdon, Council President

Attest:

____
Christina Billington, Recording Secretary

Approved as to Form:

____
Daniel B. Cooper, Metro Attorney

Exhibit A
Metro Code Chapter 5.10 Amendments

5.10.010 Definitions

For the purpose of this chapter the following terms shall have the meaning set forth below:

(a) “Alternative Program” means a solid waste management service proposed by a local government that differs from the service required under Section 5.10.230.

(b) “Business” means any entity of one or more persons, corporate or otherwise, engaged in commercial, professional, charitable, political, industrial, educational, or other activity that is non-residential in nature, including public bodies and excluding businesses whose primary office is located in a residence.

(c) “Business Recycling Service Customer” means a person who enters into a service agreement with a waste hauler or recycler for business recycling services.

(~~b~~d) "Compliance" and "comply" shall have the meaning given to "substantial compliance" in this Section.

(~~c~~e) “Compost” shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(~~d~~f) “DEQ” shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(~~e~~g) “Director” means the Director of Metro’s Solid Waste and Recycling Department.

(~~f~~h) "Local Government" means any city or county that is within Metro’s jurisdiction, including the unincorporated areas of Clackamas, Multnomah, and Washington Counties.

(~~g~~i) “Local Government Action” means adoption of any ordinance, order, regulation, contract, or program affecting solid waste management.

(j) “Person” shall have the meaning assigned thereto in Metro Code Section 1.01.040.

(k) “Recyclable Material” shall have the meaning assigned thereto in Metro Code Section 5.01.010

(l) “Recycle” or “Recycling” shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(m) "Residence" means the place where a person lives.

(~~h~~n) "RSWMP" means the Regional Solid Waste Management Plan adopted by the Metro Council and approved by the DEQ.

(~~i~~o) "RSWMP Requirement" means the portions of the RSWMP that are binding on local governments as set forth and implemented in this chapter.

(~~j~~p) "Standard Recyclable Materials" means newspaper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, aluminum, container glass, high-grade office paper, tin/steel cans, yard debris, mixed scrap paper, milk cartons, plastic containers, milk jugs, phone books, magazines, and empty aerosol cans.

(q) "Source Separate" or Source Separated" or "Source Separation" shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(~~k~~r) "Substantial compliance" means local government actions, on the whole, conform to the purposes of the performance standards in this chapter and any failure to meet individual performance standard requirements is technical or minor in nature.

(~~l~~s) "Waste" shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(~~m~~t) "Waste Reduction Hierarchy" means first, reduce the amount of solid waste generated; second, reuse material for its originally intended purpose; third, recycle or compost material that cannot be reduced or reused; fourth, recover energy from material that cannot be reduced, reused, recycled or composted so long as the energy recovery facility preserves the quality of air, water and land resources; and fifth, landfill solid waste that cannot be reduced, reused, recycled, composted or from which energy cannot be recovered.

(~~n~~u) "Waste Reduction Program" means the Waste Reduction Program required by ORS 459.055(2)(a), adopted by the Metro Council as part of the RSWMP, and accepted and approved by the DEQ as part of the RSWMP.

(~~o~~v) "Yard Debris" shall have the meaning assigned thereto in Metro Code Section 5.01.010.

Business Recycling Requirement

5.10.310 Purpose and Intent

The Business Recycling Requirement provides an opportunity for businesses to work with local governments to provide recycling education, to create a consistent standard throughout the Metro region, and to increase recycling. A significant increase in business recycling will assist the Metro region in achieving waste reduction goals.

5.10.320 Implementation Alternatives for Local Governments

(a) By February 27, 2009, local governments shall comply with this title by implementing the Business Recycling Requirement as follows:

(1) (a) Adopt the Business Recycling Requirement Model Ordinance; or

(b) Demonstrate that existing local government ordinances comply with the performance standard in Section 5.10.330 and the intent of this title; and

(2) (a) Establish compliance with the Business Recycling Requirement Model Ordinance or local government ordinance; or

(b) Enter into an intergovernmental agreement with Metro that provides for Metro to establish compliance for the local government.

(b) The local government shall provide information related to the local government's implementation of the Business Recycling Requirement at the Director's request or as required by the administrative procedures.

5.10.330 Business Recycling Requirement Performance Standard

(a) The following shall constitute the Business Recycling Requirement performance standard:

(1) Businesses shall source separate all recyclable paper, cardboard, glass and plastic bottles and jars, and aluminum and tin cans for reuse or recycling;

(2) Businesses and Business Recycling Service Customers shall ensure the provision of recycling containers for internal maintenance or work areas where recyclable materials may be collected, stored, or both; and

(3) Businesses and Business Recycling Service Customers shall post accurate signs where recyclable materials are collected, stored, or both that identify the materials that the Business must source separate for reuse or recycling and that provide recycling instructions.

(b) Local governments shall establish a method for ensuring compliance with the Business Recycling Requirement.

(c) Local governments may exempt a Business from some or all of the Business Recycling Requirement if:

(1) The Business provides access to the local government for a site visit; and

(2) The local government determines during the site visit that the Business cannot comply with the Business Recycling Requirement.

5.10.340 Metro Enforcement of Business Recycling Requirement

Upon a request by a local government under Section 5.10.320 to enter into an intergovernmental agreement, Metro shall perform the local government function to ensure compliance with the Business Recycling Requirement as follows:

(a) Provide written notice to a Business or Business Recycling Service Customer that does not comply with the recycling requirement. The notice of noncompliance shall describe the violation, provide an opportunity to cure the violation within the time specified in the notice, and offer assistance with compliance.

(b) Issue a citation to a Business or Business Recycling Service Customer that does not cure a violation within the time specified in the notice of noncompliance. The citation shall provide an additional opportunity to cure the violation within the time specified in the citation and shall notify the Business or Business Recycling Service Customer that it may be subject to a fine.

(c) Assess a fine to a Business or Business Recycling Service Customer that does not cure a violation within the time specified in the citation. The notice of assessment of fine shall include the information required by Metro Code Section 5.09.090. Metro shall serve the notice personally or by registered or certified mail. A Business or Business Recycling Service Customer may contest an assessment by following the procedures set forth in Metro Code Section 5.09.130 and 5.09.150.

5.10.350 Metro Model Ordinance Required

Metro shall adopt a Business Recycling Requirement Model Ordinance that includes a compliance element. The Model Ordinance shall represent one method of complying with the Business Recycling Requirement. The Model Ordinance shall be advisory and local governments are not required to adopt the Model Ordinance, or any part thereof, to comply. Local governments that adopt the Model Ordinance in its entirety shall be deemed to have complied with the Business Recycling Requirement.

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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 08-1200, FOR THE PURPOSE OF AMENDING METRO CODE TITLE V, SOLID WASTE, TO IMPLEMENT THE BUSINESS RECYCLING REQUIREMENT OF THE 2008-2018 REGIONAL SOLID WASTE MANAGEMENT PLAN

Date: August 18, 2008 Prepared by: Marta McGuire

PURPOSE

The Metro Council's approval of this Ordinance would amend Metro Code to implement the Business Recycling Requirement of the 2008-2018 Regional Solid Waste Management Plan (Ordinance No. 08-1198).

BACKGROUND

For two decades, the Metro region has primarily used the "opportunity" model for recycling in the business sector. Under this model, local governments ensured that haulers would provide recycling collection services to their commercial customers, but did not require those customers to recycle. [1] Metro and local governments provided educational materials and technical assistance to businesses to help them recycle. Over the past eight years, Metro and local governments supported the opportunity model by spending more than $3.5 million to encourage more business recycling by providing free education and technical assistance through the Recycle At Work program.

Clear progress has been made as a result of these efforts, but businesses still dispose of more than 100,000 tons of recyclable paper and containers annually. After Council discussions, public outreach, and research and analysis, staff developed two program options for boosting business recycling: 1) Voluntary Business Recycling Standards; and 2) Required Business Recycling.

In November 2007, after reviewing the costs and benefits of potential approaches and input from Metro's Policy Advisory Committee (MPAC) and the Metro Solid Waste Advisory Committee (SWAC), Metro Council directed staff to develop a required business recycling program for formal consideration. The proposed program, Business Recycling Requirements (BRR), would require local governments to require businesses to recycle all types of recyclable paper and certain containers such as plastic bottles, aluminum cans and glass (see Exhibit A to Ordinance No. 08-1200).

Metro councilors and staff met with local business associations and elected officials to explain the proposal (see Attachment 1, Stakeholder Feedback Summary). Between February and August 2008, more than 300 business representatives and elected officials participated in the meetings. Overall, participants indicated that education and incentives are the best way to encourage businesses to recycle, but that requirements may be needed to make recycling a priority.

The proposed BRR Ordinance was presented to SWAC and MPAC in June and July 2008. SWAC recommended approval of the ordinance by a 9-7 vote, with two abstentions. MPAC recommended approval of the ordinance by a 10-3 vote. Those in favor believed that the program is a step in the right direction and that compliance would not be difficult. Those opposed would prefer more education and were concerned with required programs in general.

[1] The City of Portland enacted recycling requirements for businesses in 1996.

Feedback from the stakeholder outreach and advisory committees has been incorporated into the BRR Ordinance. The major provisions of the ordinance are as follows:

- Local governments must adopt code language to implement the Business Recycling Requirement by February 27, 2009.

- The requirement specifies that businesses shall ensure the provision of containers for recycling; post signs and instructions on how to recycle; and recycle paper and certain containers such as plastic bottles, aluminum cans and glass.

- Local governments will be responsible for establishing a method to ensure business compliance with the recycling requirement, or enter into an intergovernmental agreement with Metro to perform the compliance duties on their behalf.

- Local governments may provide exemptions to businesses for circumstances beyond their control.

SUMMARY OF BUSINESS RECYCLING REQUIREMENTS CODE LANGUAGE
Following is a summary of the proposed code provisions to implement the Business Recycling Requirement:

5.10.010 Definitions: This section contains definitions specific to Chapter 5.10.

5.10.310 Purpose and Intent: This section provides the background on the purpose of the requirement.

5.10.320 Implementation Alternatives for Local Governments: This section contains the implementation options of the Business Recycling Requirement for local governments, including adopting code language to implement the requirement or demonstrating their existing code complies.

5.10.330 Business Recycling Requirement Performance Standard: This section outlines the performance standard of the business recycling requirement, including the recycling requirement, compliance element and exemptions provision.

5.10.340 Metro Enforcement of the Business Recycling Requirement: This section contains the Metro compliance program and procedures if a local government opts to have Metro perform enforcement of the requirement on its behalf.

5.10.350 Metro Model Ordinance Required: This section recognizes the Business Recycling Requirement model ordinance as one method of complying with the requirement.

ANALYSIS/INFORMATION

1. Known Opposition:

- The Wilsonville Chamber of Commerce adopted a resolution in opposition to the Business Recycling Requirement. The resolution cites that sufficient progress has been made on the statewide level and that emphasis should be placed on prevention, reuse and aggressive educational outreach efforts by local governments.

- At the July 2008 MPAC meeting, the representatives from Washington County, Lake Oswego and Oregon City voted against recommending the ordinance. Members of the Washington County Board of Commissioners have stated that adoption of the ordinance is beyond Metro's authority and impinges on local control of garbage collection.

2. Legal Antecedents:

Ordinance No. 07-1162A, (For the Purpose of Adopting the Regional Solid Waste Management Plan, 2008-2018 Update), adopted July 2008; Ordinance No. 08-1183A, (For the Purpose of Amending the Metro Code Title V, Solid Waste, to Add, Chapter 5.10, Regional Solid Waste Management Plan, to Implement the Requirements of the 2008-2018 Regional Solid Waste Management Plan), adopted July 2008; Metro Charter; Metro Code Title V Solid Waste; and ORS Chapters 268 and 459.

3. Anticipated Effects:

In July 2007, staff presented Metro Council with a white paper on required business recycling and an alternative program (see Attachment 2). This section presents highlights from the white paper and reviews the anticipated effects of the proposed Business Recycling Requirement on business operations, local governments, recycling commodity markets and the environment.

Generator Effects

The City of Portland's experience with required business recycling requirements, adopted in 1996, indicates that increased business recycling would have a minimal impact on day-to-day business operations. The impact would range, based on a business' current operations and recycling programs. For most businesses, the program would require employees to recycle additional items in existing recycling containers. For other businesses, the program may require businesses to change their level of garbage service and acquire additional recycling containers.

Generator garbage rates should not be impacted significantly. Franchised garbage rates include recycling services and are structured to encourage recycling, with different levels of services based on container size. Businesses that recycle more could save money by reducing garbage container size or collection frequency.

Local Government Effects

Local governments responsible for local waste reduction planning and education have been major stakeholders in identifying and evaluating program options since discussions began in 2003. Metro has informed local solid waste management staff of the resources that would be involved in implementing the Business Recycling Requirements. Elected officials have been informed through presentations to local councils and boards, and through the MPAC and SWAC discussion.

The program requires a one-time demand on local government staff and elected officials to adopt the ordinance. Additional staff time will be required for education, compliance and reporting. Recycle at Work education and technical assistance services will continue to be provided to the business community by those jurisdictions currently receiving direct program funding from Metro. If the Business Recycling Requirements and accompanying local ordinances are enacted, total Metro funding to support these services will equal $1 million in fiscal year 2008-09.

Local Market Effects

Given the strength of domestic and international demand for recyclable materials, and the range of marketing options, the long-term indicators for successful marketing of business-generated paper and containers are positive.

<u>Paper:</u> There are six paper mills located in Oregon that have the combined capacity to produce 10.5 million pounds of recycled-content newsprint, corrugated cardboard, and toilet and facial tissue a day. The paper mills in Oregon can use more paper from the Portland metropolitan region to produce new products. The newspaper, corrugated cardboard, magazines and office paper collected for recycling in the

Metro region provide less than 11 percent of the mills' total paper mill requirements; the rest of the paper must be shipped in from outside the region.[2]

Plastics: There is a demand of 5.5 million pounds per month for mixed rigid plastic and commingled bottles and containers from buyers that purchase material from Oregon.[3] The business sector in the Metro region generated 9,000 tons of plastic containers in 2005, while recycling only 24 percent.

Glass: Approximately 64,000 tons of glass are purchased annually in Oregon, but the capacity exists to purchase more.[4] Oregon's main glass recycling facility, the Owens-Brockway plant in Portland, manufactures new glass products using local materials. Excess or unsorted glass is shipped to glass plants in California and other states.[5] Plants in Seattle and in California have the potential to use additional container glass from Oregon. Recycled glass products include bottles, containers, fiberglass insulation, aggregate substitute, reflective highway paint and sandblasting material.

Metals: Global demand for recycled metals continues to increase. The Steel Recycling Institute notes that the recycling rate for steel increased to 75.7 percent in the United States in 2005, the highest rate for any material.[6]

Environmental Effects

The Business Recycling Requirements will result in an estimated 80,000 tons of new recovery of paper and containers each year. This newly recovered material will serve as manufacturing feedstock in most instances and supply local mills. As shown in Table 1, the recyclable paper and containers diverted from landfill disposal and recovered will result in a reduction in greenhouse gases, energy consumption and natural resource savings.

Table 1. Environmental Effects of Business Recycling Requirements*

Action	Quantity	Equivalent to…
Reduce greenhouse gases by	218,000 MTCE (Metric tons of carbon equivalent)	Keeping 42,000 cars off the road for a year
Reduce energy consumption by	1.3 trillion BTU (British thermal units)	The energy used by 15,000 average households during a year
Reduce tree extraction	80,000 tons	1.2 million trees a year

*These benefits are projected by the National Recycling Coalition Environmental Benefits Calculator.

The net economic value of the environmental benefits of the Business Recycling Requirement is estimated to be $10.22 million for 80,000 tons of new recovery. The largest factor contributing to the environmental benefits is the reduction of 218,000 tons of greenhouse gas emissions (valued at $36 per ton of carbon dioxide equivalent). Many of the environmental benefits would be shared beyond Metro's jurisdictional boundary and extend to communities where recycled commodities are remanufactured into products.

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[2] Andover International Associates, Market Opportunities for Additional Tonnage of Scrap Paper from Businesses in the Metro Region, June 2003.
[3] Moore & Associates, Inc., Feasibility of Adding Plastic Containers and Film to Curbside Recycling, prepared for Metro, November 2005.
[4] Hammond, Steve, Owens Illinois Glass Market Report, Association of Oregon Recyclers, April 2006.
[5] Oregon Department of Environmental Quality, Container Glass Recycling, 1998. http://www.deq.state.or.us/wmc/solwaste/glass.html
[6] Steel Recycling Institute, Steel Recycling in the U.S. Continues its Record Pace in 2005, April 25, 2006. http://www.recycle-steel.org/PDFs/2005Release.pdf

4. Budget/Fiscal Impacts:

In November 2007, staff presented a detailed cost-analysis to the Metro Council on the proposed program as a follow-up to the white paper (see Attachment 3). This section highlights the main budget and fiscal impacts and provides a cost comparison to other programs.

Budget Impact

Budget Item		Cost
FY 08-09	Local government assistance	$400,000 (annual)
FY 10-11	Program evaluation	$75,000

The program includes an annual increase of $400,000 to support local government implementation of the expanded education and compliance components of the Business Recycling Requirements. The additional funds are included in the FY 08-09 budget and will be distributed to local governments based on the number of employees in the jurisdictions that adopt the ordinance. The program includes an option to local governments to enter into an agreement with Metro to perform the compliance duties on their behalf. If the demand for assistance exceeds current staff work load, additional Regulatory Affairs staff may need to be budgeted in future fiscal years. An evaluation to measure the program's progress is proposed for FY 10-11 at a cost of $75,000. Future evaluations may occur on a two-year schedule, depending on the program performance.

Fiscal Impact

The diversion of 80,000 tons of recyclables, as a result of this program, is projected to increase the unit (per-ton) cost of disposal across the region by about $2.56 per ton[7], as summarized below (see Attachment 3 for a full analysis).

Some unit cost impacts occur because there is less waste overall from which to collect regional disposal charges (e.g., the Regional System Fee). Such universal effects occur anytime waste is diverted from disposal to recycling. A projected 96¢ increase in the Regional System Fee would be an example of this type of effect.

Other unit cost increases result from shifts of tonnage away from specific disposal facilities, such as Metro's two transfer stations, or from tonnage shifts that impact contractual payment terms between two parties. The agreements between Metro and Waste Management for disposal at Columbia Ridge Landfill, and between Metro and Allied/BFI to operate Metro South and Central are examples of the latter. An increase of $1.25 per ton is expected due to these facility-specific or contract-specific effects.

The remaining 36¢ per ton increase stems from recovery through the Regional System Fee of the $475,000 of program-specific costs noted above.

Summary of Unit (per-ton) Cost Impacts

Universal impacts	$ 0.96	
Facility- and contract-specific	$ 1.25	
Budgeted program costs	$ 0.36	
TOTAL:	*$ 2.57*	*per ton*

[7] Cost projections have been updated from the 2007 cost analysis to reflect the current Regional System Fee rates and the revised program design.

Cost Per Ton and Program Comparison

The per-ton program costs of Business Recycling Requirement (BRR) compare favorably to existing waste reduction programs, such as Enhanced Dry Waste Recovery Program (EDWRP) and Regional System Fee credits (see Table 2) because of the relatively low cost of administration for the tons recovered and the collection, recycling and disposal system infrastructure is largely already in place to provide the needed services.

Table 2. Program Cost Impact Comparison*

	Tons Recovered	Equivalent cost per ton recovered
Existing Programs		
Bottle Bill	35,000	*$34*
Commercial Organics	12,000	*$48*
RSF Credits	30,000	*$52*
EDWRP	42,250	*$89*
Prospective Program		
Biz Recycling Require.	80,000	*$36*

*Full analysis and underlying assumptions are provided in Attachment 3.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance No. 08-1200.




Metro | *People places. Open spaces.*

Proposed Business Recycling Requirements
Stakeholder Feedback Summary
Updated: August 18, 2008

BACKGROUND

Businesses generate almost half of the region's garbage and each year dispose more than 100,000 tons paper and containers that could otherwise be recycled. Over the past eight years, Metro and its local government partners have invested $3.5 million to encourage more business recycling by providing free technical assistance. Now, Metro is considering mandatory recycling of paper and containers for all businesses in the region.

Metro explored options for increasing business recycling by convening public/private work groups and conducting stakeholder outreach from 2003 to 2007. More than 1,000 people provided advice on approaches for increasing business recycling.

The proposed program, Business Recycling Requirements, would make it mandatory for local businesses to recycle all types of paper and certain containers such as plastic bottles, aluminum cans and glass. If the Metro Council approves this proposal as currently drafted, all local governments in the region would be responsible for formally adopting these business recycling requirements by February 27, 2009.

STAKEHOLDER OUTREACH

In an effort to solicit input on the proposed program, Metro councilors and staff conducted meetings with local business associations and elected officials. Metro staff coordinated outreach efforts with the City of Portland, which was expanding its commercial recycling program at the same time.

Between February and August 2008, councilors and staff met with 14 business groups and seven elected councils and boards (Table 1). The outreach efforts were supported by article submissions in local chamber newsletters, a survey and a web page. The program also received coverage in the Oregonian and other local publications.

The outreach efforts attracted a wide array of business representatives from across the region. More than 300 business representatives and elected officials participated in the meetings, and 110 surveys were completed at the meetings and online.

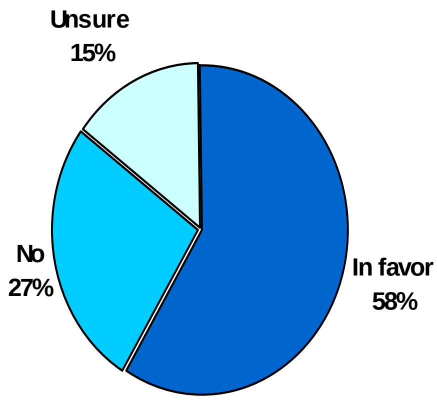
Table 1. Stakeholder Outreach Summary

Organization	Outreach Format	Date
Building Owners and Managers Association	Breakfast forum	Feb. 6
Wilsonville Chamber of Commerce Governmental Affairs Committee	Membership meeting	Feb. 6
Oregon Lodging Association Board Members	Special meeting	Feb. 13
Westside Economic Alliance	Membership meeting	Feb. 20
Lake Oswego Chamber Governmental Affairs Committee	Membership meeting	Feb. 21
Recycling Advocates	Membership meeting	Feb. 29
Clackamas County Board of Commissioners	Work session	Feb. 26
Gresham Chamber of Commerce Governmental Affairs Committee	Membership meeting	Feb. 28
Wood Village City Council	Work session	March 11
Oregon City Chamber of Commerce Economic Development Committee	Membership meeting	March 13
North Clackamas Chamber of Commerce	Membership meeting	March 17
Milwaukie City Council	Work session	March 18
Lake Oswego City Council	Work session	April 1
Hillsboro Chamber Public Policy Committee	Membership meeting	April 2
Wilsonville Chamber of Commerce	Lunch forum	April 9
Hillsboro City Council	Work session	April 15
Sustainable Business Network	Lunch forum	April 16
Forest Grove Chamber of Commerce	Lunch forum	May 19
Beaverton City Council	Work session	July 21
Beaverton Chamber of Commerce	Membership meeting	August 7
Multnomah County Board of Commissioners	Board meeting	August 7

KEY FINDINGS
Overall, participants agree that business recycling efforts can be improved. Both elected officials and business representatives expressed support for the overall objective of the program.

Although participants support increasing business recycling through expanded education and economic incentives, support for a regulatory approach varied. Some viewed a regulatory approach as a contingency strategy if economic incentives and education fail to increase participation, while others felt a mandate was necessary to make recycling a priority for businesses. This was reflected both in the meetings and in the survey responses. As shown in Figure 1, survey results show that 58 percent of the respondents support required recycling, while 27 percent did not and 15 percent were unsure (see Attachment A for full survey).

Figure 1. Business Support for Proposed Requirements



Source: Proposed Business Recycling Requirements Survey, Metro, August 2008.

Key items identified by the participants during the meeting discussions and in survey comments included:

- Recycling is a benefit to businesses. Practicing waste reduction attracts customers, and employees want to recycle.
- Education and economic incentives are the best way to encourage businesses to recycle. Some businesses, however, will not make it a priority unless it is mandatory.
- Education efforts should be tailored to the needs of businesses and should be directed at the owner, manager and employee level. Educational materials should also be available for multi-tenant businesses and janitorial companies. Recycling messages need to be simple and consistent across the region.
- Government regulation should be used only if education and economic incentives fail to increase participation.
- Regulations should be implemented gradually. Six months is a sufficient amount of time for businesses to improve their recycling programs to meet the requirements. Consider delaying fines until after the requirements have been in effect for one year.

NEXT STEPS

Metro Council is scheduled to review the proposed Business Recycling Requirements on September 11th and 18th. To learn more about the proposal, visit: www.oregonmetro.gov/businessrequirements. For free recycling assistance and resources for your workplace, visit www.RecycleAtWork.com or call (503) 234-3000.

Attachment A:
Proposed Business Recycling Requirements
Survey Response Summary

1. What type of business are you in?		
Answer Options	Response Percent	Response Count
Office-related such as financial, medical, or professional service	52.0%	53
Personal services such as hairdresser or plumber	2.0%	2
A retail store selling goods	2.9%	3
Restaurant, fast food, or grocery	4.9%	5
School, library, or educational institution	5.9%	6
Hotel or motel	0.0%	0
Hospital or medical clinic	8.8%	9
Manufacturer	2.9%	3
Wholesaling or warehousing business	2.9%	3
Government agency	5.9%	6
Non-profit organization	11.8%	12
	Other (please specify)	8
	answered question	102
	skipped question	8

2. What materials do you currently recycle?		
Answer Options	Response Percent	Response Count
Cardboard	90.7%	98
Office paper	92.6%	100
Newspaper	85.2%	92
Magazines, catalogs, phone books	81.5%	88
Plastic bottles	73.1%	79
Aluminum cans	78.7%	85
Steel cans	38.9%	42
Glass bottles	63.9%	69
	Other (please specify)	22
	answered question	108
	skipped question	2

3. Do you think businesses in the region should be required to recycle paper and containers?

Answer Options	Response Percent	Response Count
Yes	58.9%	63
No	27.1%	29
Unsure	14.0%	15
Comments: YES!; How could you enforce this? Unless you lock trash bins, anyone could throw recyclables in the trash.; Use public award notifications that businesses can post.; Make stronger voluntary program first.; But encourage them with incentives.; Education should do the trick.; What a shame it needs to be a requirement!; Reward system.; Yes, if voluntary compliance is tried with renewed vigor and it still doesn't work.; My company's recycling program is handled by someone other than me.; The mandatory aspect is concerning. Just an example of poor communications & partnerships.; I think they would recycling-I think they want to....I don't think a hard mandate is necessarily the best idea.; This is a hostile idea to businesses, not very measurable, & will have unintended consequences.; As long as the charge is nominal to get small business booked in. Education is also key.; I don't like the idea of mandating it, but I don't understand shy more businesses aren't recycling. It's so easy!; Absolutely NO mandatory recycling.; More could be done to teach recycling, should not be mandatory yet. How will code enforcement officers be paid?; Not sure if this will do anything other than cost us for what we already do. If you use a cleaning service, will you be fined if THEY dump recyclable bins into general trash? How to monitor?; I think there needs to be more specific info on the cost added with this service.		21
	answered question	107
	skipped question	3

4. Does six months provide adequate time for your business to get its recycling program in compliance with the proposed requirements?

Answer Options	Response Percent	Response Count
Yes	79.6%	82
No	6.8%	7
Unsure	13.6%	14
Comments: ▪ Already done ▪ Already doing it. ▪ Already recycling ▪ We already do it. ▪ No mandatory. ▪ I don't think that requiring recycling would be effective. Incentives and awareness of recycling programs would be much more effective.		6
	answered question	103
	skipped question	7

5. Has your waste hauler offered to provide your business with recycling services?

Answer Options	Response Percent	Response Count
Yes	52.0%	53
No	10.8%	11
Unsure	37.3%	38
Comments: ▪ Not a proactive ""ask"" from the waste haulers. ▪ Probably because we recycle a lot. ▪ Home-based. ▪ My apartment complex has recycling. ▪ We have a large mixed recycling bin but nothing for glass. ▪ Seasonal businesses, we don't currently have regular trash service.		6
	answered question	102
	skipped question	8

6. Are you aware of the free technical assistance and resources provided by the Recycle at Work program?

Answer Options	Response Percent	Response Count
Yes	52.9%	54
No	47.1%	48
	answered question	102
	skipped questio	8

7. Would you like a Recycling Specialist to follow up with your organization to provide free resources and assistance?

Answer Options	Response Percent	Response Count
Yes	21.3%	20
No	78.7%	74
	answered question	94
	skipped question	16

8. Do you have any questions you'd like us to answer for you regarding the proposed recycling requirements?

Answer Options	Response Percent	Response Count
Yes	9.8%	9
No	90.2%	83
Questions: ▪ RE: E-waste 1) get co's to reduce their waste, help my clients w/recycling resources (I'm a professional organizer). ▪ Don't feel that Metro should be requiring property owner to enforce recycling if tenant does own trash disposal service. ▪ Would Metro consider a partnership w/businesses to get out into schools & work w/recycling in schools & looking into ways that we can support each others efforts & educate ourselves? (This was clearer in my head than when I actually wrote it out!) ▪ Shred-It takes our paper recycling from our locations. Are they recycling this paper? ▪ I have a business that has no need to recycle. My biggest waste is the gas I burn. ▪ We haul our cardboard to local facility-office cleaning crew handles the rest. Hopefully "mandatory" won't give recycling a bad name. ▪ Is there a way to get schools set up with a composting program.		8
	answered question	92
	skipped question	18

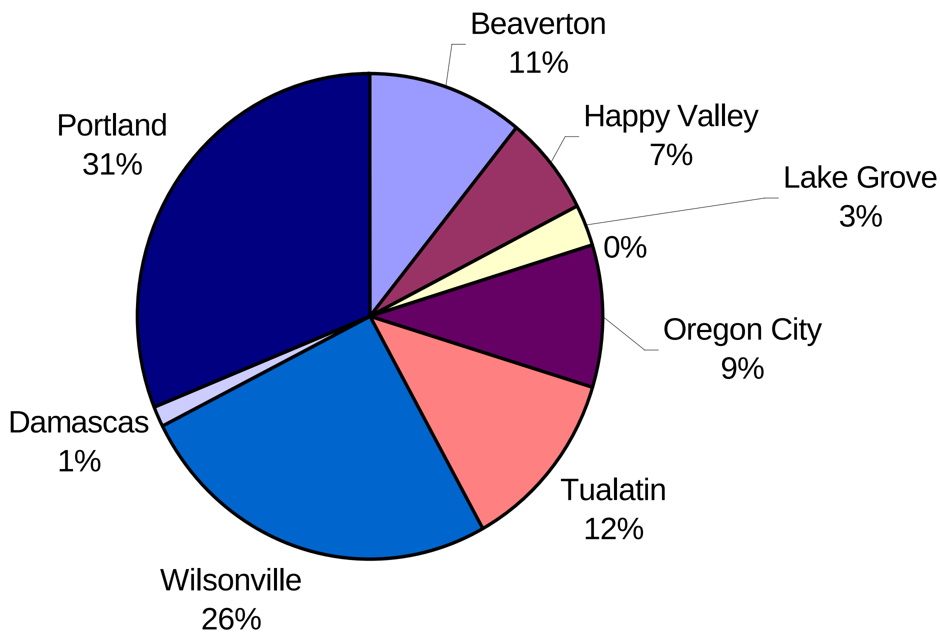
9. Please provide your contact information so we may follow up with your request for assistance and / or any questions you may have.

Answer Options	Response Percent	Response Count
Name	95.4%	62
Title	83.1%	54
Organization	90.8%	59
Phone	83.1%	54
Email Address	81.5%	53
	answered question	65
	skipped question	45

10. Please share any additional comments you may have regarding the proposed Business Recycling Requirements.

	Response Count
Comments: ▪ This program should be national! ▪ Businesses and individuals need to get moving and recycle some more. ▪ I think mandated recycling is important. Our company has only very recently started doing any recycling, and it only happened because myself & co-worker made it a priority. Before I was employed here, I didn't realize businesses that don't recycle still existed! People need to push. ▪ We have a RecycleWorks Award. Great work - keep it up! ▪ We should dialog with manufacturers and get them to make products that lend themselves toward being recycled (eg: cradle to cradle manufacturing). Thank you much. ▪ I am very much in favor of recycling but I don't think you should require recycling. Business has economic incentive to do so-it lowers the garbage bill. Education is the key-educate business, show how it is economically better to recycle & they'll do it. There is enough government regulation without a recycling requirement. If you require recycling-make it apply only to large businesses with over a certain # of employees or waste. ▪ Recycling Rocks! ▪ Let's find a way to help get education out there instead of a hard mandate (with financial consequences) on businesses....tenants only have so much control over their waste programs. ▪ Your target is arbitrary. ▪ As a chamber, we would be happy to partner with Metro to educate our businesses. ▪ I wasn't aware that shredded paper wasn't recyclable. ▪ #8, unless you have ideas on what else we might recycle. ▪ The answers I gave are primarily for our home. The guild is made up of individual artists and currently we have no location for recycling. ▪ I'm just a tenant in the executive suites, so I don't have a lot to do with recycling. ▪ You have not provided the regulations which are enforced on a business for this program. Please do not propose a program without complete regulations which will be enforced on a business. We are not interested on a proposal which does not give full information to the subject of your plan(a business).We are in Wahington County and we have Waste Management in Forest Grove. ▪ Perhaps a gradual/stepped method of charging fees. ▪ Need boxes for recycling & info on segregating shredded paper from other recyclables. ▪ No need to legislate. educate instead. ▪ Very glad to hear about the potential for Styrofoam. ▪ Is there an alternative recycle outside of Metro or can I have this in any color as long as I want black. ▪ Very interesting 1st-time info. I would think it's better to require education w/fines than recycling w/fines. ▪ Recycling is vital for our state and our world. However, I believe much more could be done to motivate before we have to regulate it. ▪ Why does glass have to be separate from paper & plastic? ▪ An interesting idea for businesses would be to provide shred-boxes at a competitive price that would be serviced by waste haulers... By the way, the new recycling containers provided by WM are great! ▪ Don't waste your money on this attempt to impose more regulation on business. ▪ Already working with someone on Recycle At Work. Thanks!	
answered question	28
skipped question	82

11. Survey Respondent by City



answered question 110

Options for Increasing Business Recycling White Paper

Updated: September 25, 2007

METRO
PEOPLE PLACES • OPEN SPACES

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Options for Increasing Business Recycling

SUMMARY

Strong collaboration among Metro, local governments and service providers has ensured an array of programs and services are available to encourage business recycling. Too many businesses, however, are under performing or not utilizing current services at all. Without a significant increase in business recycling, the region will be unable to meet the state-mandated 64 percent waste reduction goal.

Metro Council recognized this impediment in 2003, and directed staff to develop program options to increase business recycling. Two approaches Metro could take to achieve this significant boost in business recycling are: 1) require all local jurisdictions in the region to implement mandatory business recycling, as Portland has done; or 2) set a 90 percent standard for paper and container recycling from the business sector, and each of the region's jurisdictions responsible for solid waste collection would determine how to achieve the target.

INTRODUCTION

This paper describes the region's current business recycling system, and details two proposals to increase business performance and participation in recycling programs. Information contained in these pages should assist interested parties and policymakers in understanding the problem, the proposed program options, and the potential implications of the approaches.

PROBLEM STATEMENT

Businesses in this region have easy access to an effective recycling system. This system includes recycling services with garbage collection, free education and technical assistance, plenty of processing capacity for business recyclables, and stable material markets. While many businesses are participating in the recycling system, at least 14 percent do not recycle or only recycle cardboard. As a result, more than 114,000 tons of recyclable resources (paper and containers) from this sector are disposed annually.

The regional Recycle at Work program, which Metro began in partnership with local governments in 2000, provides a wide range of free resources and technical assistance to help businesses with recycling. Despite the services provided by Recycle at Work, some businesses still choose not to recycle or utilize the services. Lack of business entry for Recycle at Work specialists and information on businesses needing help with recycling are the major barriers to the delivery of Recycle at Work services. New programs are needed to overcome these barriers and improve business recycling efforts.

To help reach the state-mandated 64 percent regional waste reduction goal, businesses must recycle an additional 80,000 tons of paper and containers. This requires a 90 percent recycling rate for paper and containers, rather than the 80 percent paper and container recycling rate that exists today.

SUMMARY OF PROGRAM OPTIONS

To explore options for increasing business recycling, Metro convened work groups and conducted stakeholder outreach from 2003 to 2007. More than 1,000 people provided input on the proposed program options. Appendix A highlights the outreach activities conducted and associated reports developed to date.

Because Metro is accountable for the waste reduction goal, Metro Council will consider new policy direction to increase business recycling levels in the region. Two approaches Metro could take to achieve this significant boost in business recycling are:

Option #1: Mandatory Business Recycling Program- This program would require all local jurisdictions in the region to implement mandatory business recycling, as recommended by the Regional Solid Waste Management Plan Contingency Plan Work Group. Businesses would be required to separate paper and containers for recycling.

Option #2: Business Recycling Standards- This program would set a 90 percent standard for paper and container recycling from the business sector, applicable to each of the region's jurisdictions responsible for solid waste collection. Local governments would be responsible for developing new or enhanced programs to achieve a higher level of recovery. Each local government would be individually accountable to meet the target, similar to land-use planning requirements.

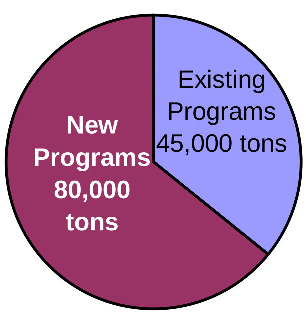
Both the proposed programs address the need to increase the capture of recyclables and increase the delivery of the Recycle at Work services.

CURRENT BUSINESS RECYCLING

Business Recovery

Businesses are currently recycling over 300,000 tons of paper and containers annually. In order to achieve the 64 percent waste reduction goal, the business sector must recycle an additional 125,000 tons of paper and containers by 2009. Existing business recycling programs are expected to yield 45,000 tons, while a new program must capture an additional 80,000 tons and meet a 90 percent recycling rate for business-generated paper and containers[1].

Figure 1. Additional Business Recovery Projected for 2009



[1] Source: Oregon Department of Environmental Quality, 2005 Recovery Survey, Oregon Department of Environmental Quality, 2005 Waste Composition Study, Metro program analysis (unpublished), 2007.

Recovery rates vary for business-generated paper and containers. Overall, the average recovery rate in 2005 was 76 percent for recyclable paper and 42 percent for recyclable containers. Cardboard and Kraft paper were recovered at a rate of 87 percent in 2005, while mixed waste paper was recovered at a rate of 27 percent (see Figure 2). Businesses in the region are recovering between 19 and 58 percent of recyclable containers generated; aluminum cans and foil are recovered at the lowest rate[2]. (See Figure 3.)

Figure 2. Business Paper Recovery and Disposal

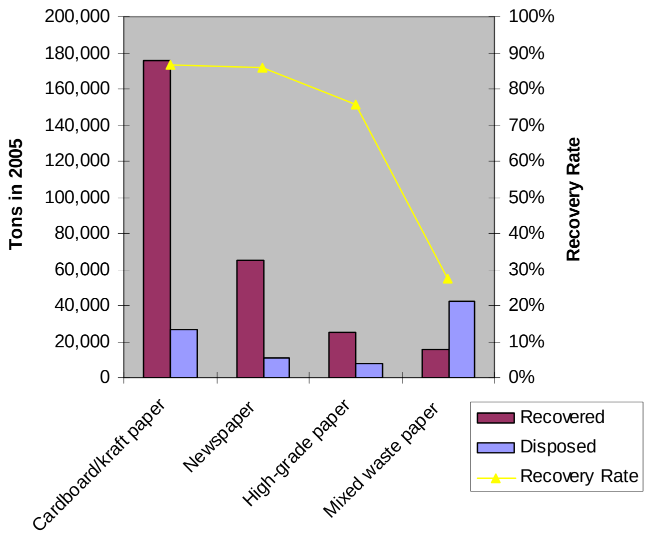
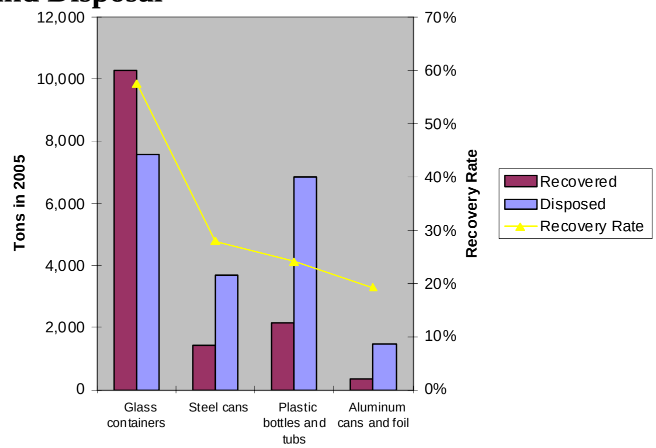


Figure 3. Business Container Recovery and Disposal



Current Programs

The region's business recycling program includes recycling services with garbage collection, free education and technical assistance, plenty of processing capacity for business recyclables, and stable material markets. However, many businesses are under performing and not utilizing current services. There are a number of perceived barriers to recycling by the business community including:

- Time
- Cost
- Lack of knowledge
- Convenience
- Employee communication
- Space
- Corporate norms and policies

In many instances, people are busy and recycling may not be a priority given time constraints at work. Some businesses are concerned that there will be increased costs associated with recycling. In franchised jurisdictions, recycling is included in the rates. With recycling, businesses have the potential to reduce overall collection cost with increased recycling and also have the potential for recyclables sale revenue. The lack of information on what is recyclable or how to train employees can also prevent a business from recycling as much as they can. Additionally, if is not convenient to

[2] Oregon Department of Environmental Quality, 2005 Recovery Survey, Oregon Department of Environmental Quality, 2005 Waste Composition Study, Metro program analysis (unpublished), 2007.

recycle, employees will often not take time out to make it happen. Businesses may also perceive they have container space constraints in their building that will prevent them from starting a program. Finally, businesses are not aware of how to best communicate recycling practices with their employees, janitorial staff, or property manager, which can be a perceived barrier to making a change.

Recycle at Work is a collaborative effort between Metro and local governments and was designed to address specific barriers to recycling by providing the following resources:

- Assisting with program set up through free on-site technical assistance catered to the specific business' needs.
- Ensuring recycling bins are in convenient location.
- Identifying solutions to space constraints.
- Assisting with communication to employees including training, signage, and prompts to improve recycling knowledge and reminders.
- Assisting businesses in understanding the garbage and recycling bill, services available, and how to communicate with the hauler.
- Providing free deskside and central area recycling collection containers
- Communicating with haulers, janitorial staff, property managers, and decision-makers.
- Providing tools to assist with waste reduction and sustainable purchasing efforts.
- Providing on-going accessibility to a recycling specialist.

The program began in 2000 and more than 10.0 FTE serve as recycling specialists and provide the Recycle at Work services to the business community. More than 1,000 businesses receive on site technical assistance from recycling specialists annually. More than 30,000 deskside recycling containers have been distributed since 2003. Annual outreach campaigns target specific business sectors with key messages and strategies to increase recycling participation.

Partnerships with business trade organizations, business media, and sustainability groups are strategic components of the program's marketing plan. Recognition of business efforts takes place on a local level and has been an effective tool for recruitment in specific jurisdictions. Partners, award recipients, and other businesses that participate in the Recycle at Work program have given high scores to the quality of assistance received. Participants have also increased their recycling at much greater rates than businesses that have not utilized the program's resources[3].

Despite the free services provided by Recycle at Work, some businesses still choose not to recycle or utilize the services. The primary barriers to the delivery of Recycle at Work services are lack of business entry for recycling specialists and information on businesses needing assistance improving their recycling efforts. New programs are needed to address these barriers and increase the effectiveness of Recycle at Work services.

PROPOSED PROGRAMS

Metro Council directed staff to develop program options for increased business recycling. With technical analysis and input gathered from stakeholders, two approaches are being proposed for

[3] Portland State University Community Environmental Services, Metro Recycle at Work Campaign and Assistance Survey, prepared for Metro, May 2007.

consideration: 1) require all local jurisdictions in the region to implement mandatory business recycling, as Portland has done; or 2) set a 90 percent standard for paper and container recycling from the business sector applicable to each of the region's jurisdictions responsible for solid waste collection. See Appendix B for program development background. The proposed programs are outlined in the following pages.

Program Option 1: Mandatory Business Recycling

Program goal: Achieve a 90 percent recycling rate for paper and containers from businesses to help reach the region's 64 percent waste reduction goal.

Target generators: Small, medium and large businesses, institutions and public agencies. Approximately 56,000 businesses in the region fall into this category.

Target materials: Cardboard, mixed paper, and mixed containers (glass, plastic bottles, aluminum cans).

Program description: Businesses in the region would be required to separate paper and containers for recycling. No more than 10 percent of recyclable materials would be allowed in garbage. Random business inspections would be conducted to encourage participation, and violators would be referred to a recycling specialist. Education, technical assistance, and warnings would precede the enforcement. Implementation of the requirements would be supported by $100,000 for increased education and resources. Fines would be used as a last resort.

Enforcement measures: Local government enforcement staff or a Metro staff (under terms of an intergovernmental governmental agreement) would conduct random business inspections. Any business disposing of a "significant amounts" of recyclable materials, defined as 10 percent by volume determined by visual inspection, would be subject to the following:

1. A warning by the enforcement officer and referral to a regional recycling specialist. The business in violation will receive a visit by a recycling specialist to provide education and assistance for setting up a recycling program. The recycling specialist will follow up with the business to ensure that a recycling program for paper and containers is implemented.

2. If a recycling program for paper and containers is not implemented within 90 days of the original inspection, a fine of up $500 will be issued by the enforcement officer for noncompliance.

Enforcement staff would complete random business inspections, issue warnings and penalties. Two enforcement staff positions would complete approximately 8,400 inspections per year[4].

Adoption process:
Option 1: Metro would adopt an ordinance to require local jurisdictions to adopt business recycling requirements. Metro would develop a model ordinance outlining requirements for

[4] City of Seattle Recycling Program, Seattle Public Utilities, 2007.

business recycling. Each jurisdiction in the Metro region would use the model to adopt business recycling requirements.

Option 2: Under Oregon Revised Statue 459A.065, Metro Council could request Environmental Quality Commission (EQC) action to determine if a mandatory business recycling program is necessary to meet the regional waste reduction goal. Based on findings, EQC could mandate the program in the tri-county wasteshed.

Regional compliance: Local governments that do not adopt business recycling requirements would not receive per capita and Recycle at Work program funding.

Evaluation: To determine progress towards the 90 percent target, Metro would conduct annual evaluations and analyze waste composition and disposal data.

Implementation timeline:
- FY 2006-2007: Baseline evaluation completed.
- FY 2007-2008: Metro and local governments adopt requirements.
- FY 2008-2009: Requirements take effect July 1, 2008. Outreach campaign and expanded Recycle at Work efforts to support roll-out. Enforcement staff hired.
- FY 2009-2010: Evaluate program effectiveness and determine if program revisions are needed.

Program Option 2: Business Recycling Standards

Program description: Metro would set a 90 percent standard for business paper and container recycling applicable to each of the region's jurisdictions responsible for solid waste collection. Data from a baseline evaluation of the business waste stream would determine how much additional recovery is needed in each jurisdiction to reach the 90 percent target. Local governments would develop new or enhanced business recycling programs to achieve the target rate. Metro would provide a list of best practices as options for new programs, and $100,000 would be distributed among local governments to assist with program implementation. Local programs would be reviewed annually to determine progress and assess whether additional action is needed.

Targeted materials: Cardboard, paper and mixed containers (glass, plastic bottles and steel and aluminum cans).

Targeted generators: Small, medium and large businesses, institutions and public agencies. Approximately 56,000 businesses in the region fall into this category.

Baseline evaluation: A business waste study was conducted by Metro in Spring 2007 to determine the amount of paper and containers that remain in the business waste stream. The study set a baseline for current disposal rates for these materials by jurisdiction. Local governments would use this data to determine the needed reduction to meet a 90 percent recycling rate and help ascertain their level of effort.

Best management practices: Local jurisdictions would identify best management practices for increasing business paper and container recovery (see Appendix C). The practices selected would be further defined in the program application submitted to Metro.

Adoption process: Metro would adopt an ordinance that sets a 90 percent standard for business paper and container recycling applicable to the region's jurisdictions. The ordinance would require local governments to develop new or enhanced programs to achieve this target and establish an annual program review process.

Local governments would submit a program plan to Metro that demonstrates how their program would generate the needed level of recovery. The plan would contain a description of the proposed program and implementation strategy that would include, as appropriate, the following:

- A clear project purpose and goal statement.
- The specific business best management practices to be implemented.
- Baseline information on current recovery rates and services.
- A clear description of intended results (effectiveness).
- Technical feasibility.
- Economic feasibility.
- Funding request.

Regional compliance: Local governments that do not submit and implement program plans would not receive per capita and Recycle at Work program funding.

Evaluation: Metro would conduct annual evaluations, using business waste composition data, to determine progress toward the 90 percent target. The evaluation results and local program plans would be reviewed annually. At the conclusion of the second year of the program, any jurisdiction that has not made significant progress toward meeting the 90 percent standard would undergo a formal review process, reporting on their program efforts and results to Metro's Chief Operating Officer, Metro Council and the Metro Policy Advisory Committee. Metro Council would determine whether there has been good faith effort and substantial compliance or whether additional action is needed.

Implementation Timeline:

- FY 2006-2007: Baseline evaluation completed.
- FY 2007-2008: Metro adopts standards. Local governments develop and implement new programs. Metro provides financial and technical assistance for program implementation.
- FY 2008-2009: Evaluate program effectiveness.
- FY 2009-2010: Evaluate program effectiveness, and for any jurisdiction not making significant progress in meeting the standard, conduct a formal review process.

ANALYSIS OF POTENTIAL PROGRAM IMPACTS

This section reviews the estimated impacts on business recovery levels, operations, local markets, program costs and environmental benefits resulting from the implementation of proposed programs.

Figure 4. Key Outcomes from Proposed Programs

Anticipated Outcome		Program #1: Mandatory Recycling		Program #2: Business Recycling Standards
New Recovery		• 80,000 tons		• 35,000 to 80,000 tons
Generator Impact		• Minimal impact on day-to-day business operations. • Potential for recyclables sales revenue. • Business savings with smaller garbage container size.		• Minimal impact on day-to-day business operations. • Potential for recyclables sales revenue. • Business savings with smaller garbage container size.
Environmental Benefits		• Greenhouse gas emissions savings of 218,000 tons of carbon dioxide equivalent. • GHG emissions reductions equivalent to nearly 42,000 cars driving one year • +1.3 trillion BTUs of energy savings – enough to power nearly 15,000 homes for one year. • Save the equivalent of nearly 1.2 million trees a year, almost 1.2 Forest Parks.		• Greenhouse gas emissions savings of 95,000 tons of carbon dioxide equivalent. • GHG emissions reductions equivalent to 18,500 cars driving one year. • 600 billion BTUs of energy savings– enough to power nearly 6,500 homes for one year. • Save the equivalent 500,000 trees a year, or about half of the trees in Forest Park.
Local Markets		• Market demand for paper and containers • Sufficient processing capacity		• Market demand for paper and containers • Sufficient processing capacity

Recovery Potential

The 2007 recovery rate for business-generated paper and containers is 80 percent. The mandatory recycling program is projected to achieve a 90 percent recycling rate for paper and containers, capturing an additional 80,000 tons. This projected recovery is based on capture rates from municipalities that implemented mandatory programs.[5]

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[5] Moore & Associates, Inc., Impact of Mandatory Recycling Ordinances and Disposal Bans on Commercial Fiber Recycling, prepared for Metro, April 2003.

Under the business standards program, local governments would have a range of options to choose from for developing new or enhanced programs to achieve the 90 percent target. It is difficult to project the potential recovery because it is unknown what new or enhanced program local governments would implement. At a minimum, the new or enhanced local programs would recover an additional 35,000 tons by 2009.

Generator Impacts

The City of Portland's experience with mandatory business recycling requirements, adopted in 1996, indicates that increased business recycling would have a minimal impact on day-to-day business operations. The impact would range, based on a business' current operation and recycling program. For most businesses, the program would require employees to recycle additional items in current recycling containers. For other businesses, the program may require businesses to change their level of garbage service and acquire additional recycling containers.

Generator garbage rates should not be impacted significantly. Franchised garbage rates include recycling services and are structured to encourage recycling, with different levels of services based on container size. Businesses that recycle more could save money by reducing garbage container size or collection frequency. Businesses may also get paid for recycling paper, depending on the quantity and quality of the material to be recycled.

Local Government Impacts

Under mandatory business recycling, requirements would be formally adopted at the regional and local level. Cities and counties responsible for solid waste collection would adopt the requirements through an ordinance. See Appendix D for list of jurisdictions that would require legislation. Metro would provide a model ordinance for use by local governments. The legislation process would require staff time on the local level to file the staff report and present the ordinance to their elected bodies. Local staff may see an increase in demand for recycling assistance from the business community. There would be no additional staff time required for program reporting and monitoring.

The business standards program would require significantly more staff time than the adoption of requirements. Staff time at the Metro level would be required to administer the program including fund distribution, review and approval of program plans and review of annual reports. At the local level, additional staff time would be needed to develop and implement the new programs.

Local Markets

Given the strength of domestic and international demand and the range of marketing options, the long-term indicators for successful marketing of business-generated paper and containers are positive.

<u>Paper</u>

There are six paper mills located in Oregon that have the combined capacity to produce 10.5 million pounds of recycled-content newsprint, corrugated cardboard, and toilet and facial tissue a day.
The paper mills in Oregon can use more paper from the Portland metropolitan region to produce new products. The newspaper, corrugated cardboard, magazines and office paper collected for recycling in the Metro region provide less than 11 percent of their total paper mill requirements; the rest of the paper must be shipped in from outside the region.[6]

[6] Andover International Associates, Market Opportunities for Additional Tonnage of Scrap Paper from Businesses in the Metro Region, June 2003.

Recent energy upgrades at local recycling plants and paper mills are reducing energy costs, increasing capacity for paper recycling, and improving product quality. The Energy Trust of Oregon, Inc., is providing financial incentives through its Production Efficiency program to SP Newsprint and Blue Heron Paper Company. Energy costs at SP Newsprint will be reduced by $2.7 million annually, while energy consumption will go down 55 million kilowatt hours. An additional 90 tons of recycled pulp will be produced each day by SP Newsprint, increasing its demand for local paper.[7]

Blue Heron plans to increase its paper recycling capacity by 100 tons per day with the upgrades. In addition, over 100 million-kilowatt hours of electricity will be saved each year along with 63,744 tons of greenhouse gases.[8]

These projects are in line with Metro Council's goals for environmental health and economic vitality. The upgrades improve the global competitiveness of the local mills as they are able to provide more job security and job growth opportunities. They also reduce waste and emissions, while increasing the demand for recyclable paper in the Portland metropolitan region.

Plastics

There is a demand of 5.5 million pounds per month in total for mixed rigid plastic and commingled bottles and containers from buyers that purchase material from Oregon.[9] The business sector in the Metro region generated 9,000 tons of plastic containers in 2005, while recycling only 24 percent (see Appendix A).

Glass

Approximately 64,000 tons of glass are purchased annually in Oregon, but the capacity exists to purchase more.[10] Oregon's main glass recycling facility, the Owens-Brockway plant in Portland, manufactures new glass products using local materials. Excess or unsorted glass is shipped to glass plants in California and other states.[11] Plants in Seattle and in California have the potential to use additional container glass from Oregon. Recycled glass products include bottles, containers, fiberglass insulation, aggregate substitute, reflective highway paint and sandblasting material.

Metals

Global demand for recycled metals continues to increase. The Steel Recycling Institute notes that the recycling rate for steel increased to 75.7 percent in the United States in 2005; the highest rate for any material. This reflects a five-percentage point increase in the recycling rate and the highest rate ever recorded in the United States. Seventy six million tons of domestic steel scrap was charged into furnaces, both in the United States and abroad, to make new steel products.[12]

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[7] Energy Trust of Oregon, Inc., SP Newsprint reaps multiple benefits from energy upgrade, June 7, 2006.
[8] Energy Trust of Oregon, Inc., Blue Heron Paper creates jobs, builds competitiveness by saving energy, Feb. 4, 2005.
[9] Moore & Associates, Inc., Feasibility of Adding Plastic Containers and Film to Curbside Recycling, prepared for Metro, November 2005.
[10] Hammond, Steve, Owens Illinois Glass Market Report, Association of Oregon Recyclers, April 2006.
[11] Oregon Department of Environmental Quality, Container Glass Recycling, 1998. http://www.deq.state.or.us/wmc/solwaste/glass.html
[12] Steel Recycling Institute, Steel Recycling in the U.S. Continues its Record Pace in 2005, April 25, 2006. http://www.recycle-steel.org/PDFs/2005Release.pdf

Schnitzer Steel's Oregon operation receives scrap metal from sources located throughout the Pacific Northwest. It recently purchased a shredder that will nearly double the operation's metal shredding capacity, currently 250,000 tons per year, to approximately 480,000 tons per year.

This section addresses the *economic* costs that would be borne by waste generators within the region as a result of implementing the Business Recycling Program. "Economic costs" refer to money payments for goods and services such as collection of recyclables and disposal of waste. "Economic costs" do not capture external (environmental) benefits of the program, such as improvements in health due to reduced air emissions. Environmental benefits are addressed in a later section.

For analytical purposes, economic effects on two groups are examined: the businesses targeted by this program, and all other regional generators—single family, multi-family, construction/demolition projects, *etc*.—that are not targeted by this program.
Unless specifically noted in the text that follows, all cost and tonnage figures are region-wide totals.

Program Costs
The costs associated with the proposed programs will be discussed in three parts:

1. *Financial Impacts of Recycling (Universal vs. Specific).* An explanation of general concepts to distinguish between impacts that are universal to any recycling program and those impacts that arise due to specific implementation details;
2. *Affected Parties (Targeted Generators vs. Other Generators).* Which costs impact the targeted generators and which affect others in the system;
3. *Comparison With Other Programs.* A comparison of the Business Recycling costs and outcomes to a selection of other existing and future waste reduction programs. Net economic benefits as well as net environmental benefits are addressed in this section.

Cost figures in the discussion that follows are couched in terms of the *change* in cost relative to the status quo. For example, as always, doing nothing different is always an option. By definition, the *change* in cost of doing nothing is zero. The cost of the two business program options (standards vs. mandatory) are presented in terms of the change in costs relative to doing nothing. In this case, cost impacts are highly dependent on the number of tons recovered. Throughout, the analysis is based on 80,000 new tons of recovery; fewer tons recovered would mean lower total cost impact, roughly proportional to the number of tons recovered.

Financial Impacts of Recycling: Universal vs. Specific
The financial impacts of recycling can be grouped into two categories: 1. Impacts that arise anytime garbage is diverted to recycling; and 2. Impacts that arise in response to the specific program at hand. For example, any waste diverted to recycling will avoid the costs associated with disposal and could generate revenue as a valuable market commodity. These effects are universal and independent of the specific program or action that caused the recycling to occur. Program-specific impacts, on the other hand, can be attributed to a particular program. Examples of program-specific impacts are the public cost of enforcing new requirements, program oversight, and changes in collection service for the targeted generators. Appendix E shows a breakdown of the universal vs. program-specific costs for mandatory business recycling.

One source of program-specific costs bears special discussion, costs that are fully internalized by the generator. Unlike avoided disposal costs and recyclable material sales, whose magnitudes can be relatively well known, internalized costs are problematic to quantify.

Take the bottle bill as one well-known program that has both associated market costs that are relatively easy to quantify as well as internalized generator costs that are difficult to know. Easy-to-estimate market costs include avoided disposal costs (tons x tip fee) and material sales (tons x sales price). Sources of hard-to-quantify costs include, for example, the value of the consumer's time and transportation resources to sort out bottles at home and (usually) drive them back to the grocery store for deposit redemption. Additionally, floor space almost always has a value, or opportunity cost. Most homeowners reserve space in the kitchen and/or garage for container storage, at perhaps a seemingly small cost; however, across all homeowners in the region, the total value of that floor space is significant. And, while not a generator consideration per se, grocers give up business floor space for empty bottle storage and redemption machines.

More commonly than not, it becomes impractical to try to place a dollar value on these non-point-sources of cost. Nevertheless, internalized generator costs are real and can be substantial. In the case of business standards or requirements, there certainly will be internalized generator costs, ranging from making office space changes, to appointing a corporate recycling coordinator, to making capital and staff-time investments in reconfiguring recycling areas and internal business practices. The next section quantifies market cost effects and attempts to characterize the internalized cost effects of the business recycling program.

Affected Parties: Targeted Generators vs. Other Generators

This section addresses the *economic* costs that would be borne by waste generators within the region as a result of implementing the Business Recycling Program. "Economic costs" refer to money payments for goods and services such as collection of recyclables and disposal of waste. "Economic costs" do not capture external (environmental) benefits of the program, such as improvements in health due to reduced air emissions. Environmental benefits are addressed in a later section.

For analytical purposes, economic effects on two groups are examined: the businesses targeted by this program, and all other regional generators—single family, multi-family, construction/demolition projects, *etc*.—that are not targeted by this program. Unless specifically noted in the text that follows, all cost and tonnage figures are region-wide totals.

Business Generators

The change in the cost to business participants stems from three basic sources: (1) internal implementation and management (see discussion above), (2) changes in garbage and recycling services provided by haulers, and (3) changes in the per-ton cost of disposal due to diversion of 80,000 tons to source-separated recycling. The latter also includes changes in Metro's rates to recover Metro's new costs for the Business Recycling Program.

- *Internal Implementation and Management Costs*. As discussed above, internalized costs are generally difficult to quantify. Metro staff estimates that businesses that need to make improvements to their internal recycling systems in response to a new program may spend a minimum of $1 million (in aggregate) annually for those improvements. This conservative estimate is based on anecdotal reports from a few businesses that currently have recycling procedures in place. Some other businesses who have not yet fully developed their recycling processes believe that $1 million per year may be too low, perhaps by an order of magnitude. Changes in internal business costs would need to be internalized. Within estimation error, this cost is not expected to vary significantly under the standards vs. the mandatory program.

- *Collection Costs.* Assuming that the targeted businesses set aside an extra 80,000 tons of new recyclables, then their cost for collecting recyclables will increase by about $7.4 million per year, as more collection time will be required to pick up the additional recyclables. At the same time, collection costs for garbage will decrease slightly, perhaps by as much as $1.2 million, for those 15% or so of businesses that can reduce the frequency of their garbage service due to better recycling. Overall, the net $6.2 million annual collection cost increase will be largely offset by about $6.7 million in avoided disposal costs ($4.7 million in tip fees) and revenue ($2 million) from sales of additional recyclables. The small ($530,000) net decrease over the status-quo cost of providing collection services represents only a fraction of a percent change in total solid waste service costs (out of perhaps $150 million per year), and almost certainly would not of itself warrant a rate adjustment by local governments. Hence, not counting fiscal impacts of tonnage diversion discussed in the next bullet, Metro staff estimates that all businesses combined would pay about the same, on average, for collection with or without a new business recycling program.[13] Disposal costs, on the other hand, are almost certain to rise, as discussed next.

- *Disposal Costs.* The per-ton cost of disposal (tip fee) is projected to rise for three reasons: (i) the diversion of waste from disposal facilities will raise Metro's contract rate at Columbia Ridge landfill by approximately 90¢ per ton; (ii) diversion leaves less tonnage from which to recover fixed costs, with a 35¢ per ton effect at the transfer stations and 85¢ on the Regional System Fee; and (iii) staff assumes that Metro's cost of the Business Recycling Program—including revenue sharing to pay for the cost of program elements implemented by local governments—will be recovered by an increase in the Regional System Fee of 46¢. If these changes are recovered through Metro's standard rate model, they mean a $1.25 increase in the tonnage charge component of the tip fee (90¢+35¢), and a $1.31 increase in the Regional System Fee (85¢+46¢). In addition, private facilities will have similar cost effects and, if past is precedent, will match Metro's prices, making these disposal increases a region-wide event. Due to these changes, totaling $2.56/ton, participants in the Business Recycling Program will see a $1.84 million increase in the cost of disposing of waste that continues to be landfilled.

The following table summarizes the cost effects described above.

Table 1. Total Change in Costs for Business Recycling Program Participants

Cost Component	Net Cost
Internal management	$1,000,000 *
Collection	(530,000)**
Disposal	1,843,000
Total	$ 2,313,000

* See discussion above regarding uncertainty in internalized costs
** Collection services net of material sales revenue & avoided disposal cost on recycled materials.

- *Effect on Garbage Bill.* A number of factors influence how these net cost increases would impact a specific business's bill from its garbage hauler. Individual businesses will experience different impacts because business size varies, as do waste generation characteristics, solid waste service levels and service providers (hauler). In addition, rate-setting processes are not uniform among jurisdictions in the region. With those caveats, Metro staff believes that most businesses should expect a rate increase of less than 2% given the cost assumptions above, mainly due to the increase in per-ton

[13] These figures do not reflect any increase in hauler-provided education for customers, which could be significant during the early phase of implementation.

charges for disposal. Those few businesses that significantly reduce their need for disposal may even enjoy an overall decrease in their bill for solid waste services; however, other businesses that, because of space limitations or the characteristics of their waste, cannot reduce their need for disposal (e.g., restaurants) may experience an increase higher than 2 percent.

Other Generators (Single Family, Multi-Family, Construction, etc.)
As indicated in the "Disposal Costs" bullet above, tip fees could rise throughout the region by approximately $2.56 per ton. All generators would be affected by this change in disposal costs, including generators who do not participate in the Business Recycling Program. Metro staff estimates that increased disposal costs for these generators would run approximately $1.54 million per year.

Cost Comparison of Business Recycling with Other Programs
In order to make the numbers in the previous section useful for decision-making, the Business Recycling Program costs can be compared with the cost and performance of other programs. The following table shows a comparison of key costs and statistics for the prospective Business Recycling and Enhanced Dry Waste Recovery ("EDWRP") programs versus several existing waste reduction programs, including the well-known Bottle Bill program, and Metro's Regional System Fee Credit Program, and Food Waste Composting Program.

Table 2. Comparison of program-related cost impacts for several waste reduction initiatives.

		Cost Changes due to…			
	Tons Recovered	Tonnage Diversion *	Govt. Oversight & Enforcement **	Service Changes***	Equivalent cost per ton recovered
Existing Programs		*costs shared among all generators*		*costs borne by target generators*	
Bottle Bill	35,000	$1,205,000	$0	unknown	*$34*
Commercial Organics	12,000	$438,000	$140,000	unknown	*$48*
RSF Credits	30,000	$1,558,000	$10,000	$0	*$52*
Prospective Programs					
Enhanced Biz Recycling	80,000	$2,772,000	$607,000	($530,000)	*$36*
EDWRP	42,250	$1,358,000	$0	$2,407,000	*$89*

* The per-ton cost of disposal rises as fixed costs are recovered from fewer disposed tons and as Metro's contract disposal price increases with diminishing tonnage. Tonnage diversion alone accounts for about $35/ton recovered, regardless of the of the waste reduction program specifics (except for RSF credits, which historically have cost more--$52/ton recovered--due to the operating subsidy).

** Government costs include locally- & regionally-administered education and outreach, enforcement, coordination, and associated overhead. The magnitude of these ongoing government costs is less well-known, typically representing amalgamation of many fractional FTE. Some local governments also may choose to supplement this, e.g., through franchise fees, to support their businesses' recycling.

*** This column includes costs related to changes in collection services, but does not include systems improvements costs (internalized), whose estimation is highly uncertain, as they are dependent on generators' behavior, local governments' rate setting, and haulers' operational choices.

A note on internalized costs: Table 2 includes no estimate of internalized costs caused by the respective programs, as quantitative estimates are so uncertain as to be marginally useful for decisionmaking. That said, Table 3 tries to characterize the order of magnitude of the various internal systems costs for each program.

Table 3. Annual internalized cost estimates for the programs shown in Table 2.

Program Name	Sources of Internalized Generator Costs	Order of Magnitude
Bottle Bill	Homeowner space, time	$1 to $10 million
Commercial Organics	Restaurant or grocer space, time	$0 to $100,000
RSF Credits	None. Disposal-oriented program.	$0
Enhanced Biz Recycling	Space improvements, staff time	$1 to $10 million
EDWRP	None. Disposal-oriented program.	$0

Program Benefits

Economic Benefits

Avoided disposal costs and sales of recyclable materials would be the direct economic benefits accruing to businesses participation in recycling. With more recyclables being separated out by business generators, less waste will go to a landfill, reducing landfilling cost. In addition, recyclables have a value to recyclers, so any increase in source separation should generate a revenue opportunity for the solid waste system. These savings are included as revenue offsets to the direct collection costs calculations described in the previous section.

Environmental Benefits

Additional benefits can be calculated by evaluating the external environmental costs and benefits associated with the handling and disposal of waste that are not counted in the price/cost of the activity. These benefits are calculated in terms of trees saved, improved air quality and energy savings and monetized into savings by material. These types of benefits are for the public at large and some may go beyond the Metro boundary.

> **Trees Saved.** Achieving a 90 percent recycling rate for paper has the potential to recover more than 60,000 tons of paper, which would save the equivalent of nearly 1.2 million trees. If the lower tonnage scenario for business recycling is assumed (35,000 tons recovered), the program would recover more than 26,000 tons of paper, which would save the equivalent of nearly 500,000 trees.
>
> **Air emissions.** Recycling 60,000 tons of paper reduces air emissions equivalent to that produced by nearly 42,000 cars driving one year. Recycling 26,000 tons of paper reduces air emissions equivalent to more than 18,500 cars driving in one year. However, the airshed that benefits from these reduced emissions is not entirely coincident with the Metro region, but rather with the location of the paper mills, which are spread throughout the Pacific Northwest and overseas.
>
> **Energy Savings**. Achieving a 90 percent recycling rate for paper and containers would save more than 1.3 trillion British Thermal Units (BTU's) of energy, enough to power nearly 15,000 homes for one year. If the lower tonnage scenario for the business program is assumed, the program would save more than 600 billion BTU's of energy, enough to power nearly 6,500 homes for one year.

The environmental benefits are monetized by material for the recovery of 80,000 additional tons of paper and containers. Table 4 shows the tons by material type, unit value and total savings.

Table 4. Monetized Environmental Benefits by Material for 80,000 tons

Recyclables	2005 Tons	Unit Value	Total Value
Newspaper	6,135	$163	$1,002,234
Mixed waste paper	28,275	$129	$3,648,579
Cardboard/kraft paper	26,201	$141	$3,683,992
High-grade paper	4,876	$100	$486,039
Glass containers	5,405	$19	$101,020
Steel cans	2,346	$50	$118,176
Aluminum cans and foil	1,123	$621	$697,804
Plastic bottles and tubs	5,639	$86	$484,325
Total	**80,000**	**$128**	**$10,222,169**

Source: TRACI, Decision Support Tool, Environmental Protection Agency, 2007.

The largest factor contributing to the environmental benefits is the reduction of 218,000 tons of greenhouse gas emissions (valued at $36 per ton of carbon dioxide equivalent).

CONCLUSION

Achieving the state-mandated waste reduction goal for this region requires new programs targeting commercially-generated waste. This proposal outlined two approaches for achieving higher levels of business recycling. There are many common elements and distinctions between the two programs detailed below.

Elements Common to Both Programs:

- Target materials
- Target generators
- $100,000 in program funding
- Increased efficiency of Recycle at Work program
- Evaluated annually
- Environmental benefits

Key Distinctions of Mandatory Program:

- Most likely to achieve higher level of recovery, system cost savings and environmental benefits
- Precedent for achieving 90 percent recycling rate through requirements
- Follows programs developed by City of Portland and City of Seattle
- Creates uniform standards for recycling collection across Metro region
- Staffing for enforcement program
- Requires legislation to be adopted by Metro and local governments
- Less flexible in local approach

- Recommended by Regional Solid Waste Management Plan Contingency Plan Work Group stakeholder work group

Both the proposed programs address the need to increase the participation and the capture of recyclables in regional programs. A mandatory approach was recommended by a stakeholder work group and creates a consistent standard for recycling collection across the region. Public surveys have indicated support for business recycling requirements from both households and businesses. Mandatory business recycling programs around the nation perform better than voluntary programs. The implementation of a regional mandatory program is anticipated to recover an additional 80,000 tons of paper and containers.

Local government partners, with the exception of City of Portland, favor the Business Recycling Standards program. This approach would provide flexibility among the jurisdictions to meet the targets by using programs that would work best in the various communities. However, it is difficult to determine if a much higher level of recovery can be achieved with this approach. The Business Standards program is expected to achieve a minimum of 35,000 tons of paper and containers.

TIMELINE/NEXT STEPS

April to June 2007

Solid Waste Advisory Committee Review

Outcome: Analyze program options and make recommendation to Metro Council.

July 2007

Metro Council Review and Direction (work session scheduled for 7/3/07)

Outcome: Analyze program options. Review SWAC recommendation and determine direction for formal program development.

July 2007

Metro Policy Advisory Committee Review (scheduled for 7/25/07)

Outcome: Review proposed programs and make recommendation to Metro Council.

Fall 2007

Metro Council Communication and Direction

Outcome: Councilor Harrington will present her recommendation to Metro Council for consideration. Council may select program for formal development.

APPENDIX A
Business Recycling Policy Development History

Progress to Date:

- **Regional Solid Waste Management Plan (RSWMP) Contingency Plan Work Group**
  August- December 2003
  A stakeholder work group was convened to evaluate strategies to increase progress toward the regional recovery goal.

- **RSWMP Contingency Plan Report**
  December 2003
  A summary report was prepared on the work group's recommended Contingency Plan, which comprised four strategies to increase recovery in the construction and demolition, business and organics sectors.

- **Local Government Outreach and Summary Report**
  February 2004
  Individual meetings were held with eight jurisdictions in the Metro region to discuss the Contingency Plan and next steps. A report summarizing the feedback that was gathered and recommended next steps was released following the meetings.

- **Metro Policy Advisory Committee**
  March 2004
  Metro staff presented the Contingency Plan to the Metro Policy Advisory Committee (MPAC) for consideration on March 10, 2004. MPAC supported the next steps outlined by Metro staff to further develop select contingency strategies, including mandatory business recycling and C&D processing requirements.

- **Council Liaison Briefing**
  May 2004
  Staff met with Council Liaisons Park and Monroe to gather feedback on the Contingency Plan. The councilors recommended staff conduct additional outreach and analysis on Contingency Strategy #3 (mandatory business recycling) and combine the evaluation of Contingency Strategies #1 and #2 (C&D and dry waste processing requirements).

- **RSWMP Contingency Plan Resolution**
  May 2004
  Metro Council adopted a resolution to formally acknowledge the RSWMP Contingency Plan and direct staff to conduct additional outreach and analysis on select contingency strategies.

- **"Let's Talk Recycling" Business Outreach**
  August-November 2004
  In coordination with local governments, Metro hosted two breakfast forums and made several presentations to solicit input on options to increase business recycling including mandatory requirements at business chamber meetings.

- **"Let's Talk Recycling" Summary Report**
  January 2005
  The summary report was prepared and released detailing the feedback collected from more than 70 business representatives on mandatory recycling and alternative approaches to increasing business recycling.

- **RSWMP Public Involvement Summary Report**
  January 2005
  The summary report was prepared and distributed on the public input collected from the "Let's Talk Trash" series of public meetings conducted in support of the Regional Solid Waste Management Plan Update.

- **Business Recycling Budget Amendment**
  April 2005
  In response to feedback gathered at the "Let's Talk Recycling" forums for increased education, the FY 05-06 Waste Reduction budget was increased by $200,000 for the business assistance program.

- **Waste Reduction Program Comparison**
  January 2005-December 2005
  Staff were directed to conduct an alternative analysis to compare the projected performance of select program options using a uniform set of evaluation criteria. Programs evaluated included the strategies identified by the Contingency Plan Work Group and from public involvement activities. Based on the results of the analysis, Metro Council directed staff to develop two of the proposed programs: 1) a mandatory dry waste recovery program and 2) mandatory business recycling options.

- **Waste Reduction Program Cost Work Group**
  December 2005
  To develop the cost component of the Waste Reduction Program Comparison, Metro convened a group of key external stakeholders, chosen by Metro for their specific expertise in the solid waste industry. The group identified and estimated the costs associated with five potential new regional waste reduction programs.

- **Interim Waste Reduction Plan Public Comment Report**
  June 2006
  During Spring 2006, Metro invited public comment on the draft Waste Reduction Plan through an online survey. More than 400 people provided input on the Plan, either through the online survey or in writing. The survey asked respondents to show their level of support for various strategies related to solid waste management. A summary report was prepared and distributed at the conclusion of the survey.

- **Local Government Business Recycling Meetings**
  August 2006 to January 2007
  Metro staff conducted a series of meetings with local government representatives to identify an alternative to a mandatory approach. As a result, staff developed the Business Recycling

standards program that provides a more flexible approach to increasing business recycling performance.

- **Business Recycling Survey**
  February 2007
  Metro conducted a study of business recycling practices throughout the region. Five-hundred and seventy-eight random businesses were surveyed and provided input on effective policies to increase business recycling.

- **Metro Solid Waste Advisory Committee**
  May – June 2007
  Metro's Solid Waste and Recycling staff presented and discussed program options with the Solid Waste Advisory Committee during three Committee meetings and one technical analysis meeting. The Committee voted to recommend Option 2 to Council with the additional request to revisit mandatory business recycling if the 90 percent goal is not achieved within two years of implementation.

- **Metro Council Work Session**
  July 2007
  Metro's Solid Waste and Recycling staff presented and discussed program options with Metro Council on July 3rd, 2007. Council discussed the need for a regional approach and standardized recycling practices, the level of impact on local governments and businesses, the difference and similarities between the City of Portland's mandatory recycling program, results from mandatory programs across the country, and overall system and environmental costs/benefits. Council would like to get input from MPAC members regarding the preferred option to increase business recycling in the region. Council did not reach a consensus on their preferred program option at this meeting.

APPENDIX B
PROGRAM DEVELOPMENT NARRATIVE

As the entity responsible for achieving state-mandated waste reduction goals in the tri-county region, Metro works with its local government partners to accomplish these goals. In 2003, the Contingency Plan Work Group found that the tri-county wasteshed would be unlikely to meet its recovery goal without increased recovery efforts in the business sector. Existing programs would only recovery 36 percent of the tons needed to meet the business recovery goal.

To explore options for increased business recycling under the guidance of the Regional Solid Waste Management Plan, Metro formed the Contingency Plan Work Group in 2003. This group, comprising local governments, businesses, construction industry representatives, haulers, dry waste recovery facilities and landfill operators, reviewed several program options for increasing recycling. The group determined that requiring businesses to recycle would be the option most likely to help the region attain its recovery goal for the business sector.

Based on the work group's recommendation, additional input was solicited on the proposed program from governments and businesses. Outreach included business breakfast forums, business association presentations, special meetings, and online surveys. Overall, stakeholders agreed that business recycling efforts could be improved.

A 2006 public survey of more than 400 residents revealed that more than 90 percent of the respondents felt businesses should be required to recycle to help meet the regional waste reduction goal.[14] However, some respondents viewed a regulatory approach as a contingency strategy if and when incentives and education failed to increase participation and recovery levels. When Metro surveyed the business community in February 2007, over 700 businesses provided input on the effectiveness of various strategies to increase recycling. Over 70 percent of businesses thought a standardized collection system throughout the region and increased education and assistance would be most effective, while 49 percent thought recycling requirements would be effective.[15]

Support for business requirements at the local government level varied. Instead of recycling requirements, staff recommended that jurisdictions individually be held to recovery goals. This approach would provide flexibility among the jurisdictions to meet the targets by using programs that each felt would work best within its community.

[14] Cogan Owens Cogan, Interim Waste Reduction Plan Public Comment Report prepared for Metro, June 2006.
[15] Portland State University Community Environmental Services, Metro Recycle at Work Campaign and Assistance Survey, prepared for Metro, May 2007.

APPENDIX C
Proposed Best Management Practices for Business Recycling

Awareness

1. New businesses are identified from business licenses or business list (in accordance with Recycle at Work Intergovernmental Agreement).
2. Haulers provide list of accounts to local government and indicate businesses that are:
    a) Not recycling anything with the hauler;
    b) Not set up for a targeted material (i.e., do not have a container for glass).
3. Survey of business awareness of recycling services, practices, and assistance.
4. Increase baseline level of direct mail contact with businesses.

Service

1. Adopt comprehensive and uniform recycling service levels and material preparation for all business customers. Include commingling.
2. Provide deskside boxes to all businesses that want them through door-to-door.
3. Provide other central collection containers and stickers.

Financial incentive

1. Summarize current rates for different garbage levels in jurisdiction. Increase the charge on higher levels of garbage generation to provide greater incentive to recycle.
2. Tie franchise fee to hauler recycling rate or number of customers that are recycling with them.

Mandatory

1. Adopt and enforce mandatory recycling.
2. Enforce existing mandatory recycling rules.

Innovation

1. Innovative practice that local government believes will achieve goals.

APPENDIX D
Local Government Program Authority and Funding Overview

Local Government Program Authority and Funding Overview

Jurisdiction	Solid Waste Authority	Designated Waste Reduction Planning Agency	Direct Funding	Pass thru Allocation	Option 1: Mandatory Recycling — Adopt legislation	Option 1: Mandatory Recycling — Maintain current Recycle at Work services	Option 2: Business Recycling Standards — Maintain current Recycle at Work services	Option 2: Business Recycling Standards — Develop new programs	Option 2: Business Recycling Standards — Implement Program	Option 2: Business Recycling Standards — Year 1 progress report	Option 2: Business Recycling Standards — Year 2 progress report
Clackamas County	X	Clackamas County	X		X	X	X	X	X	X	X
Unincorporated Clackamas County	NA	Clackamas County		X	X			X	X	X	X
Barlow*	X	Clackamas County		X	X			X	X	X	X
Damascus*	X	Clackamas County		X	X			X	X	X	X
Gladstone*	X	Clackamas County		X	X			X	X	X	X
Happy Valley*	X	Clackamas County		X	X			X	X	X	X
Lake Oswego*	X	Clackamas County		X	X			X	X	X	X
Milwaukee*	X	Clackamas County		X	X			X	X	X	X
Estacada*	X	Clackamas County		X	X			X	X	X	X
Molalla*	X	Clackamas County		X	X			X	X	X	X
Oregon City*	X	Clackamas County		X	X			X	X	X	X
Sandy*	X	Clackamas County		X	X			X	X	X	X
West Linn*	X	Clackamas County		X	X			X	X	X	X
Canby*	X	Clackamas County		X	X			X	X	X	X
Wilsonville*	X	Clackamas County		X	X			X	X	X	X
Gresham	X	Gresham	X		X	X	X	X	X	X	X
Wood Village*	X	Gresham		X	X			X	X	X	X
Fairview	X	Fairview	X		X	X	X	X	X	X	X
Troutdale	X	Troutdale	X		X	X	X	X	X	X	X
Portland	X	Portland	X		X	X	X	X	X	X	X
Beaverton	X	Beaverton	X		X	X	X	X	X	X	X
Washington County	X	Washington County	X		X	X	X	X	X	X	X
Unincorporated Washington County	NA	Washington County		X	X			X	X	X	X
Hillsboro	X	Washington County		X	X			X	X	X	X
Tigard*	X	Washington County		X	X			X	X	X	X
Tualatin*	X	Washington County		X	X			X	X	X	X
Forest Grove*	X	Washington County		X	X			X	X	X	X
Banks*	X	Washington County		X	X			X	X	X	X
Cornelius*	X	Washington County		X	X			X	X	X	X
King City*	X	Washington County		X	X			X	X	X	X
North Plains*	X	Washington County		X	X			X	X	X	X
Sherwood*	X	Washington County		X	X			X	X	X	X
Durham*	X	Washington County		X	X			X	X	X	X
Gaston	X	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Maywood Park	X	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Definitions and Notes:

Solid Waste Authority: Local government responsible for designing and administering waste reduction programs; regulating and managing solid waste and recycling collection services within their jurisdictional boundaries; and reviewing collection rates and services standards.

Designated Waste Reduction Planning Agency: Local government responsible for designing and implementing the waste reduction programs including Recycle at Work Services. Cities may designate the county agency to implement a program on their behalf.

Direct Funding: Receive direct funding from Metro to implement waste reduction programs.

Pass thru Allocation: Local government is eligible for direct funding from Metro, but designates funding to county to implement waste reduction programs on their behalf.

**Under Option 2, may choose to have designated waste reduction planning agency develop and implement the new program plan and reporting on their behalf.*

APPENDIX E

Table E1 below summarizes the costs projected for an 80,000-ton diversion of garbage to recycling due to implementation of a required business recycling. Note that only the figures in the right half of the diagram (labeled "Program-specific") would be unique to this specific program. All the cost changes in the "Universal" left half are dependent solely on the number of tons diverted to recycling and would occur *regardless of how the tons were diverted from the waste stream.*

TABLE E1. Cost changes unique to the proposed business recycling program (specific), and changes that would occur due to any diversion of tonnage to recycling (universal).

	Universal		Program-specific		
	per-ton	total	per-ton	total	
Internal management	-	-	$12.50	$1,000,000	
Solid waste service					$472,300
Avoided coll., tfr., transp. disp.	($60.00)	($4,800,000)	-	-	*businesses pay*
Avoided govt. fees	($14.00)	($1,120,000)			
Sales of recyclables	($24.00)	($1,920,000)	-	-	
Collection service	-	-	$91.40	$7,312,300	
Tip Fee impacts					
Regional programs	$0.85	$1,120,000	-	-	
Fixed costs (e.g., scalehouse)	$0.35	$462,000	-	-	
Contract payments	$0.90	$1,188,000			$3,376,700
					all generators pay
Program oversight	-	-	$0.33	$441,300	
Enforcement	-	-	$0.13	$165,400	
TOTAL		*($5,070,000)*	+	*$8,919,000*	= $3,849,000

Note: Whereas Table E1 is based on an 80,000-ton diversion, for a business program that achieves only 35,000 tons of diversion, e.g., the standards approach, per-ton amounts would remain roughly the same, and the dollar totals would be cut by about half.

APPENDIX F
Frequently Asked Questions

Achieving the state-mandated regional waste reduction goal requires new programs targeting commercially generated waste. Metro Council directed staff to develop business recycling program options. This worksheet provides information about the proposed programs for increasing business recycling.

BACKGROUND

Q: What is the issue?
A: While many businesses recycle, an estimated 14 percent do not recycle or recycle only cardboard. As a result, more than 100,000 tons of recyclable resources (paper and containers) from this sector are disposed of annually. To reach the state-mandated waste reduction goal, businesses must recycle an additional 80,000 tons of paper and containers.

Q: What are the benefits of increasing business recycling?
A: More business recycling sends less garbage to the landfill, conserves energy and natural resources and helps prevent pollution. Recycling 80,000 tons of paper and containers each year saves:

- 71 metric tons of carbon equivalents
- 1.7 trillion BTUs of energy – enough to power nearly 17,000 homes for one year
- Greenhouse gas emissions equivalent to nearly 54,000 cars driving one year
- The equivalent of nearly 1.4 million trees a year-- almost 1.4 Forest Parks.

Q: What are the barriers to business recycling?
A: Many businesses are under-recycling and not utilizing current services. Some reasons include:

- **Lack of business will.** In many instances, recycling is not a business priority. Businesses are busy and recycling isn't part of their business plan.
- **Lack of information/expertise**. Some businesses are confused about what is recyclable. Others are unsure how to communicate and train their staff about proper recycling.
- **Lack of space/convenience.** Businesses may believe space constraints prevent them from recycling. Also, if recycling is not easy or convenient, employees will often not do it.
- **Lack of cost/savings information**. Some businesses are concerned about increased costs if they recycle. (In franchised jurisdictions, recycling is included in the rates.) However, if businesses increase recycling, they may reduce overall collection costs and may increase revenue through the sale of recyclable materials.

Q: What services are currently being offered to businesses?
A: Recycle at Work (RAW) provides free resources and onsite technical assistance customized to each business's needs, including:

- **Program set up**.
- **Space planning**, including identifying solutions to space constraints and ensuring recycling bins are conveniently located.
- **Communication**, including staff training, signage and prompts. RAW also communicates with haulers, janitorial staff, property managers and decision-makers.
- **Invoice interpretation** to help businesses understand their garbage/recycling bill, the services available, and communicate more effectively with their hauler.
- **Containers**, including free deskside and central area recycling collection containers, and other tools.
- **Technical support**, including on-going assistance from recycling specialists.

Q: Who partners with the RAW program?
A: The Recycle at Work program partners with more than 200 businesses, including the Building Owners and Managers Association, Portland Metropolitan Association of Realtors, Portland Business Alliance and several local chambers of commerce.

Q: What are the results of current services and programs?
A: Businesses who have participated in the RAW program have increased their recycling at much greater rates than businesses that do not utilize the program's resources *. Since its inception in 2000, RAW's 10 recycling specialists have:

- Provided onsite technical assistance to more than 1,000 businesses each year. Businesses and business partners have rated RAW highly for the quality of technical assistance.
- Distributed 30,000 deskside recycling containers (since 2003).
- Helped institute local business recognition programs.

[*Further quantified data not available.]

Q: What are current program challenges?
A:
- Lack of access to businesses for Recycle at Work specialists. Many businesses lack firm motivation to recycle ('must do' versus 'nice to do').
- Inconsistent region-wide recycling services.
- Limited information on businesses needing help with recycling are challenges to delivering Recycle at Work services.

PROPOSED PROGRAMS

Q. What are the proposed business recycling program options?
A. There are two proposed options:

- **Option 1: Mandatory Business Recycling Program** - Requires local jurisdictions to implement mandatory business recycling. Businesses would be required to separate paper and containers for recycling. No more than 10 percent of these recyclable materials would be allowed in the garbage. Program comes with a $100,000 pool of funds from Metro to be shared by jurisdictions for implementation.

- **Option 2: Business Recycling Standards Program -** Sets a voluntary 90 percent standard for paper and container business recycling. Local governments develop new or enhanced programs to achieve this level of recovery and would be accountable for the target and for reporting annual progress. Program comes with a $100,000 pool of funds from Metro to be shared by jurisdictions for implementation.

Q: What are the main differences between the two programs?
A: Both the proposed programs are expected to increase business recycling and enhance delivery of Recycle at Work services.

Mandatory business recycling:
- recommended by a Council-authorized stakeholder work group.
- creates a consistent, region-wide recycling collection standard.
- is supported by households and businesses.
- would likely perform better than a voluntary approach (based on similar programs around the country).
- would likely achieve a 90 percent business recycling rate and help meet the regional recovery goal.

Voluntary business recycling:

- would likely be supported by most local jurisdictions (City of Portland is a possible exception).
- provides program flexibility within each community.
- is likely to boost recycling from businesses, but not meet recovery goal.

Q: How does the proposed mandatory program differ from the City of Portland's business recycling requirements?

A: The City of Portland's program requires businesses, multi-family residences and construction projects (valued at more than $50,000) to recycle at least 50 percent of their waste.

- **More recycled paper/containers.** The proposed program requires business to recycle 90 percent of their paper and containers.
- **More enforcement.** The proposed program places more emphasis on enforcement (two enforcement staff positions versus Portland's >.25 enforcement staff).
- **Same penalties**. The penalty for non-compliance is $500 for both programs. (Portland has issued only one fine since 1996.)

Q: How do the proposed programs affect the local governments?

A:

Mandatory business recycling

- **No additional program development or reporting.** The mandatory program does not place additional program development or reporting requirements on local government. Because the program would be standardized region wide, less local government time would be spent on program development and evaluation. Additional staff time may be needed to coordinate the ordinance adoption.
- **Increased delivery of services.** Currently, local government Recycle at Work staff spend up to 40 percent of their time trying to "get in the door" at businesses. Only about 60 percent of staff time is spent helping businesses improve recycling. Mandatory recycling would increase staff time available to assisting businesses in their recycling efforts.

Voluntary business recycling

- **Increased staff time.** Local governments will have to spend more time developing individual programs, creating plans, tracking progress and reporting results to Metro.

Q: How will increased recycling impact businesses?

A: Minimally. Research from 15 cities, including the City of Portland's mandatory business recycling program (adopted in 1996), indicates that increased business recycling would have a minimal impact on day-to-day business operations.

- For most businesses, either proposed program would require employees to recycle additional items in current recycling containers.
- For some businesses, the program may require businesses to change their level of garbage service and acquire additional recycling containers.

MEMORANDUM

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METRO

DATE: November 2, 2007

TO: Metro Councilors

FROM: Michael Hoglund, SWR Director

SUBJECT: Options for Increasing Business Recycling

Enclosed for your review is background material prior to a Council work session on Business Recycling Options November 13, 2007. This material addresses key questions asked by Council and by MPAC.

At the July 3, 2007 Metro Council work session on Options for Increasing Business Recycling, Council members requested further information on the goals, costs and benefits of the two proposed programs. Attached is the additional analysis and case studies prepared by Solid Waste & Recycling Department staff. This memorandum reviews the program options and summarizes the key findings of the new analysis for Council review.

Achieving the state-mandated waste reduction goal for this region is dependent on new programs to increase business recycling. In order to reach the 64 percent waste reduction goal, businesses must recycle an additional 80,000 tons of business paper and containers. Metro Council recognized this impediment, and directed staff to develop program options for consideration. In July, staff presented two approaches for Metro Council consideration:

- **Option #1: Mandatory Business Recycling Program-** This program would require all local jurisdictions in the region to implement mandatory business recycling. This would require businesses to recycle only paper and containers.
  Recovery projection: 80,000 tons of paper and containers

- **Option #2: Voluntary Business Recycling Standards-** This program would set a 90 percent standard for paper and container recycling from the business sector, applicable to each of the region's jurisdictions responsible for solid waste collection. Local governments would be responsible for developing new or enhanced programs to achieve a higher level of recovery. Each local government would be individually accountable to meet the target, similar to land-use planning requirements. *Recovery projection: 35,000 tons-80,000 tons of paper and containers*

Although the program options have common goals, the costs, benefits, and local government implications vary greatly between the two programs. The key points of the new analysis highlight the shared goals and major differences and are detailed below.

Business Recycling Program Options Goals
Both of the proposed programs aim to achieve the regional waste reduction goal, while addressing Metro Council's goals and objectives, and the prioritized values of the Metro Policy Advisory Committee and the Solid Waste Advisory Committee. Specific goals and objectives include:

1. Meet the regional solid waste reduction goal of 64 percent by 2009.
2. Achieve a 90 percent recycling rate for paper and containers (80,000 additional tons).
3. Reduce energy consumption and reliance on virgin materials.
4. Supply quality products to recycling markets.
5. Align with Metro Council's Objective 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.
6. Address current business recycling obstacles including lack of entry to businesses by recycling specialists, lack of information on who is not recycling, and inconsistent standards throughout the region.
7. Address stakeholder values beyond cost and tons recovered, including environmental benefits, ease of implementation and consistency with the waste reduction hierarchy.

Business Recycling Program Options Cost
The cost analysis examines the financial impacts of recycling (universal and specific), affected parties and comparison with other programs. Table 1 summarizes the costs projected for an 80,000-ton per year diversion of garbage to recycling due to implementation of mandatory business recycling. Universal costs are dependent solely on the number of tons diverted to recycling and would occur *regardless of how the tons were diverted from the waste stream*. Program-specific costs would be unique to this specific program and include program management, enforcement and collection services costs.

Table. 1. Annual Program Cost Summary

Universal costs:	($5,070,000)
Program-specific costs:	$8,919,000
Total	$3,849,000

Cost changes associated with different tonnage diversion would vary proportionally. For example, if the Voluntary Business Recycling Standards approach achieved 35,000 tons of new recovery, then the above totals would be reduced by about half. See Attachment A for complete cost analysis.

Effects on the Business Garbage Bill
Translating these costs to the effects on the garbage bill indicates that most businesses could expect a service charge increase of less than two percent, mainly due to the increase in per-ton charges for disposal. Local business case studies that evaluate the service charge impacts under the proposed programs are highlighted in Attachment B. It is important to note that while some businesses may see a slight service cost increase, others may see disposal costs decrease as they recycle more.

Cost Comparison of Business Recycling Options with Other Programs
The proposed business recycling options maintains a lower cost per ton when compared to several existing waste reduction programs as detailed in Table 2.

Table 2. Annual Program Cost Impact Comparison

	Tons Recovered	Equivalent cost per ton recovered
Existing Programs		
Bottle Bill	35,000	*$34*
Commercial Organics	12,000	*$48*
RSF Credits	30,000	*$52*
Prospective Programs		
Increased Biz Recycling	80,000	*$36*
EDWRP	42,250	*$89*

Local Government Impact
Designated solid waste planning agencies, which are responsible for local waste reduction planning and education, have been a major stakeholder in the identification and evaluation of program options since discussions began in 2003. Planning agency staff are aware of the resources that would be involved in implementing either of the business recycling program options. Attachment D outlines local government responsibility for solid waste programs and role in new programs.

Mandatory Business Recycling requires a one-time demand on local government staff and elected officials to adopt the ordinance versus Voluntary Business Recycling Standards, which requires on-going program management and evaluation. Under both options, Recycle at Work services would continue to be provided to the business community by those jurisdictions currently receiving direct program funding from Metro.

Under both program options, local governments estimate they will need additional resources. On average, local governments that currently receive Recycle at Work funding estimated a cumulative need for an additional $400,000 (4 FTE and additional program tools) to implement either program, while recovery results are expected to vary greatly between the two options. See Attachment C for detailed local government impact summary.

Business Recycling Program Options Benefits
As a result of increased business recycling, additional benefits, not counted in economic costs and benefits, accrue to the environment. Metro staff estimates the net environmental benefits of the mandatory business recycling program to be $10.22 million for 80,000 tons of new recovery collected annually. The Business Recycling Standards program is projected to achieve approximately $5 million for 35,000 tons (see Attachment A). The largest factor contributing to the environmental benefits is the reduction of 218,000 tons of greenhouse gas emissions (valued at $36 per ton of carbon dioxide equivalent). Many of the environmental benefits would be shared beyond Metro's jurisdictional boundary and extend to communities where recycled commodities are re-manufactured into products.

Next Steps
At the November 13th Council Work Session, staff will provide an overview of this information and the worksheet will identify the key questions for Council consideration. Council will be asked to provide direction on which program option to develop for formal consideration.

Attachment A
Cost Impact Analysis Excerpted from
White Paper on Options for Increasing Business Recycling
Updated: September 25, 2007

Discussion of Costs

The costs associated with the proposed new business recycling program options will be discussed in three parts:

1. *Financial Impacts of Recycling (Universal vs. Specific).* An explanation of general concepts to distinguish between impacts that are universal to any recycling program and those impacts that arise due to specific program implementation details;
2. *Affected Parties (Targeted Generators vs. Other Generators).* A description of costs that impact the targeted generators and costs that affect others in the system;
3. *Comparison with Other Programs.* A comparison of the business recycling costs and outcomes to a selection of other existing and future waste reduction programs. Net economic benefits as well as net environmental benefits are addressed in this section.

Cost figures in the discussion that follows are couched in terms of the *change* in cost relative to the status quo. For example, as always, doing nothing different is always an option. By definition, the *change* in cost of doing nothing is zero. The cost of the two business program options (standards vs. mandatory) are presented in terms of the change in costs relative to doing nothing. In this case, cost impacts are highly dependent on the number of tons recovered. Throughout, the analysis is based on the goal of 80,000 new tons of recovery from businesses; fewer tons recovered would mean lower total cost impact, roughly proportional to the number of tons recovered.

Financial Impacts of Recycling: Universal vs. Specific

The financial impacts of recycling can be grouped into two categories: 1. Universal impacts that arise anytime garbage is diverted to recycling; and 2. Specific impacts that arise in response to the program at hand. Regarding universal costs, any waste diverted to recycling will avoid the costs associated with disposal and could generate revenue as a valuable market commodity. These effects are universal and independent of the specific program or action that caused the recycling to occur. Program-specific impacts, on the other hand, can be attributed to a particular program. Examples of program-specific impacts are the public cost of enforcing new requirements, program oversight, and changes in collection service for the targeted generators.

One source of program-specific costs bears special discussion, costs that are fully internalized by the generator. Unlike avoided disposal costs and recyclable material sales, whose magnitudes can be relatively well known, internalized costs are problematic to quantify.

Take the bottle bill as one well-known program that has both associated market costs that are relatively easy to quantify as well as internalized generator costs that are difficult to know. Easy-to-estimate market costs include avoided disposal costs (tons x tip fee) and material sales (tons x sales price). Sources of hard-to-quantify costs include, for example, the value of the consumer’s time and transportation resources to sort out bottles at home and (usually) drive them back to the grocery store for deposit redemption. Additionally, floor space almost always has a value, or opportunity cost. Most homeowners reserve space in the kitchen and/or garage for container storage, at perhaps a seemingly small cost; however, across all homeowners in the region, the total value of that floor space is significant. And, while not a generator consideration per se, grocers provide business floor space for empty bottle storage and redemption machines.

More commonly than not, it becomes impractical to try to place a dollar value on these non-point-sources of cost. Nevertheless, internalized generator costs are real and can be substantial. In the case of business standards or requirements, there certainly will be internalized generator costs, ranging from making office space changes, to appointing a corporate recycling coordinator, to making capital and staff-time investments in reconfiguring recycling areas and internal business practices. The next section quantifies market cost effects and attempts to characterize the internalized cost effects of proposed business recycling options.

Affected Parties: Targeted Generators vs. Other Generators

This section addresses the *economic* costs that would be borne by waste generators within the region as a result of implementing the Business Recycling Program. "Economic costs" refer to money payments for goods and services such as collection of recyclables and disposal of waste. "Economic costs" do not capture external (environmental) benefits of the program, such as improvements in health due to reduced air emissions. Environmental benefits are addressed in a later section.

For analytical purposes, economic effects on two groups are examined: the businesses targeted by these program options, and all other regional generators—single family, multi-family, construction/demolition projects, *etc*.—that are not targeted by this program.

Unless specifically noted in the text that follows, all cost and tonnage figures are region-wide totals.

Business Generators

The change in the cost to business participants stems from three basic sources: (1) internal implementation and management (see discussion above), (2) changes in garbage and recycling services provided by haulers, and (3) changes in the per-ton cost of disposal due to diversion of 80,000 tons to source-separated recycling. The latter also includes changes in Metro's rates to recover Metro's new costs associated with these business recycling program options.

- *Internal Implementation and Management Costs*. As discussed above, internalized costs are generally difficult to quantify. Metro staff estimates that businesses that need to make improvements to their internal recycling systems in response to a new program may spend a minimum of $1 million (in aggregate) annually for those improvements. This conservative estimate is based on anecdotal reports from a few businesses that currently have recycling procedures in place. Some other businesses who have not yet fully developed their recycling processes believe that $1 million per year may be too low, perhaps by an order of magnitude. Changes in internal business costs would need to be internalized. Within estimation error, this cost is not expected to vary significantly under the business standards vs. the mandatory program.
- *Collection Costs.* Assuming that the targeted businesses set aside an extra 80,000 tons of new recyclables, their cost for collecting recyclables will increase by about $7.4 million per year, as more collection time will be required to pick up the additional recyclables. At the same time, collection costs for garbage will decrease slightly, perhaps by as much as $1.2 million, for those 15% or so of businesses that can reduce the frequency of their garbage service due to better recycling. Overall, the net $6.2 million annual collection cost increase will be largely offset by about $6.7 million in avoided disposal costs ($4.7 million in tip fees) and revenue ($2 million) from sales of additional recyclables. The small ($530,000) net decrease over the status-quo cost of providing collection services represents only a fraction of a percent change in total solid waste service costs (out of perhaps $150 million per year), and almost certainly would not of itself warrant a rate adjustment by local governments. Hence, not counting fiscal impacts of tonnage diversion discussed in the next bullet, Metro staff estimates that all businesses combined would pay about the same, on average, for

collection with or without a new business recycling program.[1] Disposal costs, on the other hand, are almost certain to rise, as discussed next.

- *Disposal Costs.* The per-ton cost of disposal (tip fee) is projected to rise for two reasons: (i) the diversion of waste from disposal facilities will both raise Metro's contract rate at Columbia Ridge landfill by approximately 90¢ per ton and leave less tonnage from which to recover fixed costs, with a 35¢ per ton effect at the transfer stations and 85¢ on the Regional System Fee; and (ii) staff assumes that Metro's cost of these business recycling program options—including revenue sharing to pay for the cost of program elements implemented by local governments—will be recovered by an increase in the Regional System Fee of 46¢. If these changes are recovered through Metro's standard rate model, they mean a $1.25 increase in the tonnage charge component of the tip fee (90¢+35¢), and a $1.31 increase in the Regional System Fee (85¢+46¢). In addition, private facilities will have similar cost effects and, if past is precedent, will match Metro's prices, making these disposal increases a region-wide event. Due to these changes, totaling $2.56/ton, participants in a new business recycling program will see a $1.84 million increase in the cost of disposing of waste that continues to be landfilled.

The following table summarizes the cost effects described above.

TABLE 1. Total change in costs for business recycling program participants

Cost Component	Net Cost
Internal management	$1,000,000 *
Collection	(530,000)**
Disposal	1,843,000
Total	$ 2,313,000

* See discussion above regarding uncertainty in internalized costs
** Collection services net of material sales revenue & avoided disposal cost on recycled materials.

- *Effect on Garbage Bill.* A number of factors influence how these net cost increases would impact a specific business's bill from its garbage hauler. Individual businesses will experience different impacts because business size varies, as do waste generation characteristics, solid waste service levels and service providers (hauler). In addition, rate-setting processes are not uniform among jurisdictions in the region. With those caveats, Metro staff believes that most businesses should expect a rate increase of less than 2% given the cost assumptions above, mainly due to the increase in per-ton charges for disposal. Those few businesses that significantly reduce their need for disposal may even enjoy an overall decrease in their bill for solid waste services; however, other businesses that, because of space limitations or the characteristics of their waste, cannot reduce their need for disposal (e.g., restaurants) may experience an increase higher than 2%. See Attachment B for case study examples of how individual businesses could be impacted.

Other Generators (Single Family, Multi-Family, Construction, etc.)

As indicated in the "Disposal Costs" bullet above, tip fees could rise throughout the region by approximately $2.56 per ton. All waste generators would be affected by this change in disposal costs, including generators

[1] These figures do not reflect any increase in hauler-provided education for customers, which could be significant during the early phase of implementation.

who do not participate in a business recycling program. Metro staff estimates that increased disposal costs for these generators would run approximately $1.54 million per year.

Cost Comparison of Business Recycling with Other Programs

In order to make the numbers in the previous section useful for decision-making, the costs of business recycling program options can be compared with the cost and performance of other programs. The following table shows a comparison of key costs and statistics for the prospective Business Recycling and Enhanced Dry Waste Recovery ("EDWRP") programs versus several existing waste reduction programs, including the well-known Bottle Bill program, and Metro's Regional System Fee Credit Program, and Food Waste Composting Program.

TABLE 2. Comparison of program-related cost impacts for several waste reduction initiatives.

		Cost Changes due to…			
	Tons Recovered	Tonnage Diversion *	Govt. Oversight & Enforcement **	Service Changes***	Equivalent cost per ton recovered
		costs shared among all generators		*costs borne by target generators*	
Existing Programs					
Bottle Bill	35,000	$1,205,000	$0	unknown	*$34*
Commercial Organics	12,000	$438,000	$140,000	unknown	*$48*
RSF Credits	30,000	$1,558,000	$10,000	$0	*$52*
Prospective Programs					
Enhanced Biz Recycling	80,000	$2,772,000	$607,000	($530,000)	*$36*
EDWRP	42,250	$1,358,000	$0	$2,407,000	*$89*

* The per-ton cost of disposal rises as fixed costs are recovered from fewer disposed tons and as Metro's contract disposal price increases with diminishing tonnage. Tonnage diversion alone accounts for about $35/ton recovered, regardless of the of the waste reduction program specifics (except for RSF credits, which historically have cost more--$52/ton recovered--due to the operating subsidy).

** Government costs include locally- & regionally-administered education and outreach, enforcement, coordination, and associated overhead. The magnitude of these ongoing government costs is less well-known, typically representing amalgamation of many fractional FTE. Some local governments also may choose to supplement this, e.g., through franchise fees, to support their businesses' recycling.

*** This column includes costs related to changes in collection services, but does not include systems improvements costs (internalized), whose estimation is highly uncertain, as they are dependent on generators' behavior, local governments' rate setting, and haulers' operational choices.

A note on internalized costs

Table 2 includes no estimate of internalized costs caused by the respective programs, as quantitative estimates are so uncertain as to be marginally useful for decision-making. That said, Table 3 tries to characterize the order of magnitude of the various internal systems costs for each program.

TABLE 3. Annual internalized cost estimates for the programs shown in Table 2.

Program Name	Sources of Internalized Generator Costs	Order of Magnitude
Bottle Bill	Homeowner space, time	$1 to $10 million
Commercial Organics	Restaurant or grocer space, time	$0 to $100,000
RSF Credits	None. Disposal-oriented program.	$0
Enhanced Biz Recycling	Space improvements, staff time	$1 to $10 million
EDWRP	None. Disposal-oriented program.	$0

Benefits of Business Recycling Program Options

Economic Benefits

Avoided disposal costs and sales of recyclable materials would be the main direct economic benefits accruing to businesses participating in the Business Recycling Program. With more recyclables being separated out by business generators, less waste will go to a landfill, reducing landfilling cost. In addition, recyclables have a value to recyclers, so any increase in source separation should generate a revenue opportunity for the solid waste system. As indicated in the second bullet, "Collection Costs," above, these savings are included as revenue offsets to the direct collection costs calculations described in the previous section. It is by this mechanism that sales revenue becomes an economic benefit accruing to businesses.

Environmental Benefits

Additional benefits, not counted in economic costs and benefits, accrue to the environment. Recycling reduces the need for raw material extraction, processing, and transport, thus reducing air emissions and resource usage. These types of benefits are for the public at large and some will accrue beyond the Metro boundary. The following table shows the results of the monetized environmental benefits if 80,000 tons are recovered.

Table 4. Monetized Environmental Benefits by Material for 80,000 tons

Recyclables	2005 Tons	Unit Value	Total Value
Newspaper	6,135	$163	$1,002,234
Mixed waste paper	28,275	$129	$3,648,579
Cardboard/kraft paper	26,201	$141	$3,683,992
High-grade paper	4,876	$100	$486,039
Glass containers	5,405	$19	$101,020
Steel cans	2,346	$50	$118,176
Aluminum cans and foil	1,123	$621	$697,804
Plastic bottles and tubs	5,639	$86	$484,325
Total	**80,000**	**$128**	**$10,222,169**

Source: TRACI, Decision Support Tool, Environmental Protection Agency, 2007.

The largest factor contributing to the environmental benefits is the reduction of 218,000 tons of greenhouse gas emissions (valued at $36 per ton of carbon dioxide equivalent for a total savings of $7.8 million). Additional upstream benefits from using recycled versus virgin materials in the manufacturing process include reduced acidification (sulfur dioxide), eutrophication (nitrogen), and ecological toxicity (chemicals) at an economic value of $1.3 million. Pollution prevention has a positive impact on human health, which is measured via disability-adjusted life years (DALYs). DALYs account for years of life lost and years lived with disability, adjusted for the severity of the associated unfavorable health conditions. We measured the economic value of improvements in human health to be over $1 million.

Overall, the reduced need to extract natural resources results in saving nearly 1.2 million trees, air emissions equivalent to taking 42,000 cars off the road, and enough energy to power 15,000 homes for one year.

Business Recycling Program Options - Cost and Benefit Summary

The analysis has outlined the net economic costs that would accrue to generators within the region for 80,000 tons of new business recycling:

- Business Participants: $2.313 million per year (including $1 million internalized cost)
- Other Generators: $1.536 million per year
- Total $3.849 million per year

Cost changes associated with different tonnage diversion would vary roughly proportionally. For example, if the Business Standards option achieved only 35,000 tons of new recovery, then the above totals would be reduced by about half.

In addition, Metro staff has estimated the net environmental benefits of the program to be $10.22 million for 80,000 tons of new recovery, or less than $5 million for 35,000 tons. The environmental benefits would be shared over a wide geographic area that extends beyond Metro's jurisdictional boundary.

Table 5 below summarizes the costs projected for an 80,000-ton diversion of garbage to recycling due to implementation of the mandatory business recycling option. Note that only the figures in the right half of the diagram (labeled "Program-specific") would be unique to this specific program. All the cost changes in the "Universal" left half are dependent solely on the number of tons diverted to recycling and would occur *regardless of how the tons were diverted from the waste stream*.

Table 5. Cost changes unique to the proposed business recycling program (specific), and changes that would occur due to any diversion of tonnage to recycling (universal).

	Universal		Program-specific		
	per-ton	total	per-ton	total	
Internal management	-	-	$12.50	$1,000,000	
Solid waste service					$472,300
Avoided coll., tfr., transp. disp.	($60.00)	($4,800,000)	-	-	*businesses pay*
Avoided govt. fees	($14.00)	($1,120,000)			
Sales of recyclables	($24.00)	($1,920,000)	-	-	
Collection service	-	-	$91.40	$7,312,300	
Tip Fee impacts					
Regional programs	$0.85	$1,120,000	-	-	
Fixed costs (e.g., scalehouse)	$0.35	$462,000	-	-	
Contract payments	$0.90	$1,188,000			$3,376,700
					all generators pay
Program oversight	-	-	$0.33	$441,300	
Enforcement	-	-	$0.13	$165,400	
TOTAL		*($5,070,000)*	+	*$8,919,000*	= $3,849,000

Note: Whereas Table 5 is based on an 80,000-ton diversion, for a business program that achieves only 35,000 tons of diversion, e.g., the standards approach, per-ton amounts would remain roughly the same, and the dollar totals would be cut by about half.

Attachment B
Recycle at Work Business Case Studies

Adopting one of the proposed programs to increase business recycling is projected to result in less than a two percent increase on the average garbage and recycling service bill. To understand how businesses of various sizes with different levels of garbage and recycling services will be affected, staff looked at recent recycling improvements at specific businesses that have received Recycle at Work assistance, the price of those changes, and the projected increase in the monthly service bill with the passage of a new program. Costs vary by service frequency, location, and material quantity.

Small Business - New Recycling	
Business Type	Community Park
Employees	2
Location	Unincorporated Washington County
Previous Garbage Service	1-3 yard garbage container serviced once a week
Previous Recycling Service	None
Previous Monthly Price of Service	$160.96
Change in Service	*Added 1-3 yard recycling container serviced once a week*
New Materials Recycled	Paper, cardboard, containers
New Monthly Price of Service	$160.96
Price Change to Increase Recycling	**$0**
Projected Monthly Price Increase with proposed Business Recycling Program (<2% due to increased disposal costs)	**$3**

Small Business - Enhanced Recycling	
Business Type	Frame Shop
Employees	5
Location	Beaverton
Previous Garbage Service	1 yd garbage container
Previous Recycling Service	90 gallon recycling cart
Previous Monthly Price of Service	$83.36
Change in Service	*Switched garbage and recycling container sizes to 1 yd recycling and 90 gallon garbage*
New Materials Recycled	Increased capture of recyclables
New Monthly Price of Service	$36.00
Price Change	**($47)**
Projected Monthly Price Increase with proposed Business Recycling Program (<2% due to increased disposal costs)	**$0.49**

Medium Business - New Recycling	
Business Type	Restaurant
Employees	20+
Location	Beaverton
Previous Garbage Service	4 yd garbage serviced 4 times/week
Previous Recycling Service	None
Previous Monthly Price of Service	$520
Change in Service	*Added commingling container, reduced garbage service to 2 times/week*
New Materials Recycled	Paper, cardboard, containers, and glass

New Monthly Price of Service	$270
Price Change	**($250)**
Projected Monthly Price Increase with proposed Business Recycling Program (<2% due to increased disposal costs)	**$5**

Attachment B

Medium Business - Enhanced Recycling	
Business Type	Athletic Club
Employees	40
Location	Sandy
Previous Garbage Service	4 yd garbage serviced 1 time/week
Previous Recycling Service	1 90 gallon cart
Projected Monthly Price Increase	$266
Change in Service	*Added 2 90-gallon carts for commingling, 1 35-gallon for glass; Reduce garbage container size to 3 yd*
New Materials Recycled	Paper, cardboard, containers, and glass
New Monthly Price of Service	$206
Price Change	**($60)**
Projected Monthly Price Increase with proposed Business Recycling Program (<2% due to increased disposal costs)	**$3.33**

Large Business - New Recycling	
Business Type	Large businesses usually recycle at least cardboard, thus we do not have a case to share at this time.

Large Business - Enhanced Recycling	
Business Type	Suburban Lifestyle Shopping Center
Employees	88 tenants, 2000 employees
Location	Tualatin/Tigard
Previous Garbage Service	2 Trash compactors pickup 3 times/week
Previous Recycling Service	1 Cardboard-only compactor pickup 3 times/week
Previous Monthly Price of Service	~$12,000
Change in Service	*Added 14 32-gallon glass totes (4 of which are being serviced 2x week) and commingled materials to compactor*
New Materials Recycled	Paper, containers, and glass
New Monthly Price of Service	Varies based on tonnnage - no additional service fees
Price Change	**Unknown, likely decrease**
Projected Monthly Price Increase with proposed Business Recycling Program (<2% due to increased disposal costs)	**$223**

Notes

Recycling services are included in garbage service rates. In some jurisdictions, businesses may have to pay for recycling separately from garbage due to service levels (e.g. compactor or drop box service).

Although the Recycle at Work technical assistance program has been successful in initiating change at interested businesses, challenges still exist with businesses that will not allow recycling specialists "in the door."

Attachment B

Business Case Studies
Perceived Barriers to Recycling

Business Type	Testing Lab
Location	Hillsboro
Perceived Barriers to Recycling	Hauler resistance
Issue	The business explained that the hauler for their business site initially refused to provide them with recycling services. Employees demanded recycling, but it was a challenge to get service.
Business	Multi-Tenant Commercial Property
Location	Forest Grove
Perceived Barriers to Recycling	Cost
Issue	Multi-tenant property managers would like to add recycling to their hauling services, but are deterred by the additional cost for each recycling container. The solid waste hauling rates currently do not include recycling services, thus businesses must pay an additional fee for each recycling container they want to add.
Business	Property Management Co.
Location	Unincorporated Washington County
Perceived Barriers to Recycling	Lack of information, time
Issue	Tenants have requested recycling services, but have met resistance from the property manager. The hauler provided the property manager with unclear information regarding recycling services, rate of service, and the type of material that can be recycled, thus the property manager was unwilling to commit time to initiating change.
Business	Retail Pharmacy
Location	Regional
Perceived Barriers to Recycling	Corporate direction, cost, lack of information
Issue	A third party contractor manages the pharmacy's waste contracts. The contractor has direction from the corporate office of the retail pharmacy not to initiative costly changes and is likely unaware that recycling services are included with the garbage rates in the Metro region. Pharmacy local management has expressed frustration with the lack of recycling services, but defers all changes to their contractor. A letter was sent to the contractor from the Recycle at Work Program Coordinator explaining the rate structure and encouraging recycling at regional stores.
Business	Property Management Co.
Location	Portland, regional
Perceived Barriers to Recycling	Convenience, cost
Issue	A large property management firm hauls their own garbage and contracts out their recycling services. Because they are not paying garbage hauling rates, recycling services are not included and they must pay for additional recycling containers. They did not want to pay for this service and thus, were not recycling. The City of Portland sent an enforcement letter to the firm regarding the City's mandatory recycling requirement. The property management company has since initiated paper recycling, but continues to be unwilling to add bottle and can recycling.

Attachment C
Local Government Impact

Below is a summary on the impact of the proposed program options on local governments. The summary responds to the following questions:

1. Who will conduct the additional work?
2. Are the local governments are ready to implement a new program?
3. What is the cost to local governments?

Local Government Responsibility
Under Option 1, Mandatory Business Recycling, all local cities and counties acting as a solid waste authority would be responsible for adopting legislation requiring businesses to recycle paper and containers. Metro would provide the model ordinance language, while local jurisdictions would each be responsible for adopting the requirements.

Under Option 2, Voluntary Business Recycling Standards, these same jurisdictions would be required to develop and implement new programs to meet a 90 percent recycling rate for paper and containers. It is likely that many of the cities in Clackamas and Washington Counties would defer the program development and reporting to their county, the designated waste reduction planning agency, but they have a role in local implementation.

Mandatory Business Recycling requires a one-time demand on local government staff and elected officials to adopt the ordinance versus Voluntary Business Recycling Standards, which requires on-going program management and evaluation. Under both options, Recycle at Work services would continue to be provided to the business community by those jurisdictions currently receiving direct program funding from Metro.

Attachment D outlines local government authority, responsibility for solid waste programs and role in new programs.

Local Government Readiness
Local governments have been a major stakeholder in the planning and identification of program options since discussions began in 2003. Their staff input has been critical to program development. While awareness does not always equal readiness, local government staff are aware of the resources that would be involved in implementing either of the business recycling program options. Metro staff would assist with ordinance adoption, enforcement needs, targeted outreach, and Recycle at Work resources and services to support local governments.

If Metro adopts a Mandatory Business Recycling ordinance:

- Local staff would be provided with a model ordinance for implementing the mandatory program.
- Local jurisdictions would need to adjust their administrative rules.
- Enforcement staff would either be provided by Metro, under the terms of an IGA, or local Code enforcement staff would be utilized to inspect business compliance at the local government level.
- Local Recycle at Work outreach and assistance to businesses that need help setting up or improving their recycling programs would intensify with local passage of mandatory business recycling, and additional staff may be needed for a time, in order to respond to that increased demand for assistance.

If Metro adopts the Voluntary Business Recycling Standards program:

- More planning, plan reviews and program coordination between both Metro and local governments would result.

-
- Counties would coordinate with their cities and franchisees to develop implementation plans and create consistent commercial recycling service standards.
- Larger cities like Portland, Gresham and Beaverton would establish their own plans and submit them directly to Metro.
- Additional Metro resources would be needed to coordinate program review and approval, fund distribution, and annual waste characterization studies to assess performance.

Local Government Costs
To implement a new business recycling program, local governments estimate they will need additional resources. Under Option 1, Mandatory Business Recycling, local governments expect to spend most of their time up front assisting their councils and commissions in passing the new ordinance. Staff would also be needed at a few jurisdictions to respond to increased demand for Recycle at Work assistance. Those jurisdictions that provided estimates suggested an additional $356,000-$456,000 would be sufficient to implement Mandatory Business Recycling requirements.

Most jurisdictions were uncertain what practices they would implement under Option 2, Voluntary Business Recycling Standards, and thus they found it challenging to accurately identify additional funds needed. Overall, an estimated $329,000-$484,000 was requested for additional staff to develop, implement, and evaluate Business Recycling Standards programs.

On average, local governments estimated a cumulative need for $400,000 (4 FTE) to implement either program, while recovery results are expected to vary greatly between the two options.

Attachment D- Local Government Program Authority and Funding Overview

					Option 1: Mandatory Business Recycling			Option 2: Business Recycling Standards				
Jurisdiction	**Solid Waste Authority**	**Designated Waste Reduction Planning Agency**	**Direct Funding**	**Pass thru Allocation**	**Adopt legislation**	**Likely to defer enforcement to Metro**	**Maintain current Recycle at Work services**	**Maintain current Recycle at Work services**	**Develop new programs**	**Implement Program**	**Year 1 progress report**	**Year 2 progress report**
Clackamas County	X	Clackamas County	X		X	Yes	X	X	X	X	X	X
Unincorporated Clackamas County*		Clackamas County		X	X	Yes			X	X	X	X
Barlow*	X	Clackamas County		X	X	Yes			X	X	X	X
Rivergrove*	X	Clackamas County		X	X	Yes			X	X	X	X
Johnson City*	X	Clackamas County		X	X	Yes			X	X	X	X
Damascus*	X	Clackamas County		X	X	Yes			X	X	X	X
Gladstone*	X	Clackamas County		X	X	Yes			X	X	X	X
Happy Valley*	X	Clackamas County		X	X	Yes			X	X	X	X
Lake Oswego*	X	Clackamas County		X	X	Yes			X	X	X	X
Milwaukie*	X	Clackamas County		X	X	Yes			X	X	X	X
Estacada*	X	Clackamas County		X	X	Yes			X	X	X	X
Molalla*	X	Clackamas County		X	X	Yes			X	X	X	X
Oregon City*	X	Clackamas County		X	X	Yes			X	X	X	X
Sandy*	X	Clackamas County		X	X	Yes			X	X	X	X
West Linn*	X	Clackamas County		X	X	Yes			X	X	X	X
Canby*	X	Clackamas County		X	X	Yes			X	X	X	X
Wilsonville*	X	Clackamas County		X	X	Yes			X	X	X	X
Multnomah County*	X	Portland		X	X	Yes			X	X	X	X
Unicorprated Multnomah County*		Multnomah County			X	Yes			X	X	X	X
Gresham	X	Gresham	X		X	Yes	X	X	X	X	X	X
Wood Village*	X	Gresham		X	X	Yes			X	X	X	X
Fairview	X	Fairview	X		X	Yes	X	X	X	X	X	X
Troutdale	X	Troutdale	X		X	Yes	X	X	X	X	X	X
Portland	X	Portland	X		X	No	X	X	X	X	X	X
Beaverton	X	Beaverton	X		X	Yes	X	X	X	X	X	X
Washington County	X	Washington County	X		X	Yes	X	X	X	X	X	X
Unincorporated Washington County*		Washington County		X	X	Yes			X	X	X	X
Hillsboro*	X	Washington County		X	X	Yes			X	X	X	X
Tigard*	X	Washington County		X	X	Yes			X	X	X	X
Tualatin*	X	Washington County		X	X	Yes			X	X	X	X
Forest Grove*	X	Washington County		X	X	Yes			X	X	X	X
Banks*	X	Washington County		X	X	Yes			X	X	X	X
Cornelius*	X	Washington County		X	X	Yes			X	X	X	X
King City*	X	Washington County		X	X	Yes			X	X	X	X
North Plains*	X	Washington County		X	X	Yes			X	X	X	X
Sherwood*	X	Washington County		X	X	Yes			X	X	X	X
Durham*	X	Washington County		X	X	Yes			X	X	X	X
Gaston	X	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Maywood Park	X	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Defintions and notes:

Jurisdiction Listing- All jurisdictions listed are in the regional wasteshed. Juridictions in bold are within the Metro region boundary.

Solid Waste Authority: Local government responsible for designing and administering waste reduction programs; regulating and managing solid waste and recycling collection services within their jurisdictional boundaries; and reviewing collection rates and services standards.

Designated Waste Reduction Planning Agency: Local government responsible for designing and implementing the waste reduction programs including Recycle at Work Services. Cities may designate the county agency to implement a program on their behalf.

Direct Funding: Receive direct funding from Metro to implement waste reduction programs.

Pass thru Allocation: Local government is eligible for direct funding from Metro, but designates funding to county to implement waste reduction programs on their behalf.

***** *Under Option 2, the jurisdiction may choose to have their designated waste reduction planning agency develop and implement the new program plan and reporting on their behalf.*

Agenda Item Number 6.4

Ordinance No. 08-1201, For the Purpose of Adopting the Business Recycling Requirement Model Ordinance Pursuant to Metro Code Section 5.10.350 and the Regional Solid Waste Management Plan.

Second Reading

Metro Council Meeting
Thursday, September 18, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING THE BUSINESS RECYCLING REQUIREMENT MODEL ORDINANCE PURSUANT TO METRO CODE SECTION 5.10.350 AND THE REGIONAL SOLID WASTE MANAGEMENT PLAN, 2008-2018 UPDATE	))))))	ORDINANCE NO. 08-1201 Introduced by Michael Jordan, Chief Operating Officer, with the concurrence of David Bragdon, Council President

WHEREAS, on July 24, 2008, the Metro Council adopted Ordinance No. 07-1162A, For the Purpose of Adopting the Regional Solid Waste Management Plan, 2008-2018 Update (RSWMP), which when it is effective on October 22, 2008, will provide the Portland metropolitan area with policy and program direction for the next decade;

WHEREAS, on July 24, 2008, the Metro Council adopted Ordinance No. 08-1183A, For the Purpose of Amending Metro Code Title V, Solid Waste, to Add Chapter 5.10, Regional Solid Waste Management Plan, to Implement the Requirements of the 2008-2018 Regional Solid Waste Management Plan, which will take effect on October 22, 2008;

WHEREAS, the RSWMP includes the Waste Reduction Program required by ORS Chapter 459;

WHEREAS, the Metro Council has identified the specific enforceable components of the Waste Reduction Program through changes to the Metro Code;

WHEREAS, the Metro Council adopted Ordinance No. 08-1198, For the Purpose of Amending the Regional Solid Waste Management Plan, 2008-2018 Update, to Include a Business Recycling Requirement;

WHEREAS, the Metro Council adopted Ordinance No. 08-1200, For the Purpose of Amending Metro Code Chapter 5.10, Regional Solid Waste Management Plan, by Adding Provisions to Implement the Business Recycling Requirement; and

WHEREAS, Metro Code Section 5.10.350, adopted by Ordinance No. 08-1200, requires Metro to adopt a Business Recycling Requirement Model Ordinance that includes a compliance element; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

As required by Metro Code Section 5.10.350, the Business Recycling Requirement Model Ordinance, attached as Exhibit A, is hereby adopted.

ADOPTED by the Metro Council this _______ day of _______________ 2008.

____
David Bragdon, Council President

Attest: Approved as to Form:

______________________________________ ______________________________________
Christina Billington, Recording Secretary Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 08-1201
BUSINESS RECYCLING REQUIREMENT MODEL ORDINANCE

Section 1. Intent

The purpose of this ordinance is to comply with the Business Recycling Requirement set forth in Metro Code Chapter 5.10. A significant increase in business recycling will assist the Metro region in achieving waste reduction goals, conserving natural resources, and reducing greenhouse gas emissions.

Section 2. Applicability

This ordinance applies to all Businesses and Business Recycling Service Customers. A Business is any entity of one or more persons, corporate or otherwise, engaged in commercial, professional, charitable, political, industrial, educational, or other activity that is non-residential in nature, including public bodies. A Business Recycling Service Customer is a person who enters into a service agreement with a waste hauler or recycler for business recycling services.

This ordinance does not apply to Businesses whose primary office is located in a residence. A residence is the place where a person lives.

Section 3. Business Recycling Requirement

Businesses shall source separate all recyclable paper, cardboard, glass and plastic bottles and jars, and aluminum and tin cans for reuse or recycling.

Businesses and Business Recycling Service Customers shall ensure the provision of recycling containers for internal maintenance or work areas where recyclable materials may be collected, stored, or both.

Businesses and Business Recycling Service Customers shall post accurate signs where recyclable materials are collected, stored, or both that identify the materials that the Business must source separate for reuse or recycling and that provide recycling instructions.

Section 4. Exemption from Business Recycling Requirement

A Business may seek exemption from the Business Recycling Requirement by providing access to a recycling specialist for a site visit and establishing that it cannot comply with the Business Recycling Requirement.

Section 5. Compliance with Business Recycling Requirement

A Business or Business Recycling Service Customer that does not comply with the Business Recycling Requirement may receive a written notice of noncompliance. The notice of noncompliance shall describe the violation, provide the Business or Business Recycling Service Customer an opportunity to cure the violation within the time specified in the notice, and offer assistance with compliance.

A Business or Business Recycling Service Customers that does not cure a violation within the time specified in the notice of noncompliance may receive a written citation. The citation shall provide an additional opportunity to cure the violation within the time specified in the citation and shall notify the Business or Business Recycling Service Customer that it may be subject to a fine.

A Business or Business Recycling Service Customer that does not cure a violation within the time specified in the citation may be subject to a fine.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 08-1201, FOR THE PURPOSE OF ADOPTING THE BUSINESS RECYCLING REQUIREMENT MODEL ORDINANCE PURSUANT TO METRO CODE SECTION 5.10.350 AND THE REGIONAL SOLID WASTE MANAGEMENT PLAN

Date: August 18, 2008 Prepared by: Marta McGuire

BACKGROUND

Ordinance No. 08-1201 provides model code language to implement the Business Recycling Requirement (Ordinance No. 08-1200) of the Regional Solid Waste Management Plan 2008-2018.

The Metro Council will consider adoption of the Business Recycling Requirement in Ordinance No. 08-1200. The staff report related to this ordinance provides the history and purpose of the business recycling requirement.

The purpose of this Model Ordinance is to provide a specific example of provisions approved by the Metro Council that can be used by a local government to comply with the performance standards for Metro Code Section 5.10.330 – Business Recycling Requirement Performance Standard. This section describes specific performance standards and practices for local governments. Metro Code Section 5.10.350 requires Metro to adopt a Business Recycling Requirement Model Ordinance for use by local governments to comply with the Metro Code. This Model Ordinance fulfills this requirement. It is also consistent with Metro policies in the 2008-2018 Regional Solid Waste Management Plan.

The purpose of the Business Recycling Requirement is to provide an opportunity for businesses to work with local governments to provide recycling education, to create a consistent standard throughout the Metro region and to increase recycling, thereby assisting the Metro region in meeting recovery goals, conserving natural resources and reducing greenhouse gas emissions. This Model Ordinance addresses those purposes.

This Model Ordinance provides only one method of complying with the Business Recycling Requirement. The Model Ordinance shall be advisory and local governments are not required to adopt the Model Ordinance, or any part thereof, to comply with this title. Local governments that adopt the Model Ordinance in its entirety shall be deemed to have complied with the Business Recycling Requirement.

ANALYSIS/INFORMATION

1. Known Opposition: There is no known opposition to the model ordinance.

2. Legal Antecedents: Ordinance No. 07-1162A, (For the Purpose of Adopting the Regional Solid Waste Management Plan, 2008-2018 Update), adopted July 2008; Ordinance No. 08-1183A, (For the Purpose of Amending the Metro Code Title V, Solid Waste, to Add, Chapter 5.10, Regional Solid Waste Management Plan, to Implement the Requirements of the 200-2018 Regional Solid Waste Management Plan), adopted July 2008; Metro Charter; Metro Code Title V Solid Waste; and ORS Chapters 268 and 459.

3. Anticipated Effects: The Model Ordinance provides one method of complying with the Business Recycling Requirement. The Model Ordinance is advisory and local governments are not required to adopt the ordinance.

4. **Budget Impacts:** No direct budget impacts; however, there are budget impacts related to the Business Recycling Requirement (Ordinance No. 08-1200) identified in the related staff report.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance No. 08-1201.