



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF DENYING A SOLID WASTE FACILITY FRANCHISE APPLICATION OF COLUMBIA ENVIRONMENTAL, LLC TO OPERATE A LOCAL TRANSFER STATION	) ORDINANCE NO. 04-1063A ) ) Introduced by Michael Jordan, Chief ) Operating Officer, with the concurrence ) of the Council President
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WHEREAS, on July 30, 2004 Columbia Environmental, LLC submitted a solid waste facility franchise application to operate a local transfer station at 14041 NE Sandy Boulevard in Portland Oregon; and

WHEREAS, on August 11, 2004 Columbia Environmental representatives met with Metro staff for a pre-application conference, where the application was determined to be complete; and

WHEREAS, in accordance with Metro Code section 5.01.070(h)(3), the Chief Operating Officer and the applicant agreed to a 30-day extension to the application review process; and

WHEREAS, the Metro Council was required to approve or deny the application prior to January 8, 2005, or the franchise will be deemed granted (see Metro Code section 5.01.070(g)); and

WHEREAS, on December 16, 2004 the Metro Council extended the review period for its decision on the application for an additional 60-days, as allowed by Metro Code section 5.01.070(h)(1) to provide the applicant and Metro staff with more time to further analyze cost savings and evaluate the applicant's proposed recovery plan; and

WHEREAS, on February 22, 2005 Metro received a letter from the applicant substantially modifying its application for a transfer station franchise that included a request for authority to accept 38,000 tons of putrescible solid waste per year rather than authority to accept 55,000 tons of putrescible solid waste per year as originally requested, and

WHEREAS, on February 28, 2005 Metro notified the applicant that in accordance with Metro Code section 5.01.070(h)(2) which provides that should an applicant substantially modify its franchise application during the course of the review, the 120-day review period for Council to act shall be restarted as of the date Metro received the applicant's modifications; and

WHEREAS, the Metro Council must approve or deny the substantially modified application prior to June 22, 2005, or the franchise will be deemed granted (see Metro Code section 5.01.070(g)); and

WHEREAS, Metro Code section 5.01.070 requires the Chief Operating Officer to review the application and other evidence submitted, to investigate as he deems appropriate, and to formulate recommendations regarding whether the applicant is qualified, whether the proposed franchise complies with the Regional Solid Waste Management Plan (RSWMP), whether the proposed franchise meets the requirements of Metro Code section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements; and

WHEREAS, the Chief Operating Officer has concluded that the applicant is qualified and can comply with all other applicable regulatory requirements, but that the proposed franchise does not comply with the RSWMP and does not meet all of the requirements of Metro Code section 5.01.060; and

WHEREAS, on the basis of the application and the Chief Operating Officer's investigation, the Chief Operating Officer recommends denial of the Columbia Environmental application for a solid waste franchise to operate a local transfer station; and

WHEREAS, Columbia Environmental may contest the Council's decision in this matter as explained in the contested case notice attached to this ordinance as Exhibit A, a copy of which shall be provided to Columbia Environmental as provided in Metro Code chapter 2.05; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

The solid waste facility franchise application of Columbia Environmental, L.L.C., is hereby denied. The Chief Operating Officer shall provide the applicant with contested case notice in a form substantially similar to that attached as Exhibit A. In the event that this decision is contested, a hearings officer shall conduct the initial contested case hearing as provided in Metro Code chapter 2.05.

ADOPTED by the Metro Council this \_\_\_\_\_ of \_\_\_\_\_, 2005.

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David Bragdon, Council President

Attest:

Approved as to Form:

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Christina Billington, Recording Secretary

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Daniel B. Cooper, Metro Attorney

BEFORE THE METRO REGIONAL GOVERNMENT

IN THE MATTER OF THE METRO	)	
COUNCIL'S DENIAL OF THE SOLID	)	
WASTE FACILITY FRANCHISE	)	CONTESTED CASE NOTICE
APPLICATION OF COLUMBIA	)	
ENVIRONMENTAL, L.L.C.	)	

TO COLUMBIA ENVIRONMENTAL, L.L.C., 14041 NE Sandy Blvd., Portland, OR 97230.

Pursuant to Metro Code § 2.05.005(c), Metro hereby provides Columbia Environmental, L.L.C. with contested case notice in the matter of the Metro Council's approval of Ordinance No. 04-1063 denying Columbia Environmental's solid waste facility franchise application seeking authority to operate a local transfer station. A copy of Ordinance No. 04-1063 is included with this notice.

A contested case arises in this matter pursuant to Metro's authority under Article XI, Section 14 of the Oregon Constitution, the Metro Charter, ORS Chapter 268, including ORS 268.317 and ORS 268.318, and Metro Code Chapters 2.05 and 5.01, including sections 5.01.060 and 5.01.070. Pursuant to Metro Code Chapter 2.05, Columbia Environmental has a right to request a hearing within 60 days of the date of the mailing of this notice. A hearing, if requested, would concern the Metro Council's approval of Ordinance No. 04-1063 denying Columbia Environmental's solid waste facility franchise application seeking authority to operate a local transfer station. Columbia Environmental can be represented by legal counsel at the hearing, if it so desires.

DATED the 17th day of December 2004.

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Michael Jordan  
Chief Operating Officer

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing CONTESTED CASE NOTICE on the following:

Bryan Engleson  
Columbia Environmental, L.L.C.  
14041 NE Sandy Blvd.  
Portland, OR 97230

and

Anthony J. Motschenbacher  
Registered Agent for Columbia Environmental, L.L.C.  
117 SW Taylor St., Suite 200  
Portland, OR 97204

on December 17, 2004, by mailing to said individuals a complete and correct copy thereof via certified mail, return receipt requested, contained in a sealed envelope, with postage prepaid, and deposited in the U.S. post office at Portland, Oregon.

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Roy Brower  
Regulatory Affairs Manager  
Metro

**Executive Summary**  
**Ordinance No. 04-1063A**

For the purpose of denying the solid waste facility franchise application of Columbia Environmental, LLC to operate a local transfer station

Background

On July 30, 2004, Columbia Environmental, LLC submitted a franchise application for a local transfer station to be located at 14041 NE Sandy Boulevard in Portland, Oregon (located in Metro Council District 1). The proposed facility is located on a 12.5-acre site zoned IG2, a General Industrial base zone with a Scenic Resources overlay zone. It has operated as a source-separated recyclable processing facility since 1996.

The proposed facility is owned by a partnership. According to the applicant, there are two equal investment partners in Columbia Environmental: KCDK, L.L.C., and Oregon Recycling Systems (ORS).

Council review period extended

On December 16, 2004, the Metro Council extended the review period for its decision on Columbia Environmental (Ordinance No. 04-1063) for an additional 60 days, as allowed by Code. The purpose of the extension was to provide Metro staff and the applicant with more time to further analyze cost savings and evaluate the applicant's proposed recovery plan and report back to Council by March 9, 2005.

Franchise application substantially modified

On February 22, 2005 Columbia Environmental notified Metro it was revising its franchise application. It would now seek authority to accept 38,000 tons of putrescible solid waste rather than the 55,000 tons of putrescible waste requested in its original franchise application. Other operational changes were described related to Phase 1 through Phase 3 (future). These changes constituted a substantial modification of its franchise application (Metro Code section 5.01.070(h)(2)). As a result, on February 28, 2005, Metro notified the applicant that the 120-day review period for Columbia Environmental's modified franchise application would commence on February 22, 2005 and will expire on June 22, 2005. The Council must approve or deny the application within 120 days of the date the modifications were submitted by the applicant.

In its modified application for Phase 1, Columbia Environmental states that its cost savings are divided into two main categories: 1) lower tip fees for dry waste (\$300,000), and 2) transportation savings (\$1million to \$1.6 million); and it would conduct recovery at an overall rate of 10% from putrescible waste and 45% from non-putrescible waste. The applicant states these benefits will grow as Phase 2 and Phase 3 of their operations plan are implemented.

### Five Metro Code evaluation factors

Metro Code requires the Council to consider five criteria when deciding whether to grant or deny an application for a regional transfer station franchise, but the Code explicitly provides that the Council need not be limited by only those five criteria. The analysis in the report has addressed all of the issues that the Chief Operating Officer is required to analyze, as well as all five of the criteria the Council is required to consider.

### Findings

- ❑ In the short-term, Columbia Environmental's Phase 1 operations would, on balance, increase costs for the region's ratepayers by about \$238,000 to \$618,000 annually.
- ❑ Potentially lower transportation and disposal costs for Columbia Environmental's haulers—some of which are likely to be passed through to ratepayers—would be more than offset by the increased tip fees regionwide.
- ❑ The additional recovery, beyond that which now occurs, would be between 6,000 and 8,000 tons per year. This would add about three-tenths of a point to the regional recovery rate.
- ❑ For the longer term, and if approved, Phase 3 of the applicant's proposal would increase ratepayer costs by between \$534,000 and \$1,353,000, depending on how much of the cost reductions are passed on to the ratepayers.

Assuming that some savings would be passed through to ratepayers, it must be recognized that granting a local transfer station franchise to Columbia Environmental would create both winners and losers. Tip fee increases at Metro transfer stations would result directly in a local rate increase; whereas, transportation cost reductions have only a slight chance of lowering local rates. In addition, it has historically been the case when Metro increases its tip fee; other privately operated transfer stations and dry waste material recovery facilities also increase their tip fees. Thus, the cost of solid waste disposal services for the region's citizens and businesses will likely increase even more.

### COO recommendation

Based on the detailed analysis of the applicant's revised proposal against the required Code criteria, staff concludes that the proposed transfer station is not in the public interest. The COO recommends denial of the applicant's proposal and approval of Ordinance No. 04-1063A.

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 04-1063A FOR THE PURPOSE OF DENYING A SOLID WASTE FACILITY FRANCHISE APPLICATION OF COLUMBIA ENVIRONMENTAL, LLC TO OPERATE A LOCAL TRANSFER STATION

Date: November 2, 2004  
Amended: May 4, 2005

Prepared by: Michael Hoglund

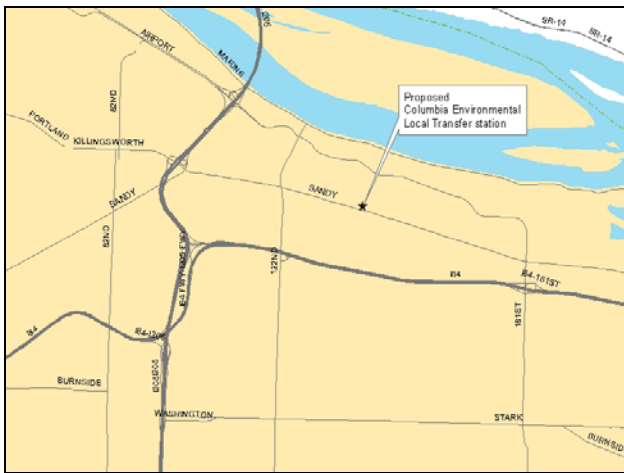
## SUMMARY

Based on the criteria contained in Metro Code sections 5.01.060 and 5.01.070, the Chief Operating Officer recommends approval of Ordinance No. 04-1063A that would deny the solid waste facility franchise application of Columbia Environmental, LLC.

## BACKGROUND

Columbia Environmental, LLC submitted a franchise application for a local transfer station to be located at 14041 NE Sandy Boulevard in Portland, Oregon (Site Location Map #1) and located in Metro Council District 1. The proposed facility is located on a 12.5-acre site zoned IG2, a General Industrial base zone with a Scenic Resources overlay zone. It has operated as a source-separated recyclable processing facility since 1996. The City of Portland has defined the impact area as a 60-acre trapezoid surrounding the site that includes some open channels and wetlands associated with the Columbia Slough. The nearest residential area to the site is south on NE Sandy Boulevard, approximately 200 feet from the proposed facility and separated by a parking area, a berm, the frequently-used Union Pacific rail line atop the berm, and NE Sandy Boulevard.

**Site Location - Map #1**



**Aerial Photo of Subject Site**



The proposed facility is owned by a partnership. The partnership includes independent haulers that also own Oregon Recycling Systems (ORS), which is a recycling business

operating on the site that is currently limited to accepting source-separated recyclable materials. According to the applicant, there are two equal investment partners in Columbia Environmental that contribute equally to a six-member board of managers. The board consists of members from each of the two equal ownership partners KCDK, L.L.C., and ORS. The three ORS members on the board are Mike Miller, David McMahon, and Richard Cereghino. The names of three of the members associated with KCDK are David Ross, Kirk Ross and Ty Ross. No other information was submitted regarding KCDK, LLC.

The aerial photo shows the location of ORS, the existing 96,000 square-foot building in the center of the photo. This building presently serves as a recycling processing business for residential source separated recyclables. The proposed transfer station would be housed in a new 36,000 square-foot building to be located in the center of the site, north of the exiting building.

#### The application process

Columbia Environmental submitted its local transfer station franchise application to Metro on July 30, 2004. Columbia Environmental representatives met with Metro staff for a pre-application conference on August 11, 2004, where upon providing additional information requested by Metro and proof of insurance, the application was determined to be complete and the 120-day review period was initiated. However, in accordance with Metro Code section 5.01.070(h)(3), the COO and the applicant agreed to a 30-day extension to the application review process.

On December 16, 2004, the Metro Council extended the review period for its decision on Columbia Environmental (Ordinance No. 04-1063) for an additional 60 days, as allowed by Code. The purpose of the extension was to provide Metro staff and the applicant with more time to further analyze fiscal impacts and evaluate the applicant's proposed recovery plan and report back to Council by March 9, 2005 (see **Attachment 1**, Agenda Item #5.1).

In addition to the five Metro Code evaluation criteria, at the December 16, 2004 Council hearing, a Metro Councilor introduced five additional evaluation factors for Council consideration in its review of the Columbia Environmental proposal. These included:

- 1) The ability for a significant number of remaining small independent haulers to compete in this region and ensure their competitiveness in the ever increasing vertically integrated system.
- 2) An innovative approach to increasing recycling through enhanced mechanization and by going after the significant amount of recyclable materials mingled in with multi-family putrescible waste.
- 3) A significant reduction in truck Vehicle Miles Traveled (VMT) given Columbia Environmental's proximity to their customers.
- 4) Potential cost savings to ratepayers on the east side.



- 5) The facility would provide a second transfer station in a wasteshed that currently generates about 130,000 tons a year.

These evaluation factors were discussed at the February 22, 2005 Council work session. Council provided no direction to the COO to incorporate the factors into the staff analysis. Therefore, each Councilor may consider these additional factors as he or she deems appropriate.

Metro staff met with Columbia Environmental representatives on December 21, 2004 to discuss the information that Metro required, including information requested by the Metro Council. In a letter from Columbia Environmental dated January 19, 2005, the applicant provided Metro staff with some of the information that was previously requested (see **Attachment 2**). This was followed up with a fax on February 8, 2005 from the applicant containing more information (see **Attachment 3**).

On February 10, 2005, Metro staff sent a letter to the applicant requesting the balance of the information that was necessary to evaluate the application as requested by the Metro Council at its December 16, 2004 meeting and at the follow up meeting between the applicant and Metro staff on December 21, 2004 (see **Attachment 4**).

On February 22, 2005 Metro received a letter from Winterbrook Planning on behalf of Columbia Environmental regarding its application for a transfer station franchise (see **Attachment 5**). In that letter the applicant stated that it was revising its application to seek authority to accept 38,000 tons of putrescible solid waste rather than the 55,000 tons of putrescible waste requested in Columbia Environmental's original franchise application. In addition, other operational changes were described related to phases for the material recovery system installation.

Metro considered these changes to constitute a substantial modification of Columbia Environmental's franchise application. In accordance with Metro Code section 5.01.070(h)(2) which provides that should an applicant substantially modify its franchise application during the course of the review, the 120-day review period for the Council to act shall be restarted as of the date Metro received the applicant's modifications. As a result, on February 28, 2005, Metro notified the applicant that the 120-day review period for Columbia Environmental's modified franchise application would commence on February 22, 2005 and will expire on June 22, 2005 (see **Attachment 6**). The Council must approve or deny the application within 120 days of the date the modifications were submitted by the applicant.

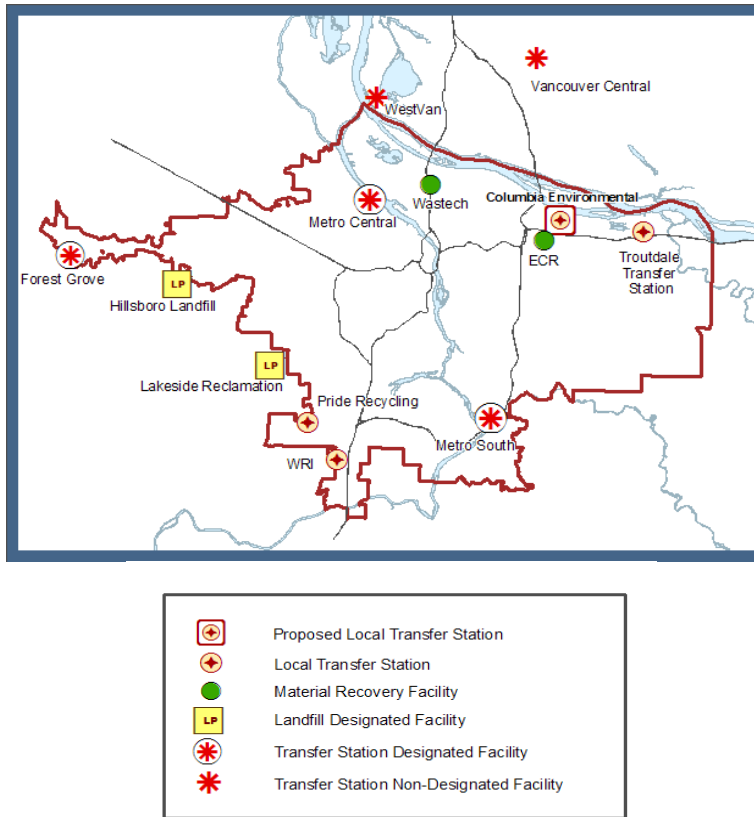
After conducting a review of the modified application information submitted by Columbia Environmental, Metro staff identified specific items that still required clarification in order to analyze the application consistent with Metro Code criteria. On March 8, 2005, Metro staff sent a letter to the applicant requesting clarification of those items (see **Attachment 7**).

On April 7, 2005 Columbia Environmental responded in writing to Metro staff questions (see **Attachment 8**). On April 13, 2005 Metro staff and the applicant met to discuss the information provided by the applicant.

Geographical context of the proposed local transfer station

The following map locates the proposed Columbia Environmental transfer station in relation to other primary facilities of the current solid waste system where waste generated in the Metro region is processed, transferred or disposed.

**Solid Waste Facilities and the Proposed Columbia Environmental Transfer Station – Map #2**

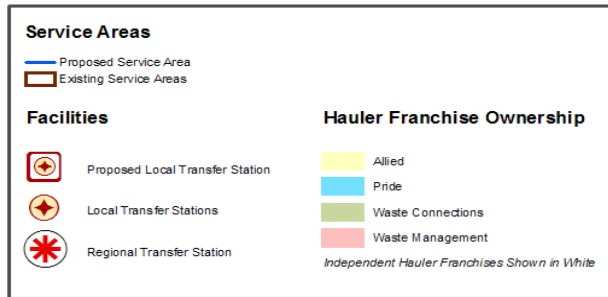
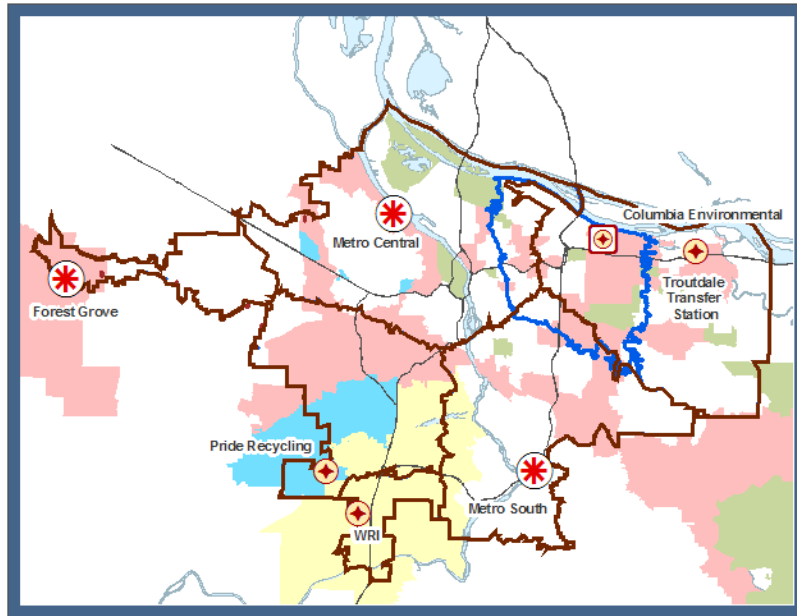


There are also numerous other specialized processing, composting and reload operations throughout the region (not shown). The two transfer facilities located in Clark County, Washington are used to process some solid waste generated from within the Metro region. Six other general and limited purpose landfills are found throughout Oregon and Washington and serve as disposal destinations for solid waste generated within the Metro region (not shown).<sup>1</sup> These landfills are located anywhere from 47 miles to 170 miles from the Metro region.

<sup>1</sup> Coffin Butte landfill, Columbia Ridge landfill, Finley Buttes landfill, Wasco landfill, Riverbend landfill, and Roosevelt landfill.

Each transfer station in the region has an associated service area based on the 2001 amendments to Chapter 5.01 of the Metro Code. Each of the service area boundaries are located equidistant from the next closest transfer station. Map #3 illustrates how the existing transfer station service area boundaries would change if Columbia Environmental’s application were approved.

**Proposed Transfer Station Service Areas  
with Approval of Columbia Environmental – Map #3**



As illustrated, inserting a new local transfer station service area into the regional system shrinks the service areas of the existing transfer stations (both Metro and non-Metro). The service area concept was adopted by the Council as a rationale for establishing the local transfer station tonnage caps, and as specified in Metro Code, are to be arrived at by: 1) establishing geographic service areas based on distance, 2) calculating the amount of putrescible waste for disposal in each service area (“demand”), and 3) limiting the putrescible waste tons that could be delivered to local transfer stations to the calculated demand.<sup>2</sup> In other words “demand” in each service area would set the “tonnage cap” for

<sup>2</sup> Annual putrescible waste tonnage authorizations are currently: Pride-65,000 tons, Troutdale-65,000 tons; and WRI-68,250 tons (2005-2006).

each local transfer station. Council was also interested in minimizing distances traveled by waste collection vehicles or reducing Vehicle Miles Traveled (VMT). This was to be accomplished by requiring each facility to serve haulers within its service area.

## **EVALUATION OF PROPOSED FRANCHISE APPLICATION**

Columbia Environmental promotes several key points as part of its franchise application package, including:

- Granting the franchise would allow its members to reduce their transportation costs, in order to offset other ongoing increases in their solid waste collection costs. They claim this could result in lower franchise collection rate increases, allowing them to charge more competitive fees to Portland commercial customers;
- The proposed facility would help maintain the presence of small haulers as a stabilizing factor in providing solid waste services in the Metro region. The emphasized features of the proposal are improved accessibility to haulers, increased competition and enhanced material recovery capacity. The applicant provided a financial analysis showing a net “benefit” to the overall system of more than \$1.3 million.

### Franchise application substantially modified

As noted, on February 22, 2005, Columbia Environmental submitted a letter to Metro that contained information that constituted a substantial modification to its original franchise application. In its letter, the applicant requested authority to accept and transfer 38,000 tons of putrescible solid waste per year. This is a reduction from its original request of 55,000 tons of putrescible solid waste per year. Based on the applicant’s Phase 1 estimates, the proposed facility would accept about 15,600 tons of dry waste per year (originally 32,000 tons per year).

In its modified application letter, Columbia Environmental proposes a three-phase approach to its investment in recovery equipment. This phased approach is a result of the reduction in putrescible waste tonnage. The applicant states that it is not economically viable for it to make all of its capital expenditures in recovery equipment at once. The applicant’s phased recovery plan is based on increases in its putrescible waste tonnage authorization from Metro as summarized as follows<sup>3</sup>:

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<sup>3</sup> The annual tonnages for Phase 1 through Phase 3 are estimates based on information provided by the applicant.

Proposed amounts (tons/year)	<b>Original Application</b>	Modified Application <b>Phase 1</b>	Modified Application <b>Phase 2</b>	Modified Application <b>Phase 3</b>
<b>Putrescible waste</b>	55,000	<b>38,000</b>	51,000	66,000
<b>Non-putrescible waste</b>	37,000	<b>15,600</b>	25,500	38,000
<b>Recovery</b>	29,000	<b>11,745</b>	20,815	32,234

The following is a brief summary of some of the additional information that was contained in Columbia Environmental’s modified application information:

- ❑ The general geographic service areas where the applicant’s waste will be collected.
- ❑ The applicant’s cost savings estimates (lower tip fees for dry waste and transportation savings).
- ❑ A description of the applicant’s recovery plans, proposed equipment and updated estimate of wet and dry waste recovery.
- ❑ A site plan illustrating the location of the proposed recovery equipment.
- ❑ Estimates of applicant’s “vehicle miles traveled” (VMT) savings from reduction in truck travel times.
- ❑ A list of the ownership and membership of Columbia Environmental.
- ❑ Applicant’s discussion on competitiveness of small haulers.
- ❑ Applicant’s discussion of its proposed innovative approach to recovery.
- ❑ Tables illustrating the applicant’s own findings regarding how its application meets the Metro Code evaluation factors.

Technical considerations with the Columbia Environmental application

As a result of several meetings and letters regarding the inconsistencies and lack of detail or clarity in some of Columbia Environmental’s application information, Columbia Environmental expressed concerns about the amount of information required for the review process. However, staff notes the following regarding any application for a local transfer station franchise: 1) the applicant has the duty to demonstrate system benefit and consistency with the RSWMP, and 2) the applicant should provide accurate, verifiable and consistent data. Moreover, Metro Council requested additional information from Columbia Environmental.

## **Description of Evaluation Factors**

*This section provides analysis of explicit criteria for Metro Council consideration in determining whether to grant or deny the franchise application.*

### **Metro Code**

Metro Code 5.01.070(f) provides that the Council “shall consider but not be limited by” the five factors listed in the Evaluation Factors Summary Table shown on the next few pages. Further, as part of the Franchise application, Metro Code 5.01.060(d) requires the applicant to provide an analysis of the same factors described above (Metro Code 5.01.070(f)(1-5)). In its application, Columbia Environmental provided a narrative of how the proposal responds to these five factors.

### **Other evaluation factors for Council consideration**

At the December 16, 2004 Metro Council hearing on Ordinance No. 04-1063, a Metro Councilor introduced five additional considerations for the Council to consider in its review of the Columbia Environmental proposal. They are:

- 1) The ability for a significant number of remaining small independent haulers to compete in this region; and ensure their competitiveness in the ever increasing vertically integrated system.
- 2) An innovative approach to increasing recycling through enhanced mechanization and by going after the significant amount of recyclable materials mingled in with multi-family wet waste.
- 3) A significant reduction in truck VMT given Columbia Environmental’s proximity to their customers.
- 4) Potential cost savings to ratepayers on the east side.
- 5) The facility would provide a second transfer station in a watershed that currently generates about 130,000 tons a year.

At the February 22, 2005 Council work session, these additional evaluation factors were discussed. The Council generally agreed that they were not adopted by the Council, but they were submitted only for individual Councilor consideration. It was further clarified by the Office of Metro Attorney, that the Metro Code requires the Council to consider the five factors in sections 5.01.070(f)(1) to- (5) before making its decision. Council could consider any other factors it thought were relevant and could weigh those factors however it felt was appropriate. There is no preset formula on how the factors should be weighed.

**Table 1 – Summary of Evaluation Factors - Comparison of Original Application with Revised Application**

This table compares staff findings from the original application with staff findings based on the modified application submitted by Columbia Environmental. The table summarizes whether or not the application submitted by Columbia Environmental meets the five Metro Code evaluation factors.

Staff Findings From Original Application			Staff Findings From Modified Application						
The Five Metro Code Evaluation Factors	Meets Criteria	Neutral	Does Not Meet Criteria	Summary of new information submitted by the applicant	Meets Criteria	Neutral	Does Not Meet Criteria	Findings on the Revised Columbia Environmental Application	
	<p><i>1. Consistent with the Regional Solid Waste Management Plan [Metro Code 5.01.070(f)(1)].</i></p> <p><b>Will there be a <i>Net Benefit</i> to the regional solid waste system?</b></p> <p><u>RSWMP considerations:</u></p> <ul style="list-style-type: none"> <li>Capacity</li> <li>Access (under-served area)</li> </ul>				X				
			X	No new information was submitted by the applicant.				X	Staff findings have not changed. The region has more than adequate capacity to accept, manage and transfer all of the region’s waste for many years to come (refer to Metro’s Regional Transfer Capacity Analysis, April 2004).
			X	The applicant provided geographic areas served by affiliated haulers, and estimates of VMT savings associated with the proposed facility (107,386 miles saved), with less traffic congestion and pollution and produce more efficient hauling operations and greater profitability. In addition, applicant contends that the closest facility (Troutdale Transfer Station) is effectively restricted because it is owned by a competitor and is capped.				X	Staff findings have not changed as the proposed facility location does not meet the RSWMP standard for an under-served area (characterized as more than 25 minutes to a transfer station). Staff notes that the RSWMP does not explicitly define an “underserved area.”  However, the facility would improve access and increase efficiency for its affiliated haulers by reducing travel times. It is by hauler choice that access to the nearby Troutdale Transfer Station is effectively restricted because it is owned by a competitor. Increasing its cap would not improve access for applicant’s affiliated haulers – since they claim they will not use it.

Staff Findings From Original Application				Staff Findings From Modified Application				
The Five Metro Code Evaluation Factors <i>RSWMP considerations</i> (continued):	Meets Criteria	Neutral	Does Not Meet Criteria	New information submitted by the applicant	Meets Criteria	Neutral	Does Not Meet Criteria	Findings on the Revised Columbia Environmental Application
<ul style="list-style-type: none"> <li>Recovery</li> </ul>	X			The applicant provided more detail on its proposed recovery plan. Overall recovery rates are projected at: 10% from wet waste and 45% from dry waste. This exceeds the performance of any other similar facility. Applicant contends that high recovery rates result from innovative equipment, proximity to existing recycling processing, and a strong economic incentive (not affiliated with a landfill).	X			Staff findings have not changed. The applicant has proposed an aggressive recovery plan that would recover more from the waste stream than any other similar facility in the region (10% from wet and 45% from dry). According to the applicant, high recovery rates would result from equipment that includes “disk screens” to assist sorting, a strong economic incentive for recovery, and proximity to an existing recycling processing operation.
<ul style="list-style-type: none"> <li>Competition (competition also relates to Cost, which is discussed in Evaluation Factor #2)</li> </ul>		X		The applicant contends that approval of its facility would allow a new, locally based entrant into the market. That increased competition promotes efficiency, and could lower prices. That the proposal would preserve a competitive marketplace for independent waste haulers which are threatened by large, vertically integrated, multi-national firms.		X		Staff findings have not changed. The proposed facility would allow a new locally based entrant into the market and could help the affiliated haulers become more competitive. However, the proposed transfer station could have negative impacts on competition by: 1) causing tip fee increases throughout the region that would be detrimental to many haulers that rely on Metro’s public transfer stations, and 2) increased tip fees at private facilities could provide a windfall to other solid waste operations in competition with the applicant.
<ul style="list-style-type: none"> <li>Cost to regional ratepayers</li> </ul>			X	The proposed facility will produce some cost savings to its haulers and residential customers associated with lower tip fees on dry waste and transportation savings. However, depending on rate-setter decisions this could help lower rates or hold down increases.			X	Staff findings have not changed. The potential cost savings to the applicant’s affiliated haulers and customers would be offset by the certain increase in Metro’s tip fee. Further, other facilities would also raise tip fees, resulting in an overall increase in cost to all the regional ratepayers.



Staff Findings From Original Application				Staff Findings From Modified Application				
The Five Metro Code Evaluation Factors For Solid Waste Franchise Applications	Meets Criteria	Neutral	Does Not Meet Criteria	New information from the applicant	Meets Criteria	Neutral	Does Not Meet Criteria	Findings on the Revised Columbia Environmental Application
	2. <i>The effect on the cost of solid waste disposal and recycling services for the citizens of the region [Metro Code 5.01.070(f)(2)].</i>				X	In its modified application for Phase 1, Columbia Environmental proposes to accept 38,000 tons of wet waste and about 15,600 tons of dry waste per year. The applicant states that its cost savings are divided into two main categories: 1) lower dry waste tip fees, and 2) transportation savings.  <u>Applicant's estimated savings</u> Dry waste tip fees = \$300,000 Transportation = \$1 million - \$1.6 million <b>Total savings = \$1.3 to \$1.9 million per year</b>		
3. <i>Unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents [Metro Code 5.01.070(f)(3)]</i>	X			No new information submitted.	X			Staff findings have not changed. There is no reason to believe the applicant could not meet this criterion.
4. <i>Unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood [Metro Code 5.01.070(f)(4)]</i>	X			No new information submitted.	X			Staff findings have not changed. There is no reason to believe the applicant could not meet this criterion.
5. <i>Comply with all requirements and standards and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise [Metro Code 5.01.070(f)(5)].</i>	X			No new information submitted.	X			Staff findings have not changed. There is no reason to believe the applicant could not meet this criterion.

Based on balancing the Councilor Values for the Solid Waste System (see Table 2 below) staff suggests that the most important Metro Code evaluation factors are the first two: Consistency with the RSWMP and cost for the citizens of the region. Values 1, 3, 5 and 7 apply directly to Columbia Environmental’s application and allows staff to consider Code criteria regarding RSWMP considering cost to the ratepayer as the most important criteria. Values 2, 4, and 6 are neutral as they pertain to Columbia Environmental’s application.

<b>Table 2</b>	
<b>Councilor Values for the Solid Waste System</b>	
(As expressed at the public work session on July 2, 2003 and ordered according to the Council priorities)	
1. Protect the public investment in the solid waste system.	5. Ensure regional equity - equitable distribution of disposal options.
2. “Pay to Play”. Ensure participants/users pay appropriate fees/taxes.	6. Maintain funding source for Metro general government.
3. Environmental sustainability.	7. Ensure reasonable / affordable rates.
4. Preserve public access to the disposal options (location & hours)	

In its analysis of the Columbia Environmental transfer station franchise application, staff relied on 1) the evaluation criteria set forth in Metro Code section 5.01.060 and 5.01.070, and 2) the information submitted by the applicant. There are five evaluation factors listed in Metro Code that Council must consider. Again, Council is not limited by these five factors and may weigh them differently than staff, and may consider other factors.

**Analysis of the Five Metro Code Evaluation Factors**

*The following is a detailed discussion and analysis of each of the five evaluation factors.*

**Evaluation Factor #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 [Metro Code 5.01.070(f)(1)]***

The Recommended Practice in the current RSWMP regarding new transfer stations is to:

*“Allow additions to the existing system of three transfer stations as necessary to maintain solid waste transfer and disposal service levels. New transfer stations may be authorized where they provide a net benefit to the regional solid waste system. New transfer stations shall perform material recovery subject to facility recovery rate standards.”*

To determine consistency with the RSWMP, the application must show that it will result in an overall *net benefit* to the existing solid waste system. In order to evaluate the net benefit, the RSWMP includes provisions to be considered and balanced. These are:

- Capacity
- Accessibility (under-served area)
- Material recovery
- Competition
- Cost to regional ratepayers

In its application, Columbia Environmental indicates that the proposed transfer station will be consistent with the RSWMP because the proposed facility will: 1) improve accessibility to haulers, 2) provide services to an under-served area, and 3) enhance the material recovery capacity of the region, contributing to Metro's overall recovery and recycling goals.

The following section provides staff comment and analysis on each of the RSWMP provisions to be considered in order to assist the Council in its consideration of the application.

#### **A. Capacity**

The RSWMP policy on capacity: "...an efficient disposal system depends on both capacity and accessibility. New transfer stations may be considered when the delivery of efficient disposal services is negatively affected by either of these two factors."

##### Summary of applicant's analysis

The applicant did not address capacity.

##### Analysis/findings

In April 2004, Metro Solid Waste & Recycling staff issued the *Regional Transfer Capacity Analysis* report that addressed the capacity of the region's solid waste facilities to accept and load waste for transport to disposal sites. The analysis concluded that 1) the region's transfer capacity for putrescible waste currently exceeds the needed capacity by approximately 1.1 million tons per year, and 2) by 2015, the transfer stations that service the region will still have, at a minimum, 841,000 tons of unused capacity.

#### **B. Accessibility**

The RSWMP policy on accessibility: "...an efficient disposal system depends on both capacity and accessibility. New transfer stations may be considered when the delivery of efficient disposal services is negatively affected by either of these two factors."

The RSWMP's *Key Elements of the Recommended Practice* provide further clarification of the question of *accessibility*, with an emphasis that new transfer stations be located in "under-served" areas:

- *"Provide more uniform access to transfer stations, in order to improve system efficiencies in those areas of the Metro region that are under-served."*
- *"New transfer stations may be authorized where they benefit residents, businesses and solid waste haulers within the under-served areas."*

### Summary of applicant's analysis

Columbia Environmental's application includes information on how its proposed facility would improve accessibility to its affiliated haulers. The applicant states that physical proximity is not the only factor that determines accessibility to haulers, and that price and ownership are also important. The applicant states that accessibility must be interpreted broadly to include all the factors that influence access to transfer stations. The applicant claims that the proposed new transfer station will significantly reduce travel times (and truck VMTs) for haulers in the areas it will serve. Further, the applicant claims that the proposed transfer station is located in an "underserved" area for transfer stations.

### Analysis/findings

If approved, Columbia Environmental's new local transfer station would improve accessibility and reduce travel times for some of its affiliated haulers. However, the proposed facility would be sited only about 7 miles from the existing Troutdale Transfer Station (about 12 minutes driving time).

The working standard used to guide RSWMP policy for underserved areas has been that facility access is an issue in areas of the region that are more than 25 minutes travel time from a transfer station.<sup>4</sup> However, staff notes that the RSWMP itself does not contain an explicit definition for what would constitute an "underserved area."

Estimated travel times relative to each of the six existing transfer stations are illustrated in Map #4 below.<sup>5</sup>

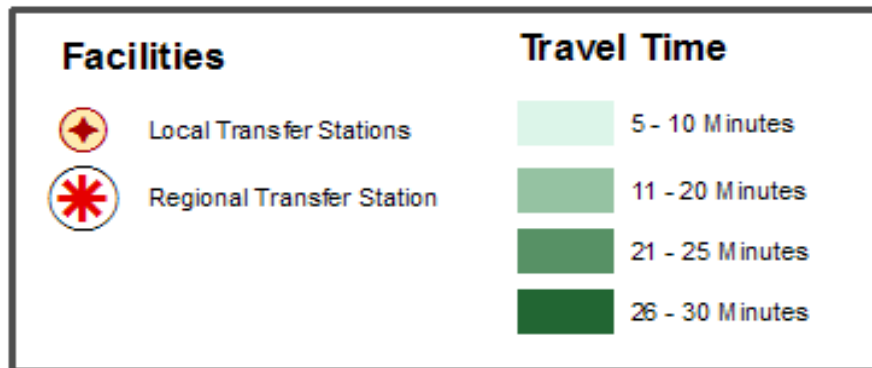
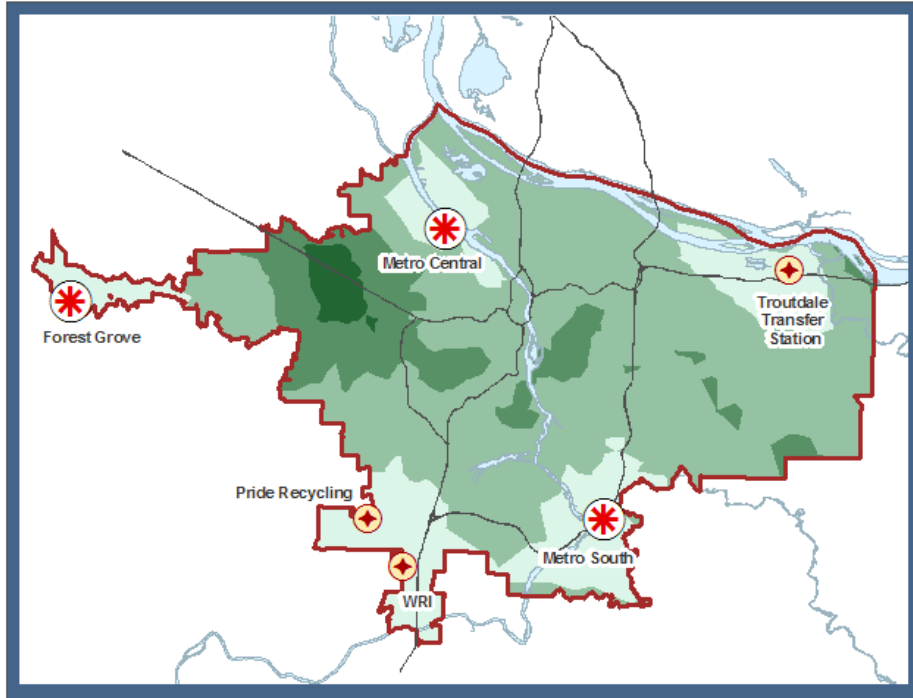
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<sup>4</sup> Staff Report to Ordinance No.00-865, adopted by the Metro Council on June 15, 2000.

<sup>5</sup> Metro modeling network mid-day auto travel times for year 2000 are based on the modeling network developed by the Metro Planning Department for transportation planning purposes.

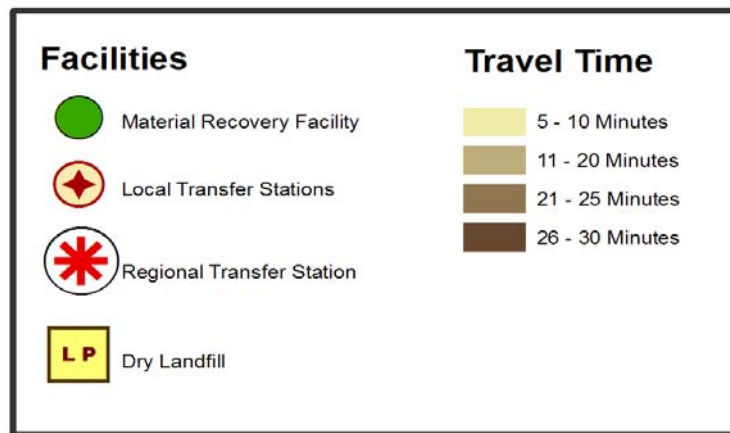
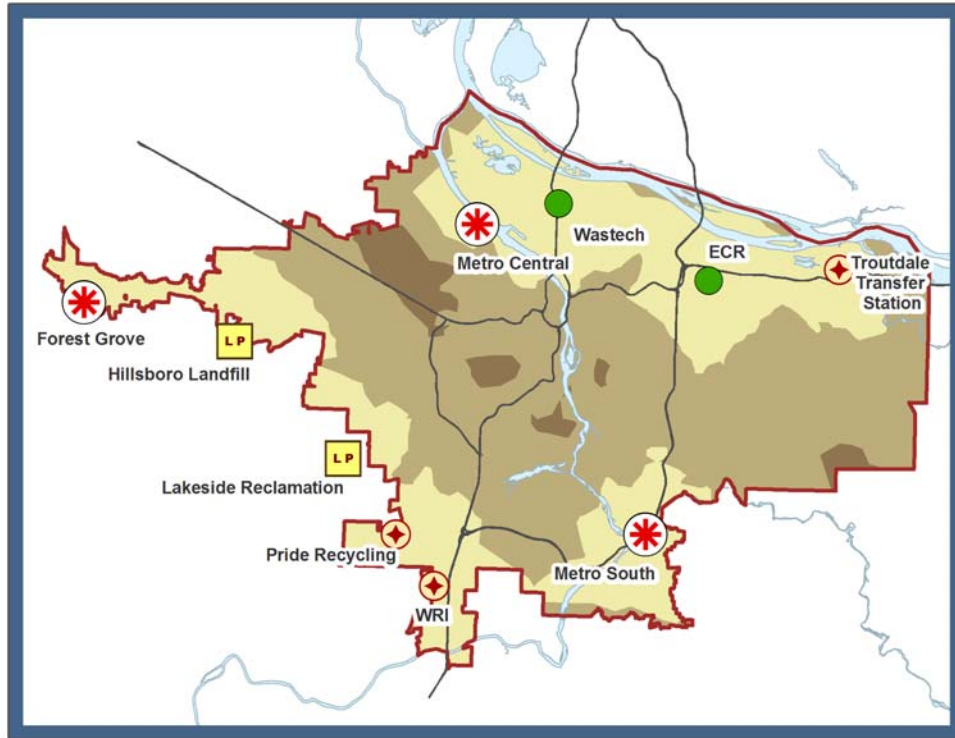
As illustrated, only an area in the western part of the region is more than 25 minutes away from an existing transfer station, and it would be unaffected by the proposed new transfer station.

**Wet Waste: Estimated Travel Time to Nearest Transfer Station – Map #4**



Moreover, regarding non-putrescible waste (“dry waste”), there are even more options available to the applicant’s affiliated haulers. This is because, in addition to the existing transfer stations that accept both wet and dry waste, there are also two mixed dry waste processing facilities located nearby: Wastech and East County Recycling (ECR), neither of which have any restrictions on the amount of waste Metro authorizes them to accept.

**Dry Waste: Estimated Travel Time to Nearest Processing/Disposal Facility – Map #5**



The applicant based its hauler travel time savings for solid waste on travel time to Metro’s regional transfer stations (Metro Central or Metro South) and did not include consideration of the location of available existing infrastructure, such as Troutdale Transfer Station or the two nearby dry waste recovery facilities (Wastech and ECR). The applicant states that price and ownership are important factors to accessibility, and that many of its affiliated haulers were not willing to use the Troutdale Transfer Station because it is owned by one of their competitors. The applicant did not explain why the nearby dry waste recovery facilities are not used.

While the proposed facility would improve access for some Columbia Environmental independent haulers with collection routes within the proposed facility's new service area, the benefits of improved access cannot be viewed in isolation. Any new transfer station in the Metro region will enhance accessibility for some haulers. At some point the benefits of reducing travel time to the nearest transfer station are outweighed by inefficiencies caused by deteriorating economies of scale and resulting increased costs to the region's ratepayers (see the cost analysis in Evaluation Factor #2).

However, staff notes that the applicant does contend that the proposed facility would increase access to the system for haulers serving the most populous area of the region, and that it would significantly increase efficiency for haulers by reducing travel times. The applicant has estimated that the number of miles saved per year during Phase 1 for its affiliated haulers would be about 107,386 miles with the proposed facility. The applicant also states that access to the Troutdale Transfer Station is effectively restricted because this station already is at its Metro's tonnage cap, and because it is owned by a competitor.

Based on the preceding analysis: 1) the proposed location of the new transfer station is not within an underserved area, and 2) while adding this transfer station will not improve overall system efficiencies for businesses, residents and haulers that are not affiliated with Columbia Environmental and are located in close proximity to the proposed facility, the addition of the proposed local transfer station would improve access and efficiencies for many of the independent small haulers that are affiliated with Columbia Environmental and serve businesses and residences in this vicinity. Access for many of the applicant's affiliated haulers would be improved, because the applicant contends there are some 107,386 VMT savings that would be associated with the proposed Columbia Environmental facility.

### **C. Material Recovery**

The RSWMP policy on material recovery: "*New transfer stations shall perform material recovery subject to facility recovery rate standards.*" Metro Code 5.01.125(b) specifies that franchised local transfer stations will recover at least 25 percent by weight of non-putrescible waste accepted at the facility.

#### Summary of applicant's analysis

The applicant states that recovery at the facility will be accomplished because Columbia Environmental has a strong economic incentive to recover recyclable materials from the waste stream. Columbia Environmental does not own a landfill to which the waste will be transferred and, therefore, has more of an incentive to conduct material recovery, which will bring revenue into the facility. For all phases of the proposal, the applicant states that the facility will operate using superior technology for sorting and recovery and that these systems are similar to the ones operating effectively in the two California facilities, as discussed in its February 22, 2005 letter. Further, the applicant states that the proposed facility is unique because of its proximity to existing recycling processing

activities, and that this creates efficiencies for the processing of recovered materials. The applicant states that while not all materials can be processed on site, cardboard, waste paper, glass, metal, and other specialty materials will be brought to the main building and turned into marketable commodities. Unlike other transfer stations, no additional truck trips will be needed to bring these materials to a processing center.

The applicant projects the proposed facility would conduct recovery at a rate of about 10 percent from putrescible waste and 45 percent from non-putrescible waste. In summary, the applicant claims that the proposed facility would have economic incentives for conducting greater recovery, that it would employ cutting edge sorting technology, and its proximity to recycling processing are innovative and unlike any transfer and recovery station in the region.

### Analysis/findings

The applicant has indicated that it intends to maintain an aggressive recovery rate substantially greater than the minimum 25% standard required by Metro Code. According to Columbia Environmental's modified application material, during Phase 1, the proposed facility will recover 5% from putrescible residential waste, 25% from putrescible commercial and multi-family waste, and 30% from commercial containers and boxes. This represents a total of 5,220 tons of recovery from about 38,000 tons of putrescible solid wastes delivered to the facility. For non-putrescible wastes, the applicant proposes to recover 50% from residential drop boxes, 40% from commercial and construction & demolition debris. This represents about 6,525 tons of recovered materials from about 15,600 tons of non-putrescible solid wastes delivered to the facility. For Phase 1 operations, the proposed facility would recover a total of about 11,745 tons of materials each year.

The 11,745 tons of material the applicant projects will be recovered does not all represent *additional* tons recovered because wherever that waste is currently delivered, some amount of it is already being recovered. From the application, it is not clear whether any of that waste is currently being delivered to the two dry waste recovery facilities (Wastech and ECR) located closest to where Columbia Environmental is proposed to be located. Even so, there would likely be some increase in additional recovery, as both of these facilities achieve recovery rates somewhat lower than what the applicant is proposing for non-putrescible wastes.

If all of the estimated 15,600 tons of dry waste is currently delivered to one of the two Metro transfer stations, it would likely result in about 4,000 tons of recovery based on the 25% to 30% recovery rate at Metro transfer stations for dry commercial drop-box loads (the recovery rate for public self-haul loads is lower).

The additional recovery that the applicant claims it could achieve from recovery of both putrescible and non-putrescible wastes would be between 6,000 and 8,000 additional tons above and beyond that which already occurs at Metro facilities. This amount of new



recovery – at current generation levels – would add about three-tenths of a point to the regional recovery rate<sup>6</sup>.

While Metro staff supports the intention of the applicant to recover at a very aggressive level, staff is doubtful that the applicant will be able to achieve its projected recovery levels based on regional and national state of the art recovery experiences.

#### **D. Competition**

The RSWMP policy on competition: *“Metro shall encourage competition when making decisions about transfer station ownership or regulation of solid waste facilities in order to promote efficient and effective solid waste services. Metro shall consider whether the decision would increase the degree of vertical integration in the regional solid waste system and whether that increase would adversely affect the public. Vertical integration is the control by a private firm or firms of two or more of the primary functions of a solid waste system – collection, processing, transfer and hauling, and disposal.”*

#### Summary of applicant’s analysis

The applicant states that the proposed Columbia Environmental transfer station will preserve the presence of small independent haulers in the Metro system, which, in turn, improves competition. The applicant predicts that competition will increase efficiency and reduce system costs. For example, the applicant states that since 1988, there has been a significant decrease in the number of small haulers serving the Metro region due to consolidation and the presence of large, vertically integrated, multi-national firms. In response, the small haulers, in order to compete and survive in the business, need to engage in some of the same scale advantages as the larger, vertically-integrated corporations. The applicant contends that individually, the independent hauling companies are too small to provide their own processing or transfer station facilities. As a group, they can collectively compete for the waste and recycling business and remain viable in the marketplace. Recycling processing is a way that the coalitions of small haulers have maintained a revenue-generating activity that will allow them to grow. The applicant states that the best opportunity for small companies to participate in the waste business in the Metro region is for them to integrate processing, transfer, and hauling together, as does Columbia Environmental’s proposal.

#### Analysis/findings

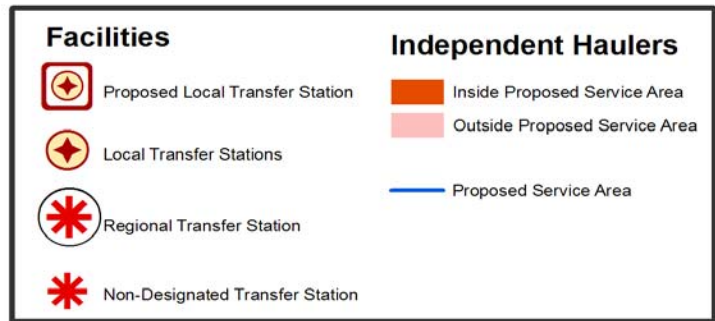
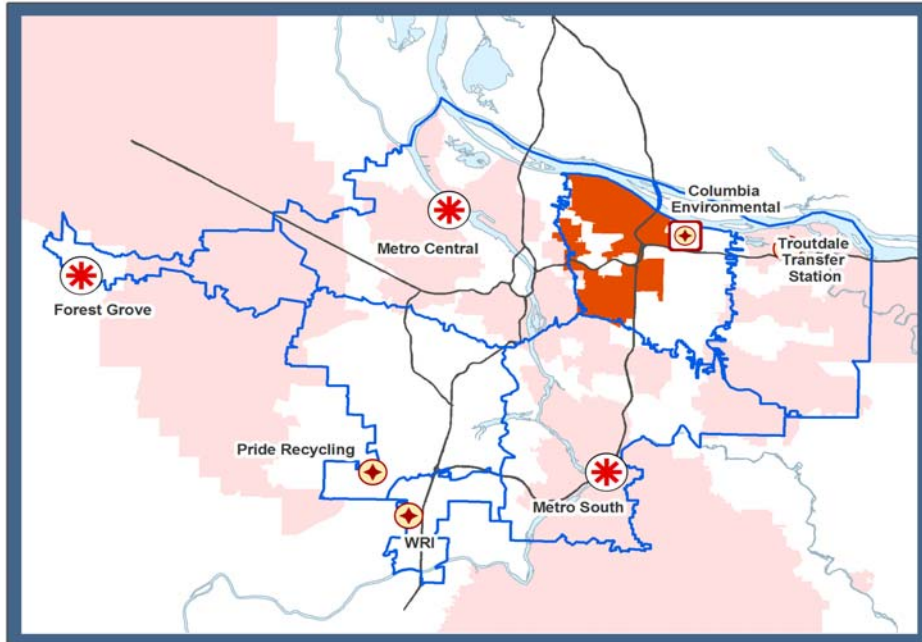
According to the RSWMP policy, competition should be encouraged in order to promote efficient and effective solid waste services. Further, Metro must consider whether the degree of vertical integration in the region would be increased and if it would adversely affect the public.

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<sup>6</sup> 8,000 tons additional recovery / 2,417,000 tons generated in region (2003) = 0.0033, or 3/10 of 1%.

The applicant has stated that its proposed facility would “preserve the presence of small independent haulers in the Metro system.” No quantitative information was included in the application to support that finding. In fact, as illustrated in Map # 6 below, there are many independent haulers located outside the new Columbia Environmental service area that will not benefit from the proposed transfer station.<sup>7</sup>

**Independent Hauler Franchises Located Inside and Outside the Proposed Columbia Environmental Service Area – Map #6**



As illustrated in Map #6 above, there are a number of independent hauler franchises (shown in darker shade) inside Columbia Environmental’s proposed service area.<sup>8</sup> These haulers will benefit from the proposed facility (through shorter drive time and lower dry waste tip fees). In contrast, if the transfer station were approved, the other independent

<sup>7</sup> For the purpose of this report, independent haulers mean those haulers that do not own or are not directly affiliated with their own transfer station or landfill.

<sup>8</sup> There are other Columbia Environmental affiliated haulers located outside the proposed service area that would use the proposed transfer station.

haulers in the region (franchises shown in lighter shade), many of whom also use Metro Central or Metro South, would be adversely impacted due to the expected increase in tip fees at Metro transfer stations (see Evaluation Factor #2). The applicant has represented that the owners of a number of these independent haulers who will be adversely impacted are also partners in the Columbia Environmental consortium. No detail was provided about revenue sharing among partners, so staff were unable to evaluate whether shared profits might offset some of the higher tip fees at Metro facilities; or what the net reduction in tip fees might be for those haulers using Columbia Environmental.

*Would the applicant's proposed facility result in competition leading to an improvement in the delivery of efficient and effective solid waste services?* Probably not. In a solid waste system that already has ample capacity and only limited access issues, the addition of new transfer capacity within a few miles of three other existing facilities (Wastech, ECR, Troutdale Transfer Station) is unlikely to noticeably improve service efficiency or effectiveness for more than a small subset of the region's haulers. Moreover, with tip fees expected to increase region-wide in response to Metro's higher per-ton costs if the facility is approved, the costs to most ratepayers would increase (see Evaluation Factor #2).

*Would approval of the proposed transfer station have an impact on the degree of vertical integration, and would the public be adversely impacted?* Yes to both questions. The Columbia Environmental haulers would become a new vertically integrated company, i.e., its members would control two of the three major pieces of the supply chain (collection and transfer). Hence, there would be a limited increase in the overall degree of vertical integration in the solid waste system. Whereas this new vertically integrated entity would likely gain some market power for commercial accounts, non-affiliated haulers and the general rate paying public would be negatively impacted due to the increased tip fees at other solid waste facilities (see Evaluation Factor #2).

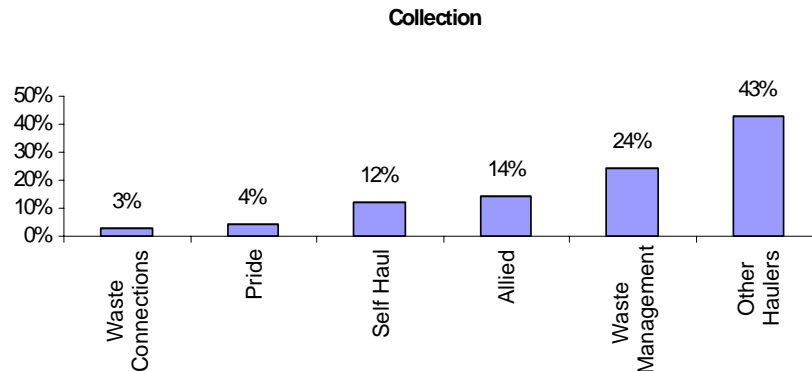
Classical measures of competition commonly utilize the concept of "market share," i.e., the proportion of the total market controlled by the firm in question. Typically, competition will also lead to either lower prices for the consumer, as a result of market entry, or innovation in service or products. The proposal will actually increase rates (see cost analysis). However, new innovation in services or products is identified in the application as the applicant's approach to recovery and recycling.

The following graph illustrates that independent haulers ("other haulers")—including Columbia Environmental affiliates and non-affiliates—collectively still control 43% of the total collection service market. If approved, the Columbia Environmental transfer station would likely accept about 1/4 of the total solid waste delivered to transfer facilities by independent haulers, or about 11% of the total market.<sup>9</sup>

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<sup>9</sup> Estimated CY 2004 MSW tons taken to transfer stations by independent haulers is about 372,000 tons. Of this total, about 228,000 tons are delivered to Metro's public transfer stations.

## Solid Waste Collection Markets for the Metro Region (FY 2003/04).



From a competition standpoint, it should be noted that the City of Portland actively encourages multiple haulers for its residential collection franchised routes. In order to prevent a monopoly by any single company, the City of Portland limits the total number of households (50,000) any single residential franchise can serve.<sup>10</sup>

In summary, the applicant's proposed facility would allow some of its independent affiliated haulers to operate more profitably. However, the increased "competition" would at best lead to a reduction in some commercial dry waste disposal fees, but an increase for most residential ratepayers in the region. Granting the Columbia Environmental franchise would increase costs for haulers and ratepayers who continue to rely on Metro's public transfer stations, and could provide a financial windfall opportunity to other solid waste facilities in competition with the applicant. One potential use of these windfall revenues elsewhere in the region could be to subsidize the cost of commercial collection in the City of Portland, further squeezing the profitability of independent haulers who currently compete in this market.

Staff notes, however, that the applicant contends that the proposal would allow a new, locally-based entrant into the market and that increased competition promotes efficiency, and could lower prices for some consumer services in some areas. The applicant also contends that, more importantly, the proposed facility will help preserve a competitive marketplace for independent waste haulers, which are at a competitive disadvantage when compared to the large, vertically integrated, multi-national firms.

### Consistency with the RSWMP Conclusion

Based on staff analysis and findings, the Columbia Environmental proposed transfer station would not result in a net benefit to the solid waste system. Therefore, the proposed new transfer station would not be consistent with the current RSWMP.

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<sup>10</sup> The City of Portland estimates that there are about 135,000 total households.

## Evaluation Factor #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 [Metro Code 5.01.070(f)(2)]*

#### Summary of applicant's analysis

In its modified application for Phase 1, Columbia Environmental proposes to accept 38,000 tons of putrescible waste and about 15,600 tons of non-putrescible waste. The applicant states that its cost savings are divided into two main categories: 1) lower tip fees for dry waste, and 2) transportation savings.

The applicant estimates dry waste tip fee savings of \$300,000 and transportation savings between \$1 million and \$1.6 million per year, for a total savings of \$1.3 to \$1.9 million.<sup>11</sup> Metro staff believe that increased tip fees regionwide will outweigh any Columbia Environmental savings.

**Dry waste tip fee savings:** The applicant states that it will charge its customers lower dry waste tip fees than does Metro's public transfer stations. Metro's current tip fee is \$70.96 per ton, and Columbia Environmental has represented that it would charge only \$55 per ton for dry waste. Columbia Environmental has indicated that it intends to charge the full Metro tip fee for wet waste at its proposed facility. Therefore, on dry waste received at the proposed facility, the applicant projects lower tip fees on 15,600 tons of dry waste will result in an estimated savings of \$300,000.<sup>12</sup>

**Transportation savings:** Off-route transportation costs are costs incurred after a truck leaves a collection route to deliver waste to a transfer station or disposal facility and then returns to the next collection point or the truck storage site. The applicant provided an estimate of 107,386 total off-route miles saved per year associated with using the proposed facility. The applicant modeled cost reductions based on a range of operational costs from \$9 per mile to \$15 per mile, resulting in projected savings of between \$1 million and \$1.6 million annually. The applicant states, however, that a per-mile operating cost is rarely used and much more difficult to estimate than per-hour cost because of widely varying time demands between on-route vs. off-route travel. So, in addition to the \$9 to \$15 per mile rate, the applicant provided an alternative \$70 per hour figure as more commonly recognized method to calculate the cost of operation.

Columbia Environmental states that savings realized by its affiliated, smaller haulers will: 1) have a constraining effect on their average collection costs, and, thus, will constrain rate increases for their residential customers, and 2) that it would allow their haulers the option to charge more competitive rates to provide service to Portland commercial customers. The applicant contends that it has no direct control over what fraction of the expected transportation savings is returned to the ratepayer, and that historically

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<sup>11</sup> Based on approximately 107,386 miles saved x \$9 to \$15 per mile.

<sup>12</sup> The \$300,000 estimated savings by the applicant is the difference between Metro's tip fee (\$70.96) and its proposed tip fee (\$55) per ton on some 15,600 tons of dry waste.

efficiencies in the waste collection system have been expressed as a downward pressure on prices rather than actual reductions.

### Analysis/findings

Introducing Columbia Environmental's Phase 1 operations into the region's solid waste system would, on balance, increase costs for ratepayers by about \$238,000 to \$618,000 annually. Potentially lower transportation and disposal costs for Columbia Environmental's haulers—some of which are likely to be passed through to ratepayers—would be more than offset by increased tip fees regionwide.

Metro staff estimate that based on the information provided by the applicant, haulers using the proposed facility could realize reduced annual costs of about \$249,000<sup>13</sup> in lower dry waste tip fees, and annual reductions in transportation costs of about \$268,000.<sup>14</sup> If realized, this would result in a total savings for Columbia Environmental's haulers of about \$518,000 per year. Furthermore, Metro staff believe that over \$250,000 of those reduced costs—if realized—would be passed through to ratepayers via local government rate setting.

At the same time, Metro's tip fee - which acts as the benchmark for local rate setters - would likely increase in response to higher per-ton costs at publicly-owned transfer facilities. In turn, private facilities would likely match Metro's tip fee increase. Thus, tip fees would increase regionwide. In total, higher tip fees regionwide are projected to add ratepayer costs of between \$755,000 and \$879,000 annually under Phase 1 tonnage assumptions, or between \$238,000 and \$618,000 net of Columbia Environmental savings.

### **Analysis of Applicant's Transportation Cost Parameters**

Using the applicant's projected mileage savings and industry standard parameters, Metro staff calculate potential transportation cost reductions significantly lower than the applicant projects: a total of about \$250,000 vs. the applicant's \$1 million to \$1.6 million.

#### *Reasonableness of Unit Cost Assumption*

Metro's transportation planning group uses an average freight trucking cost of \$35 per hour in its models. An industry rule of thumb for garbage truck operating costs is \$70 to \$75 per hour. In its analysis of the applicant's estimate, staff used the higher industry standard of \$75 per hour in its estimates of operating costs and an average 30 mile-per-hour off-route truck speed. The applicant's cost estimate of \$9-\$15 per mile becomes \$270 to \$525 per hour.<sup>15</sup>

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<sup>13</sup> \$250,000 is based on the difference between Metro's current tip fee of \$70.96 per ton and Columbia Environmental's projected \$55 per ton dry waste tip fee, times the number of dry waste tons:  $(\$70.96 - \$55.00) \times 15,600 \text{ tons} = \$248,976$ .

<sup>14</sup> Staff based its analysis on the applicant's projection of 107,386 miles saved per year. Taking an average truck speed on major roads and highways of 30 miles per hour and a truck operating cost of \$75 per hour would result in about \$268,000 cost reduction for Columbia Environmental's affiliated haulers.

<sup>15</sup> The \$9-\$15 per mile does seem reasonable as the average cost per mile for a residential collection vehicle for *on-route* mileage. However, it is not appropriate to use these averages for the off-route trip to the transfer station and back to the garage. For the most part, trips to the transfer station, in particular to Metro's facilities, are made on arterial streets or highways, which permit average speeds of 30 miles-per-hour or greater.

Using the more reasonable assumptions of \$75 per hour operating cost and 30 mph average speed, transportation cost reductions on 107,386 miles traveled would amount to \$268,000.

### **Impact on Regional Tipping Fees**

Metro's Tip Fee: Because Metro recovers some of its fixed costs from its direct customer base, all else equal; a loss of tonnage will increase Metro's per-ton costs. The tonnage diversion contemplated in Phase 1 would increase Metro's per-ton costs by about \$0.78 per ton. Phase 3 of the applicant's proposal would increase Metro's per-ton costs by about \$1.63 per ton. If the Metro Council maintained current cost recovery policies, those cost increases would translate directly to increases in Metro's tip fee. Thus, customers of Metro's two transfer stations would incur higher disposal costs as a result. Phase 1 and Phase 3 would add a total cost of about \$401,000 and \$755,000, respectively, for users of Metro's transfer stations. Projected tip fee increases at private facilities would about double that.

Non-Metro Tip Fees: Users of non-Metro facilities could also incur higher disposal prices. Private transfer stations and material recovery facilities in the Metro region tend to follow increases in Metro's tip fee. From an economics point of view, Metro can be viewed as the "price leader," while smaller private facilities are "price followers." In other words, Metro's tip fee sets the benchmark price in the region. If private facilities matched the projected increase in Metro's tip fee, then the total ratepayer impact of higher tip fees regionwide would be about \$755,000 to \$879,000 for Phase 1 and between \$1.5 million to \$1.8 million for Phase 3.<sup>1617</sup>

### **Net Ratepayer Impact**

On balance, ratepayers would pay more for disposal and recycling services if Columbia Environmental were to begin operation as a transfer station. Columbia Environmental may create some ratepayer savings as local governments in the course of their normal rate-setting processes consider haulers' lower costs in franchised areas (e.g., City of Portland residential, and most of Gresham residential and commercial). In addition, in unfranchised areas (e.g., primarily City of Portland commercial customers) Columbia Environmental's haulers may choose to share some of their lower costs with their ratepayers. Public and private disposal prices can be expected to increase in response. In all, Columbia Environmental's Phase 1 is likely to increase ratepayer costs by between \$238,000 and \$618,000, depending on how much of the cost reductions realized by Columbia Environmental's affiliated haulers are passed on to the ratepayers.

And if approved, Phase 3 would increase ratepayer costs by between \$534,000 and \$1,353,000, depending on how much of the cost reductions are passed on to the ratepayers.

Refer to **Attachment 9** for additional details on Metro's cost impact assessment for Columbia Environmental's proposed Phase 1 and Phase 3 operations.

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<sup>16</sup> The range of total tip fee impacts stems from uncertainty in how closely non-Metro disposal facilities match Metro's price increases. The lower estimates for both Phase 1 and Phase 3 assume that dry waste tip fees throughout the region remain unchanged, while all wet waste matches Metro's projected increase. The higher estimates assume both wet and dry waste tip fees match the projected increase.

<sup>17</sup> Note that ratepayers might see the same effect even if private facilities did not match a Metro tip fee increase, as Metro's rate is commonly allowed by local government rate setting authorities.

## Conclusion

The citizens of the region will likely pay between \$238,000 and \$618,000 *more* annually for solid waste and recycling services if Metro grants Columbia Environmental a local transfer station franchise.

### Phase 1 Ratepayer Impact Summary (refer to Attachment 9 for details)

Adjusted Gross Savings Passed on to Ratepayer:	\$261,000 to \$518,000
Total Increase from Tip Fees:	<u>\$756,000 to \$879,000</u>
<b>ANNUAL NET COST TO RATEPAYERS:</b>	<b>\$238,000 to \$618,000</b>

### Evaluation Factor #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 Code 5.01.070(f)(3)]*

#### Summary of applicant's analysis

The applicant posits that the issue of adverse effects on area residents was completely reviewed as part of the City of Portland conditional use approval for the proposed Columbia Environmental transfer station. A "Decision of the Hearings Officer" was issued by the City of Portland (LUR 02-137433) in 2003 and the Hearings Officer concluded that:

- The "proposed waste-related uses pose no significant health or safety risk to nearby uses."
- Operations at the site "adequately address potential nuisance impacts."
- "Taking into consideration expected traffic impacts of the proposed use, both City and State requirements for traffic levels and safety on nearby streets would be met."
- From any residential property, "noise, vibration, odor, and glare will be difficult to detect at significant levels."
- "The existing facility has not had a citation of non-compliance in the five years it has been in operation."

In summary, the applicant claims that based on the information presented to the City of Portland, the Oregon Department of Environmental Quality, and in its application to Metro, there is no indication that the activities on the proposed site would be likely to unreasonably adversely affect residents of the region.

#### Analysis/findings

The proposed facility is located on a 12.5-acre site zoned IG2, a General Industrial base zone with a Scenic Resources overlay zone. It has operated as a source-separated



recyclable processing facility since 1996. The City of Portland has defined the impact area as a 60-acre trapezoid surrounding the site that includes some open channels and wetlands associated with the Columbia Slough. The nearest residential area to the site is south on NE Sandy Boulevard, approximately 200 feet from the proposed facility and separated by a parking area, a berm, a frequently-used rail line atop the berm, and NE Sandy Boulevard.

Following hearings on Columbia Environmental's application to the City of Portland for a conditional use permit, the Hearings Officer made a finding that "There will be no significant health or safety risk to nearby uses." Factors considered in the Hearings Officers written decision included evaluations of the potential for nuisances caused by traffic, noise, vibration, odor, glare, litter, dust, mud, and vectors. A conditional use permit was approved with conditions intended to assure the minimization of any impacts to nearby residents. Such conditions include the processing of waste only within enclosed buildings, the implementation of an odor control system that limits the migration of odors off-site, and on-going monitoring by Metro. These are conditions that are also routinely included in Metro transfer station franchises. Metro staff concurs with the Portland Hearings Officer's findings and concludes that the granting of the requested franchise is unlikely to unreasonably adversely affect the health, safety, and welfare of Metro's residents. In summary, the application satisfies this criterion.

#### **Evaluation Factor #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 Code 5.01.070(f)(4)]***

##### Summary of applicant's analysis

The applicant states that the potential for impacts on nearby residents and property owners was reviewed as part of the City of Portland conditional use approval for the proposed facility. The applicant refers to the Hearing Officer quotes listed above in responses to evaluation factor #4 as applicable to this factor. Further, the "existing character or expected future development of the surrounding neighborhood" was also considered as part of the land use case. The applicant asserts that the industrial area around the proposed facility is already mostly developed, with some vacant parcels, and the proposed transfer station would have no significant adverse impact on future development, residents, property owners, or the character of the area.

##### Analysis/findings

Following hearings on Columbia Environmental's application to the City of Portland for a conditional use permit, the Hearing Officer made a finding that "There will be no significant health or safety risk to nearby uses." Factors considered in the Hearings Officers written decision included evaluations of the potential for nuisances caused by traffic, noise, vibration, odor, glare, litter, dust, mud, and vectors. A conditional use

permit was approved with conditions intended to assure the minimization of any impacts to nearby residents. Such conditions include the processing of waste only within enclosed buildings, the implementation of an odor control system that limits the migration of odors off-site, and on-going monitoring by Metro.

Metro staff concurs with the Portland Hearings Officer's findings and concludes that the granting of the requested franchise is unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood. The area immediately adjacent to the facility is zoned for industrial uses, and two other solid waste facilities are already in operation on the site. The granting of this franchise therefore, is not likely to have any significant additional impact on nearby residents, property owners or the character and future development potential of the area. However, staff notes that there could be odor impacts on nearby residents or businesses that are created by Pacific Power-Vac (PPV), a tenant of Oregon Recycling Systems and co-located at the proposed Columbia Environmental facility. PPV treats sludges, wastewaters and sludge-like material for landfill disposal. In 2003, for example, Metro received a series of odor complaints regarding PPV's operations. In summary, the application satisfies this criterion.

#### **Evaluation Factor #5**

***Whether the applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter (Metro Code Chapter 5.01), the administrative rules and performance standards adopted pursuant to section 5.01.132 of this chapter and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise [Metro Code 5.01.070(f)(5)].***

#### Summary of applicant's analysis

The applicant states that Columbia Environmental will comply with all applicable regulations for the transfer station, and that the existing management team at the facility has an excellent history of meeting its regulatory obligations. Further, as stated by the City of Portland in the land use decision, "The existing facility has not had a citation of non-compliance in the five years it has been in operation."

#### Analysis/findings

To evaluate the likelihood that the applicant will comply with all applicable regulations, staff contacted both the City of Portland's Bureau of Environmental Services and the DEQ in order to examine the applicant's past record of compliance. Neither agency has had compliance issues with Columbia Environmental. Oregon Recycling Systems is the recycling processing business currently located on the site.

Oregon Recycling Systems has not been regulated by Metro except to periodically inspect them to assure only source-separated recyclables are being taken. The facility operators have always been cooperative with Metro staff. There is a presumption of a strong likelihood that Columbia Environmental will comply with all the requirements and standards of Metro Code Chapter 5.01. In summary, the application satisfies this criterion.

## **CHIEF OPERATING OFFICER'S RECOMMENDATION**

The Metro Code requires the Chief Operating Officer to formulate recommendations to the Metro Council “regarding whether the applicant is qualified, whether the proposed Franchise complies with the Regional Solid Waste Management Plan, whether the proposed Franchise meets the requirements of [Metro Code] section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements.” (See Metro Code 5.01.070(c).) In addition, the Metro Code requires the Council to consider five criteria when deciding whether to grant or deny an application for a regional transfer station franchise, but the Code explicitly provides that the Council need not be limited by only those five criteria. The previous analysis in this report has addressed all of the issues that the Chief Operating Officer is required to analyze, as well as all five of the criteria the Council is required to consider.

The Chief Operating Officer finds that the applicant is generally qualified to operate a local transfer station and has complied and can likely comply with all other applicable regulatory requirements. The Chief Operating Officer also finds that the application meets the requirements of Metro Code sections 5.01.060(a), (b) and (c), and 5.01.070(f)(3), (4) and (5).

The Chief Operating Officer believes, however, that the most important criteria are demonstration by the applicant that the proposed new facility will be consistent with the RSWMP and the effect that granting the franchise would have on the cost of solid waste services for the region's citizens (see Metro Code sections 5.01.070(c), (f)(1) and, (f)(2), and 5.01.060(d)). The RSWMP provides that new transfer stations may be considered when disposal services have been impaired by either of two factors: inadequate capacity or inadequate access.

It should be emphasized that the region's current transfer stations have more than adequate capacity to accept, manage, and transfer all of the region's waste for many years to come (refer to Metro's *Regional Transfer Capacity Analysis, April 2004*). If a new transfer station is to be granted, the primary rationale must be improved access. Moreover, the RSWMP also specifically provides that a transfer station may be approved if it will provide a net benefit for the region and if located in an “under-served” area.

The net benefit analysis of the applicant's proposal requires the weighing and balancing of several different RSWMP factors. Thus, to grant an application for a transfer station, an applicant must demonstrate that the benefits of doing so outweigh the costs that will accompany such a decision. Given this, prudence demands that new transfer station

franchises be approved only if the potential benefits are large and certain enough to outweigh potential risks and costs to the system.

Taking into consideration the changes made to the RSWMP in 2000 to allow consideration of new transfer station applications, the Chief Operating Officer concludes that the two most important issues to be considered are whether:

- (1) The proposed transfer station is located in an underserved area, and
- (2) The effect on the costs of solid waste and recycling services for the citizens of the region.

Furthermore, the Chief Operating Officer has considered the Councilor Values for the Solid Waste System in weighing the evaluation factors. In addition to each value, the Metro Council has indicated that all system-related scenarios or decisions will “maintain safety and public health throughout the solid waste system” as a minimal threshold for operation.

### **Underserved Area**

One of Metro’s key objectives in deciding to consider the establishment of additional transfer stations was to provide for better access within the *underserved areas*. The working standard for underserved areas that guides the RSWMP policies for authorizing new transfer stations, are those areas within the region that are more than 25 minutes from a transfer station.<sup>18</sup>

As illustrated previously in the Estimated Travel Time Zone maps for both wet and dry waste (map #4 and map #5), the proposed transfer station would not be located in an area of the region where estimated travel time for wet waste would exceed 25 minutes. For dry waste, there are even more options available to haulers in this area when the dry waste recovery facilities are also considered since there are two nearby mixed dry waste processing facilities (Wastech and ECR). Therefore, based on the RSWMP considerations for establishing an under-served area, the proposed Columbia Environmental transfer station would not be located in an underserved area, and therefore does not meet the RSWMP requirement for approving a new transfer station.

As a local transfer station, Columbia Environmental would be located only 7 miles, or about 12 minutes away, from an existing local transfer station (the Troutdale Transfer Station), which already has both the authority and capacity to serve a substantial portion of their service area. Nevertheless, granting Columbia Environmental’s application would result in better access for those haulers affiliated with the proposed Columbia Environmental facility and located within its proposed service area boundary.

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<sup>18</sup> Staff Report to Ordinance No.00-865, adopted by the Metro Council on June 15, 2000.

However, almost any new local transfer station within the region would achieve similar results by improving local access by reducing travel time for some haulers, but at the same time create a very inefficient overall disposal system. Unless an area is truly underserved, the benefits of reducing travel time (and minimizing VMT) are outweighed by inefficiencies caused by deteriorating economies of scale at the region's existing transfer stations and resulting increase in cost to the regional ratepayers.

### **Costs to the Regional Ratepayers**

If this application were approved, the citizens of the region would almost certainly incur increased costs estimated to be between \$238,000 to \$618,000 annually (over the status quo for Phase 1 of Columbia Environmental's proposal). At the same time, Columbia Environmental's affiliated haulers may be able to reduce their own costs; they state that it is unlikely these lower costs will be passed on to the ratepayers via lower garbage bills. The applicant claims, however, that future rate increases might be delayed.

Even if it could be assured that some savings would be passed through to ratepayers, it must be recognized that granting a local transfer station franchise to Columbia Environmental would create both winners and losers. That is to say, residents in franchised areas close to Columbia Environmental whose haulers began using that facility might see a savings in their garbage bills as their local governments factored the greater transportation efficiencies and localized tip fee savings into collection rates. However, the much larger group of ratepayers whose haulers continue to use Metro's transfer stations would be burdened with higher rates as Metro increased its tip fee to pay for its costs after having lost tonnage and, along with it, part of those stations' economies of scale.

Tip fee increases at Metro transfer stations would result directly in a local rate increase; whereas, transportation cost reductions have only a slight chance of lowering local rates. In addition, it has historically been the case when Metro increases its tip fee; other privately operated transfer stations and dry waste material recovery facilities also increase their tip fees. Thus, the cost of solid waste disposal services for the region's citizens and businesses would likely increase even more.

In summary, significantly more rate payers in the region would see cost increases than those who would see cost decreases.

## **COO Conclusion and Recommendation**

While the COO continues to recommend denial of the application, the applicant's proposal is not without merit. It appears that granting its application would result in some transportation cost savings and some *dry waste* tip fee savings to its affiliated haulers. The question, however, is whether the estimated benefits are sufficiently certain, large, equitably distributed, and likely to be realized by the region's ratepayers to outweigh the likely costs and potential risks of granting this application. On balance, the Chief Operating Officer finds that the benefits to a limited number of haulers and customers do not outweigh the overall increases in costs to the rest of the citizens and businesses of the region.

For the above reasons, the Chief Operating Officer recommends approval of Ordinance No. 04-1063, denying Columbia Environmental's application for a local transfer station franchise.

## **Options for Council Consideration**

The Council must weigh several policy criteria before determining whether to grant or deny the application. The staff has provided analysis of those policy criteria and has made a recommendation to deny the application. Not surprisingly, the applicant objects to the staff's recommendation, and presents its own interpretations of those policy criteria and arguments for why its application should be approved. This is a matter of a difference of opinion regarding the best way to interpret the policy criteria established to determine whether to grant or deny an application for a solid waste transfer station franchise. The Council may consider the information put forward by staff and the applicant and decide, based on those policy criteria and others, as the Council deems appropriate, whether to grant or deny the application.

The following alternative options are offered for Council consideration. These options would require additional evaluation, some more than others. However, the Council could direct staff to implement any of the options listed below, individually or in some combination.

1. **Additional evaluation factors.** The Council may consider additional evaluation factors in making a decision about the applicant's proposed local transfer station.
2. **Weigh evaluation factors differently.** The Council may decide to weigh the five Metro Code evaluation factors differently than did staff, and as a result, come to a different conclusion about the applicant's proposal.
3. **Implement mitigation measures for Metro's public facilities and the ratepayers.** If Council wanted to approve Columbia Environmental's proposal and reduce the adverse impact on ratepayers, the Council could consider implementing specific mitigation measures that would help off-set the impacts of lost tonnages to Metro's

public transfer stations. Staff offers the following four examples for Council consideration:

- a) **Reallocate existing tonnage authorizations at the three existing local transfer stations.** The Council has granted annual tonnage authorizations of 65,000 tons of putrescible waste to each of the three existing local transfer stations (Pride, Troutdale, and WRI). The Council could reduce the authorizations and reallocate the tonnages to the proposed Columbia Environmental facility. All three local transfer station franchises will expire at the end of 2008.
  - b) **Reallocate tonnages from the Forest Grove Transfer Station.** Unlike other private transfer stations in the region, the Forest Grove Transfer Station has no annual cap on the wet waste tonnages it can accept, because it is considered a regional transfer station. The facility is currently accepting about 145,000 tons of solid waste per year. As part of its evaluation of a new franchise agreement after the current franchise agreement expires, the Council could impose a tonnage authorization on this facility, as it does with other private local transfer stations in the region. The tonnages could then be reallocated to the proposed Columbia Environmental facility. The Metro franchise agreement for Forest Grove will expire at the end of 2007.
  - c) **Reallocate tonnages from Metro Non-System Licenses (NSLs).** Metro has issued NSLs to various solid waste hauling businesses accounting for some 83,000 tons of putrescible solid waste per year generated inside the Metro region. This waste is currently hauled to transfer stations and/or landfills not operated by Waste Management and is considered to be ten percent of waste not required by contract to go the Waste Management facilities. The Metro Council approves issuance of NSLs to solid waste haulers that deliver putrescible solid waste to any facility outside the Metro region. One such example is Waste Connections (Arrow Sanitary and American Sanitary), that has two Metro NSLs to haul putrescible waste to its transfer station in Vancouver, Washington and disposed at Wasco County Landfill. The Council could limit the amount of tons that it grants in NSLs, and reallocate a commensurate amount to the proposed Columbia Environmental facility, since it intends to haul waste to Columbia Ridge – a Waste Management landfill.
4. **Restructure Metro's rates to mitigate impacts.** The Metro Council could adopt a rate structure that would insulate Metro's tip fee from solid waste tonnage diversions to other solid waste facilities (e.g., allocate Metro's fixed costs to the regional system fee).

If the Council decides to approve Columbia Environmental's local transfer station franchise application, then a franchise agreement will need to be drafted by staff, reviewed by the applicant and approved by the Metro Council. In such case, in order to ensure sufficient time for Council to act and approve the terms of a new franchise

agreement, Council should request that the applicant and the COO agree to extend the deadline for an additional 90 days as provided in Metro Code section 5.01.070(h)(3).

If the ordinance to deny the application is upheld by the Council and the matter is contested by the applicant, the Council has the option of having the matter heard by a Hearings Officer or by the Council (Metro Code section 2.05.025). The Chief Operating Officer recommends that the matter, if contested, be referred to a Hearings Officer for consideration. This would allow the Hearings Officer, an unaffiliated third party, to hear all of the evidence in the matter and to draft a Proposed Order, which the Council would then consider, along with any of the parties' objections to the Proposed Order, before issuing a Final Order in the matter.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

The applicant, Columbia Environmental, LLC and its affiliated haulers that would use the facility are opposed to the proposed legislation.

### **2. Legal Antecedents**

Metro Code Chapter 5.01 and the Regional Solid Waste Management Plan.

### **3. Anticipated Effects**

If the legislation were adopted, the proposed local transfer station franchise application would be denied.

### **4. Budget Impacts**

There would be no cost to implement the legislation, as the legislation would deny the franchise application.

## **RECOMMENDED ACTION**

Council should approve Ordinance No.04-1063A, denying Columbia Environmental's application for a local transfer station franchise.

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**MINUTES OF THE METRO COUNCIL MEETING**

Thursday, December 16, 2004  
Metro Council Chamber

Councilors Present: David Bragdon (Council President), Rod Monroe, Rex Burkholder, Carl Hosticka, Rod Park, Brian Newman

Councilors Absent: Susan McLain (excused)

Council President Bragdon convened the Regular Council Meeting at 2:01 p.m.

**1. INTRODUCTIONS**

Council President Bragdon introduced Mayor Becker from Gresham.

**2. CITIZEN COMMUNICATIONS**

There were none.

**3. DAMASCUS UPDATE**

Council President Bragdon said in November, the residents of the Damascus area voted to incorporate as a city – the first new city in Oregon in more than 22 years. This was not only a historic moment, but also a moment of opportunity. The people of Damascus have created the opportunity to build a vibrant community from the ground up. Clackamas County and Metro have the opportunity to provide our technical expertise to help Damascus develop their vision. He was pleased to welcome the newly elected Damascus City Council to Metro today:

- o Councilor John Hartsock
- o Councilor Barbara Ledbury
- o Councilor James Wright
- o Mayor Dee Wescott (elected by the Council at their first meeting)
- o (Absent: Councilor Randy Shannon)

He said, to the Damascus Council, you have a formidable but exciting job ahead of you. Metro will continue to provide technical support, planning assistance, and whatever else you need in the interim to help you achieve your goal of a thriving, livable community.

Councilor Park said in 2002, the Metro Council voted to include 12,000 acres in the Damascus area to the urban growth boundary. Clackamas County, citizen groups, non-profit groups and Metro facilitated a series of meetings and studies over several years to determine the “core values” of residents of Damascus and envision what a planned community could look like. The Damascus City Council now has the responsibility to help ensure that the community core values will be integrated into the concept plan, including: Maintaining the rural character, planning efficient transportation systems, creating opportunities for employment and development of local business, protecting open spaces and wildlife corridors, etc.

Michael Jordan, Chief Operating Officer, introduced and acknowledged Maggie Dickerson, a Clackamas County staff person. He talked about his time as a Clackamas County Commissioner and his experience working with the Damascus folks to engage them in their future. It was an inspiring experience.

Councilor Park thanked Mr. Jordan in his other capacity. He spoke to the sense of place that Damascus had. Today they were going to get to take a look at some of the concept plan alternatives chosen by the community. He then introduced and recognized the contributions of Metro staff that had assisted with the Damascus concept planning process: Ray Valone, Kim Ellis, and Lori Hennings.

Ray Valone, Planning Department, provided a power point presentation on the Damascus Boring Concept Plan. He again introduced and acknowledged Maggie Dickerson, Project Manager and John Hartsock, City Councilor for Damascus (a copy of the power point presentation is included in the meeting record). Mr. Hartsock thanked the Metro team for their efforts. They were constant professionals. Mr. Valone talked about the public involvement approach and the development of core values and goals. He noted key issues and next steps.

Councilor Newman asked about the relationship between Clackamas County and Damascus. When the final product was developed, who approved it? Who resolved key issues? Ms. Dickerson said they had not officially negotiated the approval process. There were two cities that would have the responsibility for implementing the concept plan. Mr. Hartsock said they would have to work together on the Springwater piece.

Councilor Park commented on additional discussions that needed to occur such as sewage and storm water issues. He spoke to challenges and opportunities. Mr. Hartsock talked about bringing in the entire piece. He said Council accommodated that and now it was their challenge and opportunity to come up with a concept plan. He spoke to future public involvement efforts.

#### 4. CONSENT AGENDA

4.1 Consideration of minutes of the December 9, 2004 Regular Council Meetings.

4.2 **Resolution No. 04-3510**, For the Purpose of Accepting the November 2, General Election Abstract of Votes.

Motion:

Councilor Hosticka moved to adopt the meeting minutes of the December 9, 2004 Regular Metro Council and Resolution No. 04-3510.

Vote:

Councilors Burkholder, Monroe, Park, Newman, Hosticka and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.

#### 5. ORDINANCES – SECOND READING

5.1 **Ordinance No. 04-1063**, For the Purpose of Denying a Solid Waste Franchise Application of Columbia Environmental, LLC to Operate a Local Transfer Station.

Council President Bragdon said there was a motion already on the table since this had been considered at a previous meeting.

Motion to postpone:

Councilor Park moved to postpone a decision by Council and direct staff to do the additional work with Columbia Environmental and report back to Council by March 9<sup>th</sup>.

Seconded:	Councilor Newman seconded the motion
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Councilor Park said Columbia Environmental, LLC, submitted a solid waste facility franchise application in July of this year to operate a local transfer station at 14041 NE Sandy Blvd.

The Chief Operating Officer recommended denial of the application because, based on Regional Solid Waste Management Plan (RSWMP) criteria and the requirements of the Metro Code.

He had reviewed the staff report and recommendation and he thought that there were other considerations Council should consider in their review of the Columbia Environmental proposal, which offered the following: 1) The ability for a significant number of remaining small, independent haulers to compete in this region and ensure their competitiveness in the ever-increasing vertically integrated system. 2) An innovative approach to increasing recycling through enhanced mechanization and by going after the significant amount of recyclable materials mingled in with multi-family wet waste. 3) A significant reduction in truck VMT given Columbia Environmental's proximity to their customers. 4) Potential cost savings to ratepayers on the east side. 5) Would provide a second transfer station in a waste shed that currently generates about 130,000 tons a year.

He suggested postponing a decision on Ordinance 04-1063 to allow staff time to work further with Columbia Environmental to analyze cost savings and evaluate the applicant's recovery plan.

Accordingly, he requested that Council extend the review time by 60 days as allowed by Code. This would give staff until March 9 to complete the additional work with Columbia Environmental.

If they worked successfully with Columbia Environmental, he would direct staff to report back to Council on or before March 9 with a plan that did the following: 1) Laid out a process and timeline for Council to take action on granting a franchise to Columbia Environmental. Grant 38,000 tons of wet waste to Columbia Environmental. Sets recovery performance targets consistent with Columbia Environmental's application that would be reviewed by Metro staff and Council, if necessary, on an annual basis. Exempts wet waste recovery from eligibility under the Regional System Fee Credit Program.

Councilor Monroe said he would support this motion. He was taken by the testimony from Columbia Environmental. He urged staff to look at options. He said we must maintain the viability and vitality of the transfer stations that we own. He urged Council to support the postponement. Council President Bragdon concurred with Councilor Monroe's remarks. He hoped we could provide opportunity with out injury to our public investment.

Councilor Hosticka asked who beside staff would be looking at this issue, any advisory committees? Mike Hoglund, Solid Waste and Recycling Director, responded Solid Waste Advisory Committee (SWAC) had been silent on the issue. There had been a few letters supporting the new transfer station. Councilor Hosticka said one of his real concerns about this was they were in the process of developing a Regional Solid Waste Management Plan. Dan Cooper, Metro Attorney, clarified the date to postpone. He suggested a date 60 days after January 8, 2005. Councilor Park suggested March 9, 2005. Mr. Cooper said he wasn't sure if there was a Council meeting on March 9<sup>th</sup>.

Vote to postpone:	Councilors Park, Hosticka, Burkholder, Newman, Monroe and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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5.2 **Ordinance No. 04-1067**, For the Purpose of Amending the FY 2004-05 Budget and Appropriations Schedule for the Purpose of Transferring \$92,902 from contingency to personal

services in the Planning Fund to Add 1.0 FTE Regional Planning Director (Program Director II); and declaring an emergency.

Motion:	Councilor Burkholder moved to adopt Ordinance No. 04-1067.
Seconded:	Councilor Monroe seconded the motion

Councilor Burkholder said this would add 1.0 for a regional planning director. They were looking at the needs of the Planning Department. He felt this position was necessary for leadership in issues such as the Big Look, Habitat Protection program. They had had a few discussions about the characteristics of the position. This was a high level position. He urged support. Councilor Park said they were setting a policy direction on what they would like to see come out of the department. The expectations that were laid out were on point. Council President Bragdon said when he recommended that this money be put in contingency he was looking for completion of some efforts before any position was considered. He would be voting no and explained his reasoning. He couldn't support the motion. Councilor Hosticka asked what the full-time commitment would be for next fiscal year. Mr. Jordan responded that attached to the staff report was a job description, which laid out salary ranges. Councilor Hosticka said it could be up to \$180,000. He shared the Council President's concern. This was a budgetary issue. He expressed concern about the uncertainty.

Council President Bragdon opened a public hearing on Ordinance No. 04-1067. No one came forward. Council President Bragdon closed the public hearing.

Councilor Park noted that this was a management decision. Councilor Hosticka said the question was did they want to spend up to \$180,000 in additional resources. Council President Bragdon concurred with Councilor Hosticka. He saw this budgetary decision as a policy decision. Councilor Burkholder urged an aye vote. He felt the strategic planning work had identified a need in this area. This department had had quite a few cuts over the past two years.

Vote:

Councilors Park, Burkholder, Newman, Monroe voted in support of the motion, Councilor Hosticka and Council President Bragdon vote no. The vote was 4 aye/2 nay, the motion failed because an emergency clause required 5 votes in support of the motion.
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Motion:	Councilor Newman asked that this ordinance be reconsidered on January 13, 2005.
Seconded:	Councilor Burkholder seconded the motion

Council President Bragdon said it would be reconsidered on January 13, 2005 without objection.

## 6. RESOLUTIONS

6.1 **Resolution No. 04-3513**, For the Purpose of Receiving the Performance Measures Report and Directing the Chief Operating Officer to Submit The Report to the Oregon Department of Land Conservation and Development.

Motion:	Councilor Newman moved to adopt Resolution No. 04-3513.
Seconded:	Councilor Burkholder seconded the motion

Councilor Newman introduced the resolution and called Andy Cotugno, Planning Director, and Gerry Uba, Planning Department, to provide additional information. No additional information was necessary. Councilor Newman urged an aye vote.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Monroe, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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**6.2 Resolution No. 04-3520, For the Purpose of Directing the Chief Operating Officer to formulate regional policy options relating to Ballot Measure 37.**

Motion:	Councilor Newman moved to adopt Resolution No. 04-3520.
Seconded:	Councilor Hosticka seconded the motion

Councilor Newman turned this resolution over to the Council President to introduce. Council President Bragdon spoke to the resolution and the need to work collaboratively with their local partners. He spoke to possible options in coordinating this effort. He also noted public involvement standards. There needed to be a search for other outcomes that we all wanted to achieve. He urged an aye vote. Councilor Hosticka asked about the scope of the activities of this group. He suggested trying to put some sort of outside deadline as to when people would have to file claims. He also suggested that under circumstances where payment was made, that payment act as a final decision on the claim. Councilor Burkholder suggested that the State of Oregon needed to be represented in this group as well. Council President Bragdon urged an aye vote.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Monroe, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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Council President Bragdon said the 2004 Functional Plan Compliance Report was not ready yet.

**7. CHIEF OPERATING OFFICER COMMUNICATION**

Michael Jordon, Chief Operating Officer, reminded the council about the reception for Councilor Monroe.

**8. COUNCILOR COMMUNICATION**

Council President Bragdon personally acknowledged Councilor Monroe for his many years of service. He spoke to the many contributions that Councilor Monroe had made to Metro. He thanked him personally for his civility.

Councilor Newman noted Councilor Monroe's contribution to this institution as well as the region. He talked about his own experience working with Councilor Monroe as chair of Joint Policy Advisory Committee on Transportation (JPACT). More than his progressive ideas, it was the attitude and professionalism that Councilor Monroe brought to the job. He shall be sorely missed.

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Councilor Park said there was life after Metro. He had watched Councilor Monroe over the years. It had helped him become a better leader. He noted his work with the Convention Center and transportation. He thanked him for his many years of services to the general public.

Councilor Hosticka said he was sorry to see Councilor Monroe go. He had served with Councilor Monroe for over 20 years in a variety of capacities. They will miss him in this panel.

Councilor Burkholder recognized that this body was called upon to think regionally. He noted Councilor Monroe had worked on regional issues such as Bi-State Committee, Area 93, and a variety of other regional issues. He had done work to solve regional problems and provided a lot of leadership.

Council President Bragdon gave Councilor Monroe a plaque recognizing his years of service.

Councilor Monroe said it had been more than a decade serving at Metro. He had served in the legislature and as a teacher. He felt that Metro was an entity that looked out many years in the future. He said Metro was about his grandson's life a lot more than his own. He recognized his son, daughter-in-law and his wife. He will treasure this award. He offered to help in anyway. He expected to continue in public and private leadership roles if the come available.

**9. ADJOURN**

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 3:25 p.m.

Prepared by

Chris Billington  
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF DECEMBER  
16, 2004**

Item	Topic	Doc Date	Document Description	Doc. Number
4.1	Minutes	12/9/04	Metro Council Meeting Minutes of December 9, 2004	121604c-01
3	Power Point Presentation	12/16/04	To: Metro Council From: Ray Valone, Planning Department, Re: Damascus Boring Concept Plan	121604c-02
3	Timeline	12/16/04	To: Metro Council From: Ray Valone, Planning Department Re: Damascus Organization Chart and Timeline	121604c-03
5.1	Memo and Metro Transfer Station Policy Study	12/14/04	To: Metro Council From: Michael Hogle, Solid Waste and Recycling Director Re: Study to be continued and made part of the public record	121604c-04
6.2	Resolution No. 04-3520	12/16/04	Resolution No 04-3520, For the Purpose of Directing the Chief Operating Officer to Formulate regional policy options relating to Ballot Measure 37	121604c-05
6.1	2004 Performance Measures Report	12/16/04	To: Metro Council From: Gerry Uba, Planning Department Re: 2004 Performance Measure Report	121604c-06



METRO  
 R.E.M. DEPT.  
 05 JAN 24 AM 11:01

January 19, 2005

Bill Metzler  
 Metro Solid Waste Division  
 600 NE Grand Ave.  
 Portland, OR 97232

Dear Bill:

This letter is a response to Metro's request for more information regarding the Columbia Environmental Local Transfer Station application. Staff repeated this request after the Council hearings. Your questions are addressed below in the order they were asked.

### **Cost savings**

*1. Geographic areas from which wastes are generated*

Columbia Environmental is still collecting and organizing this information from the haulers and will provide it to Metro in a separate document.

*2. Characteristics of "special wastes"*

The estimated 5,000 tons of special wastes referred in Part 1, page 4 of the application should more accurately be called "inerts." The table in Part 3, page 4 of the application contains a clearer breakdown of each category of waste and their estimated tonnages. The 5,000 tons in this table is categorized as inerts, and the quantity of special wastes is listed as "none." Inerts are likely to be construction and demolition debris such as rock, brick, dirt, concrete, and sand. The applicant apologizes for inconsistency in terminology. The facility will not accept hazardous wastes.

### **Material Recovery**

*1. Separation of wet and dry waste streams.*

Wet wastes and dry wastes will be kept separate by being located on opposite sides of the transfer facility. Wet waste will be processed on the north side of the proposed transfer station, dry waste on the south side. The two waste streams will have different loading areas and will be loaded using separate equipment and trucks.

Winterbrook Planning

310 SW Fourth Ave. Suite 1100 Portland, Oregon 97204 503.827.4422 voice 503.827.4350 fax www.winterbrookplanning.com

COMMUNITY ■ RESOURCE ■ PLANNING



*2. Route-collected waste or drop boxes?*

The proposed facility will handle both route-collected waste and drop boxes. Nearly all the wet waste collected will be from residential sources. Nearly all of the inerts (construction and demolition debris) will be delivered in drop boxes. Dry waste delivered to the site will be split, approximately 60 percent arriving in drop boxes and 40 percent route-collected.

Drop box loads of dry wastes will likely require a heavier floor sort to remove large bulky items and recover recyclable materials. Then both drop box and route-collected dry waste loads will be processed with the same methods. This waste stream typically has a very high recovery rate for recyclable materials such as wood (e.g., pallets, lumber) and cardboard.

*3. Material recovery and sorting methods*

For dry wastes, loads will be tipped on to the sorting floor, and large bulky items (e.g., mattresses) will be removed using skid steer loaders. The remaining materials will be fed onto a sorting and recovery line that will potentially incorporate a debris recovery screen, a cross belt magnet, and some manual sorting. Skid steer loaders will also be used to move the separated and sorted materials for recycling (wood, cardboard, metals), and the residual waste for delivery to the landfill.

Wet wastes have a lower recovery rate. Large items will be removed in the same way as from the dry waste stream. Residual waste will be loaded into closed containers for transfer.

*4. Moved to recycling processing facility*

Recyclable materials recovered from the waste streams in the new building will be placed in drop boxes. Recyclables that can be processed on site by the existing facility will be transferred between buildings in roll-off trucks, and subjected to further processing.

*5. Material loaded into trailers*

The materials loaded into containers for transport off-site will predominantly be residual waste products. Mixed Solid Waste will be transferred to Oregon Waste Systems (WMI). Dry waste residuals will be transferred to a pre-approved landfill. Wet waste will be placed in sealed containers, per Metro regulations for transport.

While the original intent of transfer station operations was to push the waste products into top-loading, sealed containers, further engineering has revealed functional difficulties

with that design. As a result it is more likely that wastes will compacted in an Amfab-type compaction system, then the compacted waste will be pushed into the side of empty containers. This requires less mechanics and infrastructure, and little change in efficiency. The location of the containers and loading areas will be the same as shown on the site plan.

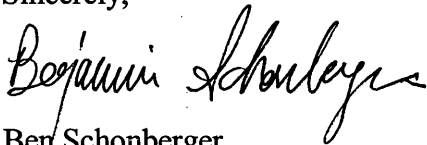
*6. Traffic patterns to main building*

Traffic delivering materials for recycling processing will enter the site through the new driveway on the west, be weighed on the on site scale if necessary, then proceed around the east side of the new building and main building. Some trucks will unload at the dock on the northeast corner of the existing building. (This traffic pattern is shown in the graphic on the last page of the land use decision in the July 30 application submittal.) Most trucks will proceed around the east side of the existing building to unload in one of the bays on the building's south side.

*7. Activities in the existing building*

A plan of the existing buildings on site with the current activities indicated is attached to this letter. As shown on the site plan, the shop and repair functions of the small building to be demolished will be relocated to the north side of the proposed new building.

Sincerely,



Ben Schonberger  
Associate Planner



FAX

To: Bill Metzler
From: Ben Schonberger
Date: February 8, 2005
Copy:
Re: Existing activities

Fax #: (503) 797-1795
Fax #: 503-827-4350
Pages: , including cover
Fax #:

- Urgent For Review Please Comment FYI Original To Be Sent By Mail

Attached is an annotated site plan of the Columbia Environmental site that shows the activities in the existing buildings. This responds to a question in your earlier memo.

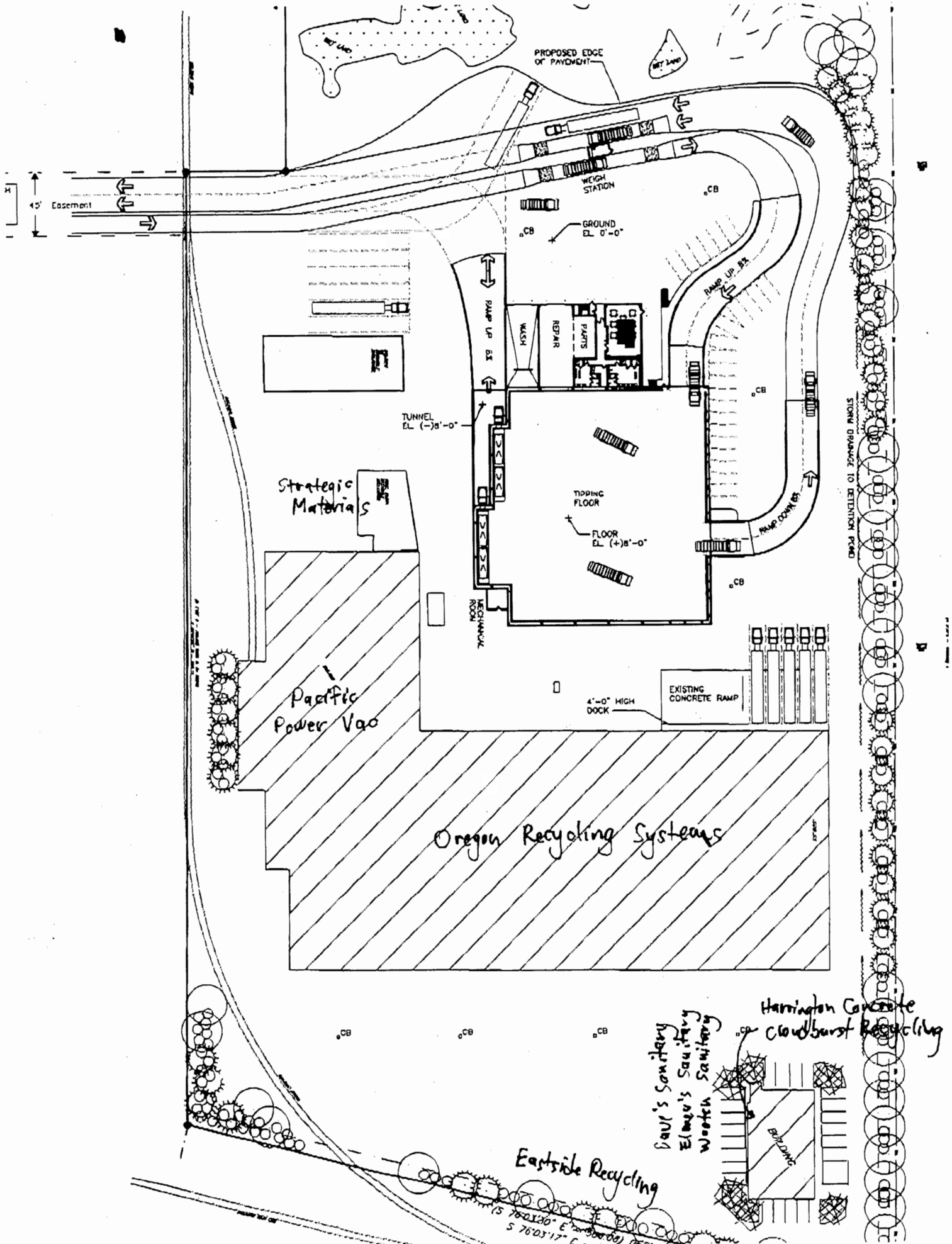
Existing space in the facility is divided among three primary tenants, shown on the map.

- 1. Oregon Recycling Systems processes and sorts recycled plastic, paper, metal and container glass for bulk resale.
2. Strategic Materials collects container glass and plate glass for transfer to a California facility where the glass is converted into "cullet," and ultimately into end products such as wine bottles or fiberglass insulation.
3. Pacific Power Vac is a vacuum waste treatment service that collects and processes oils, grease, sludge, and water from sources such as parking lot catch basins.

The other tenants indicated on the map—Eastside Recycling, Dave's Sanitary, etc.—are primarily recycling or waste haulers that park trucks or store equipment at the site.

Metro staff observed the operation and location of all these activities during their site visit on September 21, 2004.

Winterbrook Planning
310 SW Fourth Ave. Suite 1100 Portland, Oregon 97204-2305
503.827.4422 503.827.4350 (fax)
ben@winterbrookplanning.com



**METRO**

February 10, 2005

Mr. Bryan Engleson  
Columbia Environmental, LLC  
14041 NE Sandy Blvd.  
Portland, OR 97230

Re: Council Extension for Application Review

Dear Mr. Engleson:

On January 24, 2005, Metro received the January 19, 2005 letter from Winterbrook Planning that outlined some of the additional information Metro had requested from Columbia Environmental at the December 21, 2004 meeting. As you recall, on December 16, 2004, the Metro Council postponed its decision on Ordinance No. 04-1063 for an additional review period of 60 days. During this timeframe Council requested that Columbia Environmental and staff work together to analyze cost savings and evaluate Columbia Environmental's proposed recovery plan. Metro staff met with Columbia Environmental on December 21, 2004 to discuss the information that Metro required of Columbia Environmental.

Notwithstanding the information you provided in your January 19, 2005 letter from Winterbrook Planning, it is my understanding that Columbia Environmental is still working on the balance of the information requested by Metro at that meeting. These include: 1) geographic areas from which wastes will be generated (for cost savings), 2) cost savings estimates (refer to the sample table provide to you at the meeting), 3) a revised application with a 38,000 ton request for putrescible solid waste, 4) a more detailed description of how Columbia Environmental plans to achieve the high recovery rates along with information on its proposed mechanized material recovery system with clarified or revised estimates of projected recovery rates from both wet and dry wastes, 5) a site plan that illustrates all the proposed activities and major equipment such as mechanized material recovery system and the proposed solid waste compactor in the proposed building, and 6) estimates for VMT savings. Columbia Environmental should provide baseline hauler VMT without its proposed transfer station and the proposed hauler VMT with the proposed transfer station.

At the December 16, 2004 Council hearing, Councilor Park offered five additional evaluation criteria for Council to consider in its review of Columbia Environmental's application. These are outlined in the attached Table 2- Additional Council Evaluation Factors. As you can see, factors #7 (innovative recovery approach) and #8 (VMT

reduction) require information to be submitted from Columbia Environmental so that findings can be developed. Table 1 is also attached and summarizes findings regarding whether or not Columbia Environmental's application meets the five Metro Code evaluation factors.

In summary, Metro Council has requested that Columbia Environmental provide additional information in order for staff to develop complete findings that may lead staff to recommend approval of Columbia Environmental's franchise application to operate a local transfer station. Columbia Environmental has not yet provided the requested information. The 60-day extension granted by Council will expire on March 9, 2005. Any decision on how to proceed must be made by Council at its March 3, 2005 meeting. We will need to discuss with you early the week of February 14, 2004 how to proceed. At this point staff will not be able to adequately evaluate new information regarding your application. Please call me so we can discuss your options and the next steps in this process.

For your information, Council will be holding an informal worksession regarding Columbia Environmental's application on February 22, 2004; 2:00 p.m, here at Metro. To get the process started again, please call Roy Brower (503) 797-1657 or me (503) 797-1743.

Sincerely,



Michael G. Hoglund  
Solid Waste & Recycling Department Director

BM/MH:bjl

Attachments

cc: Michael Jordan, Chief Operating Officer  
Roy W. Brower, regulatory Affairs Division Manager

## Evaluation Factors Summary Tables - Revised for 2005

- Table 1 summarizes findings regarding whether or not the application submitted by Columbia Environmental meets the five Metro Code evaluation factors.
- Table 2 summarizes additional evaluation factors introduced by Councilor Park for Council consideration at the December 16, 2004 Council hearing on Ordinance No. 04-1063.<sup>1</sup>

**Table 1- Five Metro Code Evaluation Factors**

Table 1 The Five Metro Code Evaluation Factors For Solid Waste Franchise Applications	Meets Criteria		Does Not Meet Criteria	Findings on the Columbia Environmental Application
	Meets Criteria	Neutral		
<p>1. <i>Consistent with the Regional Solid Waste Management Plan [Metro Code 5.01.070(f)(1)].</i></p> <p><b>Will there be a Net Benefit to the regional solid waste system?</b></p> <p><u>RSWMP considerations:</u></p> <ul style="list-style-type: none"> <li>• Capacity</li> <li>• Access (under-served area)</li> <li>• Recovery</li> <li>• Competition (competition also relates to Cost, which is discussed in Evaluation Factor #2)</li> <li>• Cost to regional ratepayers</li> </ul>			X	On balance, staff finds that the proposed facility would not produce a certain, equitably distributed, or sufficiently large net benefit to the regional solid waste system and therefore, the application is not consistent with the RSWMP.
			X	The region has more than adequate capacity to accept, manage and transfer all of the region's waste for many years to come (refer to Metro's Regional Transfer Capacity Analysis, April 2004).
			X	The proposed facility location does not meet the RSWMP criteria for an under-served area, characterized as more than 25 minutes to a transfer station. Further, it would be located only 6.6 miles from an existing local transfer station. There are even more nearby options for dry waste. While access may be improved for a small number of haulers, a transfer station in every neighborhood would also improve access, but at the same time create a very inefficient system.
	X			The facility would recover an additional 3,000 tons rather than the 20,000 tons claimed by the applicant. The applicant's affiliated haulers have the option of using the nearby existing material recovery facilities rather than the more distant Metro facilities.
		X		The proposed transfer station could hurt competition since a new facility would cause tip fee increases throughout the region (see Evaluation Criteria #2). This situation would: 1) be detrimental to many other independent haulers that rely on Metro's public transfer stations, and 2) provide a windfall to other solid waste operations in competition with the applicant.
			X	Staff finds a significant negative cost impact on regional ratepayers - refer to comments for Evaluation Criteria #2 on the next page.

<sup>1</sup> Ordinance No. 04-1063 was introduced for Council consideration by the COO with the concurrence of the Council President for the purpose of denying a solid waste facility franchise application of Columbia Environmental, LLC to operate a local transfer station. On December 16, 2004 the Council extended the Ordinance review period for 60 days.

**Table 1- Five Metro Code Evaluation Factors (continued)**

<p><i>...continued...</i></p> <p><b>The Five Metro Code Evaluation Factors For Solid Waste Franchise Applications</b></p>	<p><b>Meets Criteria</b></p>	<p><b>Neutral</b></p>	<p><b>Does Not Meet Criteria</b></p>	<p><b>Findings on the Columbia Environmental Application</b></p>
<p>2. <i>The effect on the cost of solid waste disposal and recycling services for the citizens of the region [Metro Code 5.01.070(f)(2)].</i></p> <p>(Cost relates to Competition, discussed on previous page Evaluation Factor #1-RSWMP consistency)</p>			<p>X</p>	<p><i>If the application were approved, the citizens of the region will likely incur increased costs of about \$1.2 million to \$1.4 million annually.</i></p> <ul style="list-style-type: none"> <li>• <i>Cost increases to Metro's customers of \$1.30 per ton (+ \$606,000).</i></li> <li>• <i>Cost increases at private facilities would result in higher tip fees region-wide to recover those increased costs (+ \$167,000 excise taxes and fees).</i></li> <li>• <i>In addition, the posted rates at many private facilities are expected to increase to match Metro's rates (at least +\$439,000 additional revenue at non-Metro facilities).</i></li> <li>• <i>The applicant claims that it could realize an adjusted gross savings of \$1.3 million from transportation and dry waste tip fee savings. However, the applicant states these savings would likely not be passed on to its customers, but might slow down future rate increases.</i></li> </ul>
<p>3. <i>Unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents [Metro Code 5.01.070(f)(3)]</i></p>	<p>X</p>			<p>There is no reason to believe the applicant could not meet this criterion.</p>
<p>4. <i>Unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood [Metro Code 5.01.070(f)(4)]</i></p>	<p>X</p>			<p>There is no reason to believe the applicant could not meet this criterion.</p>
<p>5. <i>Comply with all requirements and standards and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise [Metro Code 5.01.070(f)(5)].</i></p>	<p>X</p>			<p>There is no reason to believe the applicant could not meet this criterion.</p>



**Table 2- Additional Council Evaluation Factors**

The following additional five evaluation factors were introduced by Councilor Park for Council consideration at the December 14, 2004 Council hearing on Ordinance No. 04-1063.

Table 2 Additional Council Evaluation Factors	Meets Criteria	Neutral	Does Not Meet Criteria	Findings on the Columbia Environmental Application
6. <i>The ability for a significant number of small independent haulers to compete in this region and ensure their competitiveness in the ever-increasing vertically integrated system.</i>	X			The applicant has indicated that the proposed facility would benefit nearby affiliated haulers with transportation saving, and some tip fee savings. Further, haulers that are shareholders in the company would benefit from company profits. Therefore, the proposed local transfer station would help the small independent haulers affiliated with Columbia Environmental to compete and remain competitive in a vertically integrated system.
7. <i>An innovative approach to increasing recycling through enhanced mechanization and by going after the significant amount of recyclable materials mingled in with multi-family wet waste.</i>			More information is required from the applicant	<b>More information is required from the applicant</b> on its proposed mechanized recovery system (type of system, performance of system with similar waste streams, projected recovery rates, the types of materials that will be recovered, timeframe for installation of mechanized system).
8. <i>A significant reduction in truck VMT given Columbia Environmental's proximity to their customers.</i>			More information is required from the applicant	<b>More information is required from the applicant.</b> The applicant has provided estimates for travel time savings rather than VMT savings. For example, the applicant should provide and compare baseline hauler VMT without the proposed facility to proposed hauler VMT with the proposed facility (there must be separate estimates for wet and dry wastes).
9. <i>Potential cost savings to ratepayers on the east side.</i>	X			The applicant has indicated that users of the facility will realize savings, and some of the savings may also be realized by residential ratepayers, who could experience lower rates as determined by local government rate setters. Savings on residential routes are passed through to customers as a consequence of the local government rate-setting process.
10. <i>Would provide a second transfer station in a watershed that currently generates about 130,000 tons a year.</i>		X		Metro has designated six transfer station service areas (watersheds) based on distance. The estimated annual wet waste service area tonnages and the facility tonnage caps are: <u>Local Transfer Station Service Areas</u> <b>Pride Recycling</b> = 167,000 tons (65,000 ton cap). <b>Troutdale Transfer Station</b> = 131,00 tons (68,250 ton cap). <b>Willamette Resources (WRI)</b> = 19,000 tons (68,250 ton cap). <u>Regional Transfer Station Service Areas</u> <b>Forest Grove</b> =52,000 tons (No cap. Accepted about 105,000 tons wet waste in 2004). <b>Metro Central</b> = 353,000 tons (no cap, accepted about 395,000 tons wet waste in 2004). <b>Metro South</b> = 160,000 tons (no cap; accepted about 172,000 tons in 2004).

METRO  
R.E.M. DEPT.

05 FEB 22 PM 4:16

February 22, 2005

Metro Council  
600 NE Grand Ave.  
Portland, OR 97232

Dear Councilors:

On February 10, 2005, Metro staff sent a letter to Columbia Environmental requesting more information about its application for a transfer and recovery facility. This request resulted from the Metro Council's discussion and decision to postpone action on the application at its December 16, 2004 meeting. In response, this letter provides all the supplemental information as requested by Metro staff. Winterbrook Planning represents Columbia Environmental in this matter.

The applicant would like to note that as part of the process, it carefully reviewed past applications to Metro for new or expanded transfer station authority. In no previous case did Metro staff ask for, nor did applicants provide, the quantity and depth of detailed information that is now being requested of Columbia Environmental.

1. *"Geographic areas from which waste will be generated"*

Transportation savings from the presence of the new facility have been recalculated, based on new data from haulers. Details of the analysis in narrative and table form are attached to this letter. In addition, a map of the areas from which waste will be generated has been created, and is also attached.

2. *"Cost saving estimates"*

Calculated cost savings for the proposed facility are divided into two main categories: lower tip fees for dry waste, and transportation savings. As shown in the previous application, lower tip fees will result in a savings of \$640,000. Transportation savings, which have been recalculated based on new data from the haulers, will be between \$1.35 million and \$2.25 million, assuming solid waste costs of \$9 to \$15 dollars per mile.

Approximately two-thirds of the transportation savings will come from residential routes. By law, transportation cost savings from residential routes are returned to ratepayers based on decisions made by local rate-setters. Columbia Environmental has no direct control over what fraction of this expected savings is returned to the ratepayer. Only local jurisdictions can guarantee lower rates. Historically, though, efficiencies in the waste

collection system have been expressed as downward pressure on prices rather than actual reductions. This was clearly communicated in the original application.

In addition, approval of a new transfer station would add other, less easily quantifiable benefits for the citizens of the region. Less roadway congestion, and less air and noise pollution will be tangible benefits from the reduction in vehicle miles traveled. Greater competition in the marketplace will drive up operating efficiencies at all facilities and hold down price increases. Increased recovery will reduce landfilling and move the region toward Metro recycling goals.

Columbia Environmental would also like to note that it disagrees with the methodology for calculating benefits and impacts to “citizens of the region” as presented in the previous staff report. In addition to giving Columbia Environmental no credit for the expected transportation and other benefits outlined above, the staff report attributes cost impacts to the consequences of market-distorting public policies. Half of the regional cost impact from the proposal is due to the fact that Metro has insulated itself from price competition, basing its tip fees on its cost-of-operation, regardless of market pressures. Staff outlines other regional cost impacts, or “losses,” that are secondary economic impacts of this policy, *i.e.*, the expectation that all private facilities would match Metro’s price increases. Finally, the staff report also adds a tertiary impact of this policy—that government rate-setters will allow price hikes to be translated into higher disposal rates to consumers. The inevitability of this chain reaction of rising prices is not assured. Moreover, all of these impacts could be significantly offset in the long run by increasing competition in the marketplace, which is a key purpose of the Columbia Environmental application.

### 3. *“Revised application requesting 38,000 tons of wet waste authority”*

Columbia Environmental officially requests the authority for a transfer station application for 38,000 tons of wet waste annually. This is a reduction from its original request of 55,000 tons. The request for dry waste and other wastes in the original application are unchanged.

Metro staff raised the concern that fewer tons would be delivered to Metro-owned facilities with the operation of the new Columbia Environmental facility. Columbia Environmental has never disputed that its presence in the marketplace will redistribute tons away from Metro-owned transfer stations. The regional trend toward greater market share for private transfer stations precedes this application, and will continue with or without a new market participant. Columbia Environmental believes that the overall benefits to the citizens of the region—reduced VMT, increased recovery, greater competition in the marketplace, downward pressure on prices—will exceed any increased costs from the redirection of some waste away from Metro.

As pointed out in previous submittals, the zero-sum argument in the staff report—waste delivered to privately-owned transfer stations creates a net loss for the citizens of the region—is debatable and does not recognize regional benefits. By this reasoning, any

increase in tons at existing non-Metro facilities could be expected to reduce Metro's market share and cause the same chain of events.

Without changing the system, there is simply no way for a new transfer station to hold Metro harmless from a revenue standpoint. This is due to two factors: Metro's inflexible cost-based approach to setting prices, and the assumption that Metro's market dominance allows it to control rates region-wide.

Therefore, if maintaining Metro's current wet waste tons is a high priority for the Council, an option for altering the system is to lower tonnage caps at other privately-owned transfer stations. The first obvious solution is to focus on the Forest Grove transfer station, because it currently has no cap on wet waste. If Forest Grove were capped at 65,000 tons annually—which is roughly the limit applied to all other private transfer stations in the region—40,000 tons that are currently delivered there would have to be re-directed, presumably to Metro. This change would immediately make Columbia Environmental's proposal revenue-neutral from Metro's perspective. Alternatively, Metro could lower the tonnage caps at other private transfer stations to level the playing field. If the three private local transfer stations were limited to the same 55,000 tons originally requested by Columbia Environmental, their excess tons would likely be re-routed to Metro facilities. Columbia Environmental notes that it has no authority to restrict tonnages at other facilities, and no immediate interest in doing so. Consideration of these options was suggested by staff; the Metro Council has the authority to implement such a plan.

4. *“Detailed description of recovery; more details on equipment; updated estimate of wet and dry waste recovery”*

Columbia Environmental has reviewed its operations plan and spoken with vendors since the Council and staff recommended exploring a cap of 38,000 tons of wet waste. Representatives of Columbia Environmental visited two similar facilities in California to evaluate its proposed model of recovery and operations. A summary of the site visits and the high recovery rates that are currently being achieved at these facilities are detailed in the attached document. Innovation and mechanization of the sorting process allows these facilities to achieve recovery rates in excess of those targets set by Columbia Environmental in its application. Metro staff initially expressed skepticism about Columbia Environmental's aggressive approach to material recovery. Nevertheless, comparable facilities achieving similar results are operating successfully at other locations, and the proposed facility will use many of the same systems. The recovery rates described in the original application are feasible, reasonable, and will benefit Metro and the citizens of the region.

Because of the reduction in tonnage requested by Metro, it is not economically viable for Columbia Environmental to make all of its capital expenditures in recovery equipment at once. Under the new cap, investment in recovery equipment and operations will have to be phased in three stages. Recovery rates will increase incrementally as new equipment and operations are brought on line. An implementation plan for operations and equipment

is contained in the summary. Construction for the new building and the first phase of equipment installation will be nine months to a year from final approval by Metro.

At full implementation, Columbia Environmental expects to process 260 tons of wet waste and 150 tons of dry waste per day. Overall recovery rates from all sources will be approximately 10 percent for wet waste and 45 percent for dry waste.

5. *"Site plan"*


A description of the recovery operations and equipment within the new building is described in detail in the attached narrative. Because of the proposed reduction in tonnage, equipment installation will be phased. Final design and engineering for the location of all the equipment has not been determined. The applicant must have flexibility to modify how equipment is configured within the new structure to maximize the efficiency of the system.

6. *"Estimates of VMT savings"*

Reducing travel times and vehicle miles traveled (VMT) is a priority for Columbia Environmental. The benefit to the region is less traffic congestion and pollution; the benefit to the haulers is more efficient operations and greater profitability. A detailed summary is attached to this letter that describes the locational benefits of the current facility, and calculates the savings in vehicle miles traveled. In short, the proposed facility will create a clear reduction in vehicle miles traveled, in excess of 150,000 VMT annually.

In conclusion, Columbia Environmental has revised its original proposal, and followed direction by Metro staff and the Metro Council. At staff's request, the applicant has supplemented its application with unusually detailed information about its proposal. This comes at a considerable cost to the applicant. We appreciate the opportunity to provide this additional information and hope it provides sufficient detail for staff and Council to approve the application.

Sincerely,



Ben Schonberger  
Winterbrook Planning

# Columbia Environmental Supplement to Application for a Transfer Station

## Vehicles Miles Traveled (VMT)

Reducing travel times and vehicle miles traveled (VMT) has been a priority for Columbia Environmental since its inception. The benefit to the region is less congestion and pollution; the benefit to the haulers is more efficient operations and greater profitability.

In 1997, the local haulers that make up Columbia Environmental began to develop plans to construct a Recovery / Transfer station. The guiding principles of this new transfer station were:

1. The facility must be convenient and practical for the hauler to use.
2. The facility must provide necessary safety and operational practices.
3. The facility must provide innovative solutions to resource recovery.
4. The facility must assist the local independent hauler in competing with the large multi-national corporations.
5. The facility should provide educational opportunities for the local community.

To choose a location for the new facility, the haulers divided the Portland Metro area into districts. Three hauler districts were envisioned that were conceptualized to meet the above criteria. The districts are:

1. North: The area serving downtown Portland from Foster Road north to the Columbia River and east past Gresham
2. South: The area south of Foster Road
3. West: The area encompassing Beaverton and the surrounding area

Next, tonnage estimates within these three districts were computed based on what was controlled by these independent haulers. These annual tonnage estimates were:

1. North: 183,000 tons
2. South: 109,400 tons
3. West: 71,358 tons

The next step was to apply the “convenient and practical” criteria to the districts. It was envisioned that haulers would continue to use Metro facilities when that was “convenient and practical” to do so. District tonnages were reduced to reflect this factor. At that time it was determined that the north district was the most practical area to develop. A site selection committee consisting of Richard Cereghino, Paul Truttman, and Dean Kamper located and recommend the current location on NE Sandy Boulevard. Operations were transferred to that site. Extensive discussions with the landlord with the intent of purchasing the site failed at that time. Discussions started again in 2000 that culminated in the purchase of the NE Sandy site in February 2001. Applications were pending before the Metro Council at that time but were not allowed to proceed because Metro required that Columbia Environmental obtain a Conditional

Use Permit from the City of Portland, the first facility required to do so in the Metro area. In addition, the Oregon Department of Transportation and the Union Pacific Railroad required Columbia Environmental to obtain different entry to the site because of an October 31, 2001 fatality at the railroad crossing. When clear title to an alternate access was obtained in 2004, the application for a Transfer Station was resubmitted to Metro.

In December 2004, additional information based on new review criteria was requested by the Metro Council. One of those requests was to convert the time savings—which is the primary concern of the haulers—detailed in the original application into vehicle miles traveled. In a letter dated February 10, 2005, staff requested that travel times and VMT be further disaggregated into wet and dry waste loads. Based on information provided to Columbia Environmental by the haulers, the attached table shows savings for haulers who are most likely to use the new facility. The summary of this chart is:

Waste type	Annual VMT savings
Wet Waste (primarily residential sources)	102,838 miles
Dry Waste (primarily commercial sources)	50,571 miles
Total Annual Savings	153,409 miles

It is interesting to note that the new calculations for VMT savings translate into larger cost savings that claimed in the original application. Currently, solid waste costs per mile in the Portland Metro area range from \$9 to \$15 per mile, depending on the route efficiencies.

## Columbia Environmental Haulers Most Likely to Use NE Sandy Site

<u>Route Identification</u>	<u>Distance To Metro Facility</u>	<u>Distance To Lot</u>	<u>Distance To Columbia En.</u>	<u>Distance To Lot</u>	<u>Difference</u>	<u>Number Of Loads</u>	<u>Miles Saved Per Year</u>	<u>Miles Saved Residential</u>	<u>Miles Saved Commercial</u>
Alberta	11.9	16.0	5.5	4.5	17.9	322	5,764	4,611	1,153
Argay	13.5	10.3	0.0	4.8	19.0	340	6,460	4,845	1,615
PDR-Baldwin	11.9	16.0	5.5	4.5	17.9	667	11,939	10,745	1,194
PDR-Blains	6.2	16.3	8.8	4.5	9.2	113	1,043	939	104
Borgens	13.3	16.3	6.8	4.0	18.8	236	4,432	3,989	443
City Sanitary	9.0	15.5	9.0	1.0	14.5	167	2,422	1,211	1,211
Cloudburst	6.3	6.5	8.0	0.0	4.8	167	793	0	793
Daves	10.3	20.0	10.0	0.0	20.3	260	5,265	4,212	1,053
Eastside Waste	15.0	17.5	2.5	5.0	25.0	667	16,675	10,005	6,670
Egger	9.5	11.0	4.5	4.0	12.0	114	1,368	1,300	68
Elmers	13.0	20.0	7.0	0.0	26.0	314	8,164	7,756	408
Flannery's						83	850	0	850
Eckert						83	850	0	850
Kiltow	16.0	16.3	10.3	4.0	18.1	282	5,099	4,844	255
Gresham						1,667	25,000	12,500	12,500
Heiberg						333	3,500	0	3,500
Irvington	13.0	16.0	7.0	4.0	18.0	110	1,980	1,881	99
Weisenfluh	11.0	14.0	4.5	4.0	16.5	291	4,802	4,321	480
Cloudburst-Schnell	6.0	6.5	8.0	0.0	4.5	80	362	326	36
Cloudburst-Lofink	6.5	6.5	8.0	0.0	5.0	80	400	360	40
PDR						1,333	16,000	12,800	3,200
PDR-Drop Box						70	1,000	0	1,000
Wooten	14.5	16.0	2.5	0.0	28.0	342	9,585	7,668	1,917
Trashco						834	9,000	0	9,000
Weber	16.0	18.0	5.5	4.0	24.5	435	10,658	8,526	2,132
							<u>153,409</u>	<u>102,838</u>	<u>50,571</u>



# Columbia Environmental Recovery / Transfer Facility Supplement to Equipment and Operations

In its February 10, 2005 letter, staff requested additional information from Columbia Environmental. Columbia Environmental has been reviewing its operations plan and talking with vendors since the Council and staff recommended exploring a cap of 38,000 tons of wet waste. Site visits to other similar operations were conducted to further check the proposed model of recovery and operations. Since the proposed recovery and operation plan is significantly different than anything within the Portland area, site visits were conducted in California, where the technology has been used for over two years.

## **Site Visit # 1, Long Beach, California**

The first site visited was a recovery facility in Long Beach, California. The facility is located in an industrial area approximately two miles from a major freeway. Materials are brought to the facility from sources in excess of 20 miles away. The land is owned by the City of Long Beach. The City has hired an independent contractor that has no collections in the area to operate the facility. In addition, a multi-national solid waste company is performing transfer without any attempt at recovery in a portion of the structure. The operator requested that no pictures be taken at the facility because of the keen competition that had developed since it was opened.

The operator processes four waste streams within its operations. They are:

1. Construction & Demolition Waste
2. Residential Wet Waste
3. Drop Boxes (not Construction & Demolition)
4. Commercial Dry Waste collected in Front Loaders

Each of the four waste streams are stored separate from one another and processed at different times. This allowed for more efficient setup and labor control. The following equipment and labor was used while sorting the waste.

Local Tip Fee:	\$35 to \$40
Tons per Day:	200 to 600
Loader:	Cat Knuckle Boom Track Hoe
Loader:	Bobcat skid steer
Bag Opener:	BHS Bag Breaker
Sort Line:	Bulk Handling Systems
Screen #1:	Bulk Handling Debris Roll Screen
Screen #2:	Portable Trommel
Boxes:	40 to 60 yard drop boxes.
Residue:	Loaded into open top transfer trailers

Floor Sort Labor: 1 presort  
Line Sorters: 6 workers per shift, 2 shifts daily

Recovery rates among all waste streams is very high. The waste stream and its recovery rate follows:

Construction and Demolition	80%-90%
Residential Wet Waste	18%
Drop Boxes	60% +
Commercial Dry Waste	50% to 60%

It is important to note some differences between the recovery rates at this facility and Columbia Environmental. First, 30% of the recovery from Construction and Demolition is Alternative Daily Cover (ADC). This is important in California since it is included in recovery statistics (Even though it is not currently recognized by Metro, methods are being researched in how to keep this material out of the landfill.). Second, residential wet waste recovery is relatively high, but this is skewed because of less developed curbside programs than those in the Portland area. We do not feel comfortable with more than a 4% to 5% recovery rate on this material. However, the wet waste stream observed might be similar in mix to the multi-family waste.

#### **Site Visit # 2, Santa Barbara, California**

Site number 2 is located in the City of Santa Barbara, in a residential neighborhood next to Interstate 101. The facility is owned and operated by an independent hauler and processor. Currently the facility is undergoing extensive expansion and updating. The only waste streams observed being processed were construction and demolition, and dry waste processing. The following equipment, labor, and structure information were observed.

Local Tip Fee:	\$40
Tons Per Day:	650
Building Square Footage:	40,000
Loaders:	Cat Knuckle Boom Track Hoe
Loader:	Cat Articulating Loader
Sort Line:	Bulk Handling Systems
Screen # 1:	Roll Debris Screen from Bulk Handling Systems
Screen # 2:	Vibratory Screen on Tracks with Diesel Power
Boxes:	40 to 60 yard drop boxes
Residue:	Loaded into open top transfer trailers
Floor Sort Labor:	3 including wheel wash attendants
Line Sorters:	10

Recovery was high in the facility with the owner/operator claiming up to 90% recovery on both streams. However, as above this includes "ADC" of 30%. This source material is very similar in nature to that expected at the Columbia Environmental facility.

Materials recovered included wood, brick, stone, tile, wire, aluminum, metals, cardboard, other paper, asphalt, containers, and other miscellaneous.

### **Columbia Environmental Equipment and Operations**

Because of the reduction in tonnage requested by Metro, Columbia Environmental must make some changes to its recovery and processing systems. Observations from the site visits discussed above also drive some of these changes.

To be economically viable, capital investment in recovery equipment and operations will have to be phased in three stages. Recovery rates will increase incrementally as new equipment and operations are brought on line. Columbia Environmental expects to use the following equipment, labor, and structure components:

#### **Phase 1:**

Tons per Day Wet Waste:	150
Tons per Day Dry Waste:	60
Building:	New 25,000 to 30,000 sq. foot facility
Compactor:	New moderate-sized compactor with an in-floor infeed.
Sort Line:	Install sort line
Screen # 1:	Roll debris screen
Boxes:	40 to 60 yard drop boxes for recovered items
Residual Loads:	Open Top Containers
Loader:	Knuckle Boom Track Hoe
Loader:	Skid Steer with grapples
Floor Sort Labor:	2
Line Sorters:	6

#### **Phase 2**

Tons per Day Wet Waste:	210
Tons per Day Dry Waste:	100
Screen # 2:	Add Roll Debris Screen
Loader:	Add Articulating Loader
Line Sorters:	Add 2, for a total of 8

#### **Phase 3**

Tons per Day Wet Waste:	260
Tons per Day Dry Waste:	150
Bag Breaker:	Bulk Handling or similar system
Loader:	Additional Knuckle Boom Track Hoe
Loader:	Additional Skid Steer
Floor Sort Labor:	2 per shift for a total of 4

Line Sorters: 6 per shift for a total of 12

### Recovery Rates

Recovery remains in line with previous estimates, with some adjustments. Because of the severe limitation on the amount of waste placed on the facility, residential wet waste and multi-family wet waste will be limited. The exact component is difficult to calculate at this time. However, waste recovery by stream is expected to be:

#### Phase 1:

Residential Wet Waste:	4% to 5%
Residential Dry Waste:	50%
Commercial Dry Waste:	25%
Construction & Demolition:	40%
Commercial Drop Boxes:	30%
Net Recovery:	12,000 tons

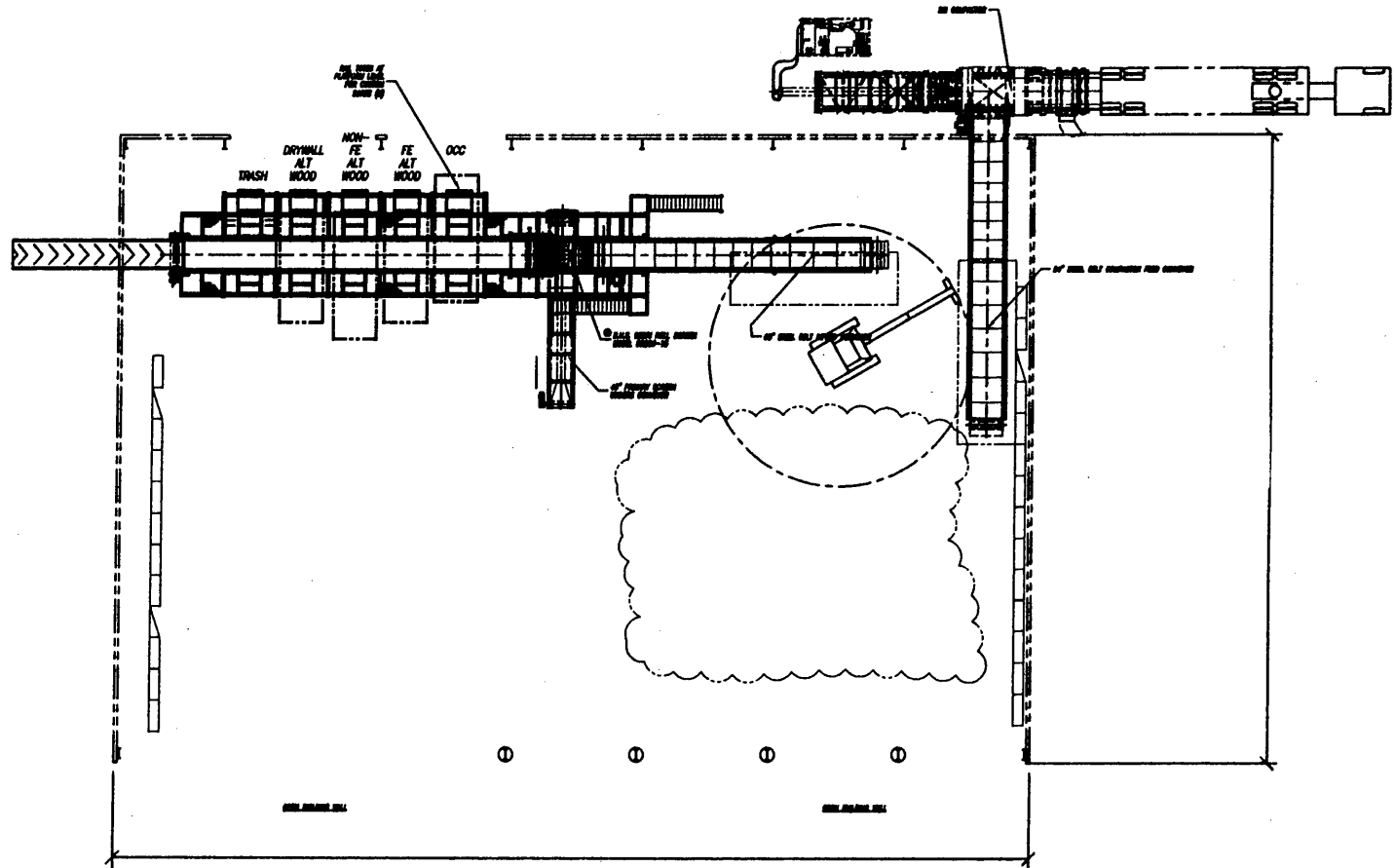
#### Phase 2:

Residential Wet Waste:	No change
Residential Dry Waste:	Increases 5%
Commercial Dry Waste:	Increase 5%
Construction & Demolition:	Increase 5%
Commercial Drop Boxes:	Increase 10%
Total Recovery:	21,000 tons

#### Phase 3:

Residential Wet Waste:	Increase 3%	(7% total recovery)
Residential Dry Waste:	No change	(55% total recovery)
Commercial Dry Waste:	Increase 5%	(35% total recovery)
Construction & Demolition:	Increase 5%	(50% total recovery)
Commercial Drop Boxes:	Increase 10%	(50% total recovery)
Total Recovery:	32,000 tons	

Attached to this narrative is a layout of the proposed facility. Construction will be done on the building with the intent of placing equipment using the above schedule. For Metro's analysis of the quantity of materials diverted from its transfer stations, it should be noted that construction time, including DEQ and the City of Portland Building permits, will be from 9 months to 1 year.



		<b>BULK BUILDING SYSTEMS</b> 100 ARDENWOOD DRIVE, SUITE 200 CHICAGO, ILLINOIS 60642	
PROJECT NO.		NO. P-6357	
DATE		NO. 6357-2.0	
DRAWN BY		CHECKED BY	
SCALE		SHEET NO.	
TOTAL SHEETS		TOTAL SHEETS	



METRO

February 28, 2005

Mr. Bryan Engleson  
Columbia Environmental, LLC  
14041 NE Sandy Blvd.  
Portland, OR 97230

Re: Receipt of Amended Franchise Application

Dear Mr. Engleson:

On February 22, 2005, Metro received a letter from Ben Schonberger of Winterbrook Planning written on behalf of Columbia Environmental regarding Columbia Environmental's application for a Metro transfer station franchise. In that letter, Mr. Schonberger indicated that Columbia Environmental is revising its application to seek authority to transfer 38,000 tons of putrescible solid waste, rather than authority to transfer 55,000 tons of putrescible waste as stated in Columbia Environmental's original franchise application. In addition, Mr. Schonberger also describes other changes to Columbia Environmental's proposed operations that will result from this decreased tonnage, such as a revised schedule for installing material recovery systems in the new facility. Metro considers these changes to constitute a substantial modification of Columbia Environmental's application. Metro Code section 5.01.070(h)(2) provides that should an applicant substantially modify its franchise application during the course of the review, the 120 day review period for the Council to act shall be restarted as of the date Metro receives the applicant's modifications. Therefore, the 120 day review period for Columbia Environmental's modified franchise application commenced on February 22, 2004 and will end on June 22, 2005. Metro staff will make every attempt to process your amended application as quickly as possible.

Within the next few weeks, I will contact you to set up a meeting to discuss our preliminary analysis of Columbia Environmental's amended application.

If you have any questions or concerns, please contact Roy Brower (503) 797-1657 or me (503) 797-1743.

Sincerely,

Michael G. Høglund  
Solid Waste & Recycling Department Director

BM/MH:bjl

cc: Michael Jordan, Chief Operating Officer  
Roy Brower, Regulatory Affairs Division Manager  
Bill Metzler, Senior Solid Waste Planner  
Ben Schonberger, Winterbrook Planning



METRO

March 8, 2005

Mr. Bryan Engleson  
Columbia Environmental, LLC  
14041 NE Sandy Blvd.  
Portland, OR 97230

Re: Request for Clarifications

Dear Mr. Engleson:

Staff has conducted a preliminary review of the additional information provided in the February 22, 2005 letter from Mr. Ben Schonberger of Winterbrook Planning on behalf of Columbia Environmental regarding its solid waste facility franchise application. During the course of this review, specific items have been identified for further clarification by Columbia Environmental. They are as follows:

1. "Cost savings estimates"

Your letter represents that there will be savings of \$640,000 due to lower tip fees on dry waste. The \$640,000 per year in savings is the same estimate provided in your original application and was based on tip fee savings on 37,000 tons of dry waste. In your letter, you indicate that Columbia Environmental expects to receive about 60 tons per day (15,600 tons/year) of dry waste during the first phase of operation. Based on this information, we estimate that the tip fee savings for the first phase would be more near \$300,000, rather than \$640,000.

- a) Please provide clarification on your estimated savings for the first phase of your operation, as described in your letter.

In your original application you estimated unit hauling costs at an industry standard of \$70/hour. Your letter describes a unit cost of \$9-\$15 per mile to estimate transportation savings two to four times larger than your original estimate (original: \$553,071 versus \$1.35 to \$2.25 million revised).

- b) Provide a detailed explanation of the change of basis in your analysis (i.e., from per-hour to per-mile unit costs).
- c) Explain why your revised estimate of transportation savings roughly tripled when your wet tonnage request was reduced by some 30% (from 55,000 to 38,000 tons/year).

Referencing your attachment identified as "Haulers Most Likely to Use NE Sandy Site" we ask that you provide clarification to the following:

- d) This new table lists your estimate of distances to various locations but does not indicate from where. Please clarify.
- e) Does this new table show only wet loads, as in your original application, or both wet and dry?
- f) If the new table includes estimates for wet loads only, please explain why you now estimate a larger number of loads will be required to deliver tons to the proposed Columbia Environmental facility, even as the total annual wet waste tonnage drops from 55,000 to 38,000 tons.

Your letter states that "By law, transportation cost savings from residential routes are returned to ratepayers based on decisions made by local rate-setters."

- g) Please identify the specific local or state law, ordinance or rule that imposes the requirement that local rate-setters pass on transportation cost-savings to ratepayers.

## 2. "Recovery"

Your letter indicates that Columbia Environmental ultimately expects to process 260 tons of wet waste and 150 tons of dry waste per day. You indicate that overall recovery rates are expected to be about 10 percent for wet waste and 45 percent for dry waste. In your attachment identified as a "Supplemental to Equipment and Operations" you provide additional information. This includes information from site visits in Southern California.

- a) Please describe how this attachment pertains to your application as you provide insufficient information to determine whether or not these facilities are similar to the proposed facility.

A phasing plan is shown that identifies expected tonnages and equipment that is expected to be installed at Columbia Environmental. In addition information is also presented on expected recovery rates and recovery tonnages. This data appears to be internally inconsistent as well as inconsistent with the recovery rates included in your cover letter. Attached is a Metro spreadsheet showing the tonnage data that you have provided Metro. The numbers in bold face type are from your letter; the remaining numbers are calculated from the data provided. Using the maximum recovery shown for wet waste, we have calculated the required recovery rate for dry waste.

- b) You will note that recovery rates in the range of 65% to 70% are required in order to obtain the net recovery tonnage represented in your letter. Please provide clarification regarding this apparent discrepancy.

## 3. "Structure and ownership of Columbia Environmental LLC"

Your original application states that Columbia Environmental, LLC is owned by a partnership, and the ownership partners include independent haulers that were listed. You also represent that these partners also own Oregon Recycling Systems. A Metro Councilor has requested information about the structure of Columbia Environmental LLC. In order to meet that request, we ask that you please provide the following information:



- a) The names of investors or other partners not included in your list of haulers that accompanied your original application.
- b) Provide the names of investors and their respective proportional ownership (the top ten with the most ownership).
- c) Describe who is authorized to make decisions on behalf of the LLC, the extent of their decision making authority, and who owns the site on which the proposed facility would be built.
- d) A copy of the documentation for the limited liability corporation (e.g., articles of incorporation/organization, financial limits and obligations, bylaws, operating agreement).
- e) Describe how critical decisions will be made among the members of the LLC or its employees to ensure compliance with franchise requirements.

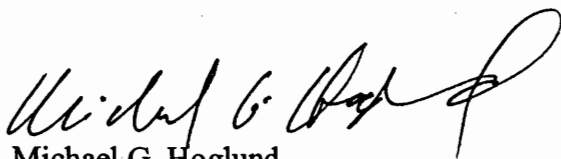
**4. "Councilor's additional evaluation factors"**

As you are aware, at the December 16, 2004 Council hearing on Columbia Environmental's franchise application, a Metro Councilor introduced five additional evaluation factors for Council consideration (in addition to the five required evaluation factors as provided in Metro Code). The following are questions related to two of that Councilor's evaluation factors regarding Columbia Environmental's proposed operation.

- a) Describe how the proposed facility will ensure that a significant number of small independent haulers will be able to compete in this region and ensure their competitiveness in the region's increasingly vertically-integrated solid waste system.
- b) Describe the exact nature of the proposed recovery operation's innovative approach to increasing recycling.

Please provide, in complete and final form, your responses to the requests listed above by Monday, March 28, 2005. If you cannot, please contact me so that we can work out an extension for this request. If you have any questions, please call me at (503) 797-1657 or Bill Metzler at (503) 797-1666.

Sincerely,



Michael G. Hoglund  
Solid Waste & Recycling Department Director

BM/ME:bjl

Attachment

cc: Roy Brower, Regulatory Affairs Division Manager  
Michael Jordan, Chief Operating Officer  
Bill Metzler, Senior Solid Waste Planner  
Ben Schonberger, Winterbrook Planning





METRO  
R.E.M. DEPT.

05 APR -8 AM 10:00

April 7, 2005

Metro Council  
Metro  
600 NE Grand Ave.  
Portland, OR 97232

Dear Councilors:

On March 8, 2005, Metro staff sent a letter to Columbia Environmental requesting additional information about its application for a transfer and recovery facility. In response, this letter provides a general response to the process, and a specific response to the questions in that letter. Winterbrook Planning represents Columbia Environmental in this matter.

## General Response

Unfortunately, the application process thus far has been an unconstructive, frustrating back-and-forth between Metro and Columbia Environmental. Nearly all the new requests for information derive from answers Columbia Environmental provided in response to earlier requests by Metro staff. This cycle of response and counter-response has been repeated numerous times over many months.

Metro has not provided the applicant with a preferred format or clear direction for its economic or operational analyses. Typically, after Columbia Environmental gathers and submits information, Metro staff questions the assumptions, methodology, or applicability of the analysis, and requests further clarification or additional information. Additional information submitted in direct response to staff comments only generates new questions and more requests for different information. Seven months and countless responses after submittal of the original application, this process has bogged down.

This struggle to understand each other is evident in the debate over what savings will be passed through to the ratepayer, for example.

1. In the original July 2004 application, Columbia Environmental stated that a new transfer station would reduce travel costs and hold down rate increases.
2. In the November staff report, Metro criticized Columbia Environmental for not promising to reduce rates for residential customers.
3. Columbia Environmental responded by explaining that rate-setting is in the hands of local jurisdictions, and it cannot unilaterally increase or lower rates. Because franchising

Winterbrook Planning

310 SW Fourth Ave. Suite 1100 Portland, Oregon 97204 503.827.4422 voice 503.827.4330 fax www.winterbrookplanning.com

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contracts in Portland and Gresham include an effective limit on hauler profits, anticipated transportation savings would indeed be passed through to ratepayers.

4. Metro staff appeared to finally understand the relationship in their February 10 letter: “Savings on residential routes are passed through to customers as a consequence of the local government rate-setting process.” (Table 2, response to factor 9)
5. In the most recent letter, staff asks for identification of the “rule that imposes the requirement that local rate-setters pass on transportation cost-savings to ratepayers.”

The Metro Code’s evaluation factor for the economic aspect of the application is simple. It simply requires the Council consider the effect that a new franchise will have on the cost of services. It does not specify what kind of economic analysis is needed. It puts forward no parameters, no accepted methodology, and no assumptions. Metro staff has never outlined exactly what kind of a model or analysis they wish to see, but has repeatedly requested more or different information from the detailed analysis already provided by Columbia Environmental.

The applicant wishes to provide staff and the Council with all the information they need to make an informed decision. The applicant also wants to work collaboratively with Metro in this process. Columbia Environmental believes that the Metro Council should focus on the main principles of the application, which have not changed. The new transfer station:

- **Levels playing field**—restores competitive balance for small haulers, increasing competition and maximizing system efficiency
- **Increases recovery**—brings region closer to stated recovery and recycling goals, creates economic incentive for higher recovery rates
- **Reduces travel**—reduces travel times and VMT, thereby reducing congestion and pollution, and increasing the efficiency of services

Columbia Environmental’s proposal meets all of the evaluation factors listed in the Metro Code 5.01.070(f). The applicant has revised a Metro-authored table to demonstrate conformance with these factors, and has included it with this letter.

## Specific Responses

This letter contains specific responses to Metro staff's request for additional information in the March 8, 2005 letter. That request stems from information provided by Columbia Environmental on February 22, 2005. The information in that letter was requested by Metro staff in their letter of February 10, 2005. The headings below correspond to the questions in the March 8 letter.

### 1a. Dry waste tip fee savings

The projected savings for dry waste were calculated for the facility at full operation in a future final phase of development. Staff has correctly calculated that for the project's first phase, lower tip fees on 15,600 tons of dry waste will result in an estimated savings of \$300,000.

### 1b. Change in analysis from hours to miles

The original application showed time savings resulting from the proposed facility. Time is the primary concern of haulers, and is a widely-accepted proxy for cost savings. At the Council hearing, staff and several councilors requested that the applicant translate this time savings into vehicle miles traveled.

The applicant changed the basis of the analysis *only because it was specifically asked to do so by both staff and the Metro Council*. Staff made this request orally in a December 21, 2004 meeting, and in writing on February 10, 2005: "[staff requests] estimates for VMT savings. Columbia Environmental should provide baseline hauler VMT without its proposed transfer station and the proposed hauler VMT with the proposed transfer station." (p.1) Columbia Environmental also provided a map with its previous submittal, showing the haulers' service areas.

### 1c. Difference in transportation savings

The tables in the original application and in the February 22 letter are analogous, with the original calculating savings in hours, and the newer one calculating savings in vehicle miles traveled. Both tables are based on the tonnage that could be expected once the transfer station is in full operation at the final phase of development and investment in capital infrastructure.

However, the applicant revised its proposal at Metro's suggestion to reduce the annual amount of wet waste received from 55,000 to 38,000 tons. Staff correctly notes that the table in the February 22 letter calculates VMT savings for the originally requested tonnage. Columbia Environmental has revised this table with new data for the reduced tonnage request. This obviously has the effect of reducing by nearly one-third the savings in vehicle miles traveled and the corresponding estimates for cost savings.

Per-mile operating cost is rarely used and much more difficult to estimate than per-hour cost, because of widely varying time demands between on-route vs. off-route travel. VMTs are more helpful as a way to understand regional benefits to road systems, and reductions in congestion and pollution. Studies that establish an accurate unit cost per-mile are difficult to find since this

figure is rarely used in the solid waste industry. \$9 per mile was an estimate based on a study done by the Oregon Sanitary Service Institute in the 1980s. \$15 per mile is an amount calculated internally by Argay Disposal and Eastside Recycling, based on routes within their service areas. The conservatively estimated \$70 per hour figure used in the original application is more commonly recognized as a cost of operation.

#### 1d. Distances and locations

The table in the February 22 letter describes the distances traveled by the haulers and forecasts for mileage saved by a new facility. This table was accompanied by a hauler service area map submitted by the applicant. The miles saved are calculated by using the following equation:

$$(\text{Yard to route to Metro to yard}) - (\text{Yard to route to Columbia Environmental to yard})$$

The first part of this equation, “yard to route. . .” is exactly the same on in both sides of the minus sign. Therefore, this trip leg cancels out. Regardless of the location of the hauler’s yard, this leg of the trip would be the same in both scenarios. This distance was not included in the table because it would make no difference to the desired result: the *difference* between current and future conditions. The information requested in the Metro letter is not relevant.

#### 1e. Wet or dry loads

The table counts wet loads only.

#### 1f. Number of loads

The time savings table in the original application and the VMT savings table in the February 22 letter account for approximately 9,200 loads of wet waste delivered to the site. Both tables use tonnages that could be expected once the transfer station is in full operation, at the final phase of development and investment in capital infrastructure.

At Metro’s suggestion, the applicant changed its proposal to reduce the annual amount of wet waste from 55,000 to 38,000 tons. Staff correctly notes that the table in the February 22 letter calculates VMT savings for the originally requested tonnage. In response, Columbia Environmental has updated this table with new data showing estimates for load distributions under the reduced tonnage request. Since waste loads will be accepted on a first-come, first-served basis, and Metro franchises require that the facility must be open to all haulers, the distributions listed on these tables are approximate. In any case, a lower tonnage cap for wet waste obviously has the effect of reducing the savings in vehicle miles traveled and the corresponding estimates for cost savings.

#### 1g. Pass-through of transportation savings

As explained earlier in this letter, the template franchise agreements from both the City of Portland and the City of Gresham include a *de facto* limit on hauler profits. (City of Portland commercial hauling is the only category without this limit.) Local government rate setters use a

formula that derives a customer price from a “base” of allowable operating expenses plus a 9.5 percent profit. If hauler efficiency reduces transportation costs, this lowers allowable expenses, and changes the base, but haulers may not simply take this savings as additional profit. To do so would be a violation of the their contract with the cities, and against the law. Lower operating costs lower the base, which then is returned to ratepayers as part of the rate-setting formula. The formula is calculated and rates are determined according to Generally Accepted Accounting Principles (GAAP). Local jurisdictions, not haulers, determine rates.

Bruce Walker from the City of Portland’s Office of Sustainable Development explained this process in detail in his testimony at the Metro Council hearing. The applicant is submitting under separate cover a standard franchise agreement that further explains this financial arrangement. Local jurisdictions have the authority to negotiate these contracts under ORS 459.065. City of Portland authority is through Portland City Code 17.102.050; City of Gresham authority is through Gresham Revised Code 7.25.070.

#### 2a. Pertinence of California examples

The applicant’s field trip to facilities outside the Portland area, and the information provided about their operations, was a direct response to comments by Metro staff. In a meeting on December 21, 2004, Metro staff claimed there was “no way” the applicant could meet its projected recovery goals, and presented as evidence a list of recovery rates at Portland-area facilities. In response, the applicant researched newer, more innovative facilities outside the region to show that its projected recovery rates were reasonable. Columbia Environmental clearly stated the purpose of these examples in its February 22 letter to Metro (p.3):

“Metro staff initially expressed skepticism about Columbia Environmental’s aggressive approach to material recovery. Nevertheless, comparable facilities achieving similar results are operating successfully at other locations, and the proposed facility will use many of the same systems. The recovery rates described in the original application are feasible, reasonable, and will benefit Metro and the citizens of the region.”

Descriptions of these two facilities include detailed information about their location, size, volume of waste processed, mechanization, sorting line equipment, labor demands, and overall recovery rates. Proposed systems similar in type were also described for Columbia Environmental’s future facility. The applicant does not understand staff’s position that three pages of detailed data about operations of the facilities constitutes “insufficient information” to make a valid comparison. Frankly, the applicant does not know what more detail could be provided that would help this comparison.

#### 2b. Recovery rates for dry waste

Metro staff’s table attached its March 8 letter omits important information provided by the applicant, and in doing so reaches an erroneous conclusion. Metro staff has incorrectly categorized the five different waste types listed in the applicant’s estimated recovery rates,

compressing them into two general categories: wet and dry. Staff's conclusion is that to obtain the stated recovery tonnages, dry waste recovery rates must be unrealistically high.

To clarify, the applicant has provided expanded tables (see attachments) that include *all* categories of waste listed in the February letter. The consequence of a 2002 Metro regulatory guidance document<sup>1</sup> is that many loads previously and incorrectly defined as "dry" will be redefined as "wet" because they contain more than a "trivial" amount of putrescible material.

The revised table for Phase 1 shows that previously stated results are achievable by using conservative recovery targets of 13 percent for all categories of wet waste and 42 percent for all categories of dry waste. These numbers are consistent with the "about 10 percent for wet waste and 45 percent for dry waste" estimate stated in the earlier February 22 letter to Metro. There is no discrepancy.

### 3. Structure and ownership of Columbia Environmental LLC

Metro Code and the application forms provided by Metro require only that the applicant provide the "name and address of the company owner or parent company." Columbia Environmental, L.L.C., owns the site on which the proposed facility would be built and is listed as the applicant. In July 2004, the applicant provided to Metro a detailed list of 40 independent haulers, companies, and individuals that make up Columbia Environmental. This information is more detail than Metro code requires. Nevertheless, in the interest of full disclosure, at Council request, the applicant will provide additional information about the organization.

Columbia Environmental is a limited liability corporation governed by a six-member board of managers, who set policy and direction for the company. This board has authority to make company decisions and to comply with franchise requirements. Two equal investment partners in Columbia Environmental contribute equally to this board: three members from KCDK, L.L.C., and three members from Oregon Recycling Systems. At this time, KCDK's representatives to the Columbia Environmental board are David Ross, Kirk Ross, and Ty Ross. Oregon Recycling System's representatives are Mike Miller, David McMahan, and Richard Cereghino. This board hires a Chief Executive Officer to manage day-to-day operations. The current C.E.O. of Columbia Environmental is Bryan Engleson. Oregon Recycling Systems operates the existing recycling processing facility on the Columbia Environmental site. ORS is itself governed by a seven-member board of managers, who are elected by the general membership, who are comprised of the haulers listed in the original application.

More detail about the internal finances of the organization, *i.e.*, how much money each investor has contributed to the partnership, or the details of its operating agreement, is a matter of private business. Public, on-the-record disclosure of this information would be detrimental to Columbia Environmental's position in the marketplace. Furthermore, this information is not relevant to its ability to fulfill Metro franchise requirements. Past applicants for franchises have not been asked

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<sup>1</sup> Metro Solid Waste Regulatory Guidance, "Management of Putrescible Waste at Recycling Facilities (RFs) and Material Recovery Facilities (MRFs)", July 2002. Metro's "trivial" standard for putrescible materials that change the definition of a dry waste load is very restrictive: no more than 5% per load, by weight, not to exceed a maximum of 300 pounds.



to provide this kind of internal business details. The information provided above, combined with the original application's exhaustive list of participating partners, should be sufficient to allow an informed decision.

#### 4a. Competitiveness of small haulers

The RSWMP directs Metro to consider facility ownership: "Metro shall encourage competition when making decisions about transfer station ownership or regulation of solid waste facilities in order to promote efficient and effective solid waste services" (RSWMP, Goal 4, Objective 4.6, p. 5-5).

The Columbia Environmental proposal will preserve the presence of small independent haulers in the Metro system. Because of hauler consolidation and the introduction into the marketplace of large, vertically-integrated, multi-national firms, there has been a precipitous drop in the number of small haulers serving Metro. Whereas there were more than 200 small independent haulers in 1988, there are fewer than 40 today. This change is industry-wide and not unique to Metro. The economies of scale that these large companies have, and their ownership control of every stage of the process—from neighborhood garbage trucks to landfill sites—gives them a powerful advantage. Small, locally-based haulers are being driven out of the system. Long-term, the lack of competition in waste disposal will take tons away from Metro transfer stations and drive up prices for all citizens of the region.

In order to compete and survive in this environment, the small haulers need to engage in some of the same scale advantages as the larger, vertically-integrated corporations. Individually, these companies are too small to provide their own processing or transfer station facilities. As a group, however, they can collectively compete for the waste and recycling business and remain viable in the marketplace. Recycling processing is a way that the coalitions of small haulers have maintained a revenue-generating activity that will allow them to grow. The best opportunity for small companies to participate in the waste business in the Metro region is for them to integrate processing, transfer, and hauling together, as this proposal does.

Healthy competition is a pre-condition for maintaining "service levels that provide reasonable access for residents, businesses and haulers." This is Metro's stated rationale for allowing new transfer stations (Metro Ordinance 00-865, revising the RSWMP). Approval of this application will encourage competition, support local businesses, increase waste diversion rates, expand hauler choice, decrease vehicle miles traveled, and drive down overall system costs.

#### 4b. Innovative approach to recycling

If existing transfer facilities adopted the recovery model proposed by Columbia Environmental in this application, region-wide goals for recovery and recycling could be met in one year. The innovation of the proposed facility lies in three facts (previously outlined in a November 29, 2004 letter to Metro):

**1. Columbia Environmental has a strong economic incentive to recover materials from the waste stream.**

Because Columbia Environmental has no direct connection to a landfill—unlike other dominant, fully vertically-integrated firms operating in the region—it has a huge economic incentive to remove every possible pound of recoverable material from the waste stream. Recovery and recycling is a profit center for the company, whereas delivering waste to the landfill is an undesirable cost. This creates a market-based system for recovery and recycling that supports regional goals.

**2. The new facility will operate using superior technology for sorting and recovery.**

The new transfer facility will invest in cutting-edge mechanized systems for sorting and recovery. These systems are similar to the ones operating effectively in the two California facilities discussed in detail in the February 22 letter. These systems will maximize the amount of materials diverted from the landfill.

**3. The transfer station will be immediately adjacent to a recycling processing facility.**

The proposed facility is unique because of its proximity to existing recycling processing activities. This creates efficiencies for the processing of recovered materials. While not all materials can be processed on site, cardboard, waste paper, glass, metal, and other specialty materials will be brought to the main building and turned into marketable commodities. Unlike at other transfer facilities, no additional truck trips will be needed to bring these materials to a processing center.

In short, the key factors listed above—economic incentives for recovery, cutting edge sorting technology, and proximity to recycling processing—are innovative and unlike any transfer and recovery station in the region.

In conclusion, Columbia Environmental has provided more detailed information on the recovery and transfer station application, at the request of Metro staff and the Metro Council. The application meets the Council's factors for consideration as listed in Metro Code 5.01.070(f). We hope that as the process moves forward, we can work collaboratively with Metro. We appreciate the opportunity to provide this additional information and hope it provides sufficient detail for staff and Council to approve the application.

Sincerely,  
WINTERBROOK PLANNING



Ben Schonberger

Columbia Environmental L.L.C.  
 Facility Recovery  
 Phase 1

<u>Category</u>	<u>Tons/Day</u>	<u>% Recovery</u>	<u>Tons/Day Recovered</u>	<u>Tons/Year Recovered</u>
Wet Waste				
Residential	95	5%	5	1,240
Commercial & Multi-Family	25	25%	6	1,631
Commercial Container & Boxes	<u>30</u>	30%	<u>9</u>	<u>2,349</u>
Total Wet Waste	<u>150</u>		<u>20</u>	<u>5,220</u>
Dry Waste				
Residential	10	50%	5	1,305
Commercial and C & D	<u>50</u>	40%	<u>20</u>	<u>5,220</u>
Total Dry Waste	<u>60</u>		<u>25</u>	<u>6,525</u>
Total Phase 1	<u>210</u>	<u>21%</u>	<u>45</u>	<u>11,745</u>

(Future) Phase 2

<u>Category</u>	<u>Tons/Day</u>	<u>% Recovery</u>	<u>Tons/Day Recovered</u>	<u>Tons/Year Recovered</u>
Wet Waste				
Residential	125	5%	6	1,631
Commercial & Multi-Family	30	30%	9	2,349
Commercial Container & Boxes	<u>45</u>	40%	<u>18</u>	<u>4,698</u>
Total Wet Waste	<u>200</u>		<u>33</u>	<u>8,678</u>
Dry Waste				
Residential	15	55%	8	2,153
Commercial and C & D	<u>85</u>	45%	<u>38</u>	<u>9,983</u>
Total Dry Waste	<u>100</u>		<u>47</u>	<u>12,137</u>
Total Phase 2	<u>300</u>	<u>27%</u>	<u>80</u>	<u>20,815</u>

(Future) Phase 3

<u>Category</u>	<u>Tons/Day</u>	<u>% Recovery</u>	<u>Tons/Day Recovered</u>	<u>Tons/Year Recovered</u>
Wet Waste				
Residential	170	5%	9	2,219
Commercial & Multi-Family	40	35%	14	3,654
Commercial Container & Boxes	<u>50</u>	50%	<u>25</u>	<u>6,525</u>
Total Wet Waste	<u>260</u>		<u>48</u>	<u>12,398</u>
Dry Waste				
Residential	20	55%	11	2,871
Commercial and C & D	<u>130</u>	50%	<u>65</u>	<u>16,965</u>
Total Dry Waste	<u>150</u>		<u>76</u>	<u>19,836</u>
Total Phase 3	<u>410</u>	<u>30%</u>	<u>124</u>	<u>32,234</u>

## Columbia Environmental: Haulers Most Likely to Use Sandy Site

Route Identification	Distance To Metro Facility	Distance To Lot	Distance To Col. Env.	Distance To Lot	Difference	Original Request at 55,000 Tons				New Request at 38,000 Tons			
						Number Of Loads	Miles Saved Per Year	Miles Saved Residential	Miles Saved Commercial	Number Of Loads	Miles Saved Per Year	Miles Saved Residential	Miles Saved Commercial
Alberta	11.90	16.00	5.50	4.50	17.90	322	5,764	4,611	1,153	225	4,035	3,228	807
Argay	13.50	10.25	0.00	4.75	19.00	340	6,460	4,845	1,615	238	4,522	3,392	1,131
PDR-Baldwin	11.90	16.00	5.50	4.50	17.90	667	11,939	10,745	1,194	467	8,358	7,522	836
PDR-Blains	6.20	16.33	8.80	4.50	9.23	113	1,043	939	104	79	730	657	73
Borgens	13.25	16.33	6.80	4.00	18.78	236	4,432	3,989	443	165	3,102	2,792	310
City Sanitary	9.00	15.50	9.00	1.00	14.50	167	2,422	1,211	1,211	117	1,695	848	848
Cloudburst	6.25	6.50	8.00	0.00	4.75	167	793	0	793	117	555	0	555
Daves	10.25	20.00	10.00	0.00	20.25	260	5,265	4,212	1,053	182	3,686	2,948	737
Eastside Waste	15.00	17.50	2.50	5.00	25.00	667	16,675	10,005	6,670	467	11,673	7,004	4,669
Egger	9.50	11.00	4.50	4.00	12.00	114	1,368	1,300	68	80	958	910	48
Elmers	13.00	20.00	7.00	0.00	26.00	314	8,164	7,756	408	220	5,715	5,429	286
Flannery's						83	850	0	850	58	595	0	595
Eckert						83	850	0	850	58	595	0	595
Kiltow	16.00	16.33	10.25	4.00	18.08	282	5,099	4,844	255	197	3,569	3,391	178
Gresham						1,667	25,000	12,500	12,500	1,167	17,500	8,750	8,750
Heiberg						333	3,500	0	3,500	233	2,450	0	2,450
Irvington	13.00	16.00	7.00	4.00	18.00	110	1,980	1,881	99	77	1,386	1,317	69
Weisenfuh	11.00	14.00	4.50	4.00	16.50	291	4,802	4,321	480	204	3,361	3,025	336
Cloudburst-Schnell	6.03	6.50	8.00	0.00	4.53	80	362	326	36	56	253	228	25
Cloudburst-Lofink	6.50	6.50	8.00	0.00	5.00	80	400	360	40	56	280	252	28
PDR						1,333	16,000	12,800	3,200	933	11,200	8,960	2,240
PDR-Drop Box						70	1,000	0	1,000	49	700	0	700
Wooten	14.50	16.03	2.50	0.00	28.03	342	9,585	7,668	1,917	239	6,709	5,367	1,342
Trashco						834	9,000	0	9,000	584	6,300	0	6,300
Weber	16.00	18.00	5.50	4.00	24.50	435	10,658	8,526	2,132	305	7,460	5,968	1,492
						<u>9,390</u>	<u>153,409</u>	<u>102,838</u>	<u>50,571</u>	<u>6,573</u>	<u>107,386</u>	<u>71,986</u>	<u>35,400</u>

**Evaluation Factors Summary - Revised by Columbia Environmental, April 2005**

- Table 1 summarizes findings regarding whether or not the application submitted by Columbia Environmental meets the five Metro Code evaluation factors. Table 2 summarizes additional evaluation factors introduced by Councilor Park for consideration at the December 16, 2004 Council hearing on Ordinance No. 04-1063.

**Table 1- Metro Code Evaluation Factors**

Metro Code Evaluation Factors	Favorable	Neutral	Unfavorable	Findings on the Columbia Environmental Application
<p>1. <i>Consistent with the Regional Solid Waste Management Plan [Metro Code 5.01.070(f)(1)].</i></p> <p>Will there be a <i>Net Benefit</i> to the regional solid waste system?</p>	X			<p>On balance, the proposed facility is consistent with the RSWMP. The proposal will improve accessibility for haulers, reduce regional VMTs, support local business, bolster competition, and enhance regional material recovery capacity.</p>
<p><u>RSWMP considerations:</u></p>				
<ul style="list-style-type: none"> <li>Accessibility</li> </ul>	X			<p>The proposed facility will increase access to the system for haulers serving the most populous area of the region. It will significantly increase efficiency for haulers by reducing travel times. Access to the only other transfer station in the area (Troutdale), is effectively restricted because this station already exceeds Metro's tonnage cap, and because it is owned by a competitor.</p>
<ul style="list-style-type: none"> <li>Recovery</li> </ul>	X			<p>The new facility will recover of a significantly greater percentage of recyclable materials from the wet and dry waste streams than any other facility in the region. This furthers Metro's regional recovery goals. High recovery rates result from proximity to an existing recycling processing operation, innovative equipment and systems, and a strong economic incentive for recovery.</p>
<ul style="list-style-type: none"> <li>Competition</li> </ul> <p>(competition also relates to Cost, which is discussed in Evaluation Factor #2)</p>	X			<p>The proposal allows a new, locally-based entrant into the market. Increased competition promotes efficiency, and could lower prices. The proposal will also preserve a competitive marketplace for independent waste haulers, which is threatened by large, vertically-integrated, multi-national firms. Over the long run, competition will hold down prices.</p>
<ul style="list-style-type: none"> <li>Cost to regional ratepayers</li> </ul>		X		<p>Cost savings on all residential and some commercial routes are passed through to ratepayers. Depending on rate-setter decisions, this lowers consumer costs or holds down increases. Metro and other facilities may respond to lost market share by increasing fees, which could raise costs for others. Costs to regional ratepayers would rise faster without the proposed facility because industry consolidation will reduce competition.</p>
<ul style="list-style-type: none"> <li>Capacity</li> </ul>			X	<p>The existing system has adequate capacity to accept, manage and transfer the region's waste well into the future. (See to Metro's Regional Transfer Capacity Analysis, April 2004).</p>

**Table 1- Five Metro Code Evaluation Factors (continued)**

<p>...continued...</p> <p><b>The Five Metro Code Evaluation Factors For Solid Waste Franchise Applications</b></p>	<p><b>Favorable</b></p>	<p><b>Neutral</b></p>	<p><b>Unfavorable</b></p>	<p><b>Findings on the Columbia Environmental Application</b></p>
<p>2. <i>The effect on the cost of solid waste disposal and recycling services for the citizens of the region [Metro Code 5.01.070(f)(2)].</i></p> <p>(Cost relates to Competition, discussed on previous page Evaluation Factor #1-RSWMP consistency)</p>		<p>X</p>		<p>If the application were approved, citizens of the region would see a mix of higher and lower costs. Actual savings will depend on the responses of Metro, other firms, and rate setters.</p> <p>In the first phase of development, lower dry waste tip fees at the facility result in a savings of \$300,000. Transportation savings will be between \$1.0 million and \$1.6 million annually—assuming costs of \$9 to \$15 per mile. Haulers must pass through transportation savings from residential routes, based on decisions made by local rate setters.</p> <p>Transportation savings from residential routes (and non-Portland commercial routes) are passed through to local ratepayers. Therefore, the potential annual benefit to ratepayers is <i>at least</i> \$0.6 to \$1.1 million. Government rate setters use formulas to determine whether savings translate into lower rates.</p> <p>Metro may choose to respond to lost market share by raising its wet waste tip fee. Other transfer stations may then respond to Metro’s actions by raising their prices, too. Rate-setters would use this information in determining rates. Alternatively, Metro could re-capture lost market share by redistributing tonnage and changing the caps at other private facilities.</p> <p>In the long run, greater competition from small haulers will hold down costs in the system. Because the facility increases hauler efficiency, citizens also benefit from lower levels of roadway congestion, noise, and air pollution, which carry social costs.</p>
<p>3. <i>Unlikely to unreasonably adversely affect the health, safety and welfare of Metro’s residents [Metro Code 5.01.070(f)(3)]</i></p>	<p>X</p>			<p>The applicant can meet this standard.</p>
<p>4. <i>Unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood [Metro Code 5.01.070(f)(4)]</i></p>	<p>X</p>			<p>The applicant can meet this standard.</p>
<p>5. <i>Comply with all requirements and standards and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise [Metro Code 5.01.070(f)(5)].</i></p>	<p>X</p>			<p>The applicant can meet this standard.</p>

**Table 2- Additional Council Evaluation Factors**

The following additional five evaluation factors were introduced by Councilor Park for Council consideration at the December 14, 2004 Council hearing on Ordinance No. 04-1063.

<p><b>Table 2 Additional Council Evaluation Factors</b></p>	<p><b>Favorable</b></p>	<p><b>Neutral</b></p>	<p><b>Unfavorable</b></p>	<p><b>Findings on the Columbia Environmental Application</b></p>
<p>6. <i>The ability for a significant number of small independent haulers to compete in this region and ensure their competitiveness in the ever-increasing vertically integrated system.</i></p>	<p>X</p>			<p>The proposed facility would benefit affiliated haulers with transportation and tip fee savings. The proposed local transfer station would help the small independent haulers achieve better economies of scale, allowing them to remain competitive in a vertically integrated system.</p>
<p>7. <i>An innovative approach to increasing recycling through enhanced mechanization and by going after the significant amount of recyclable materials mingled in with multi-family wet waste.</i></p>	<p>X</p>			<p>Increased mechanization, innovation, and an economic incentive to maximize recovery will result in significantly higher levels of recovery than any other regional facility. The applicant provided details about recovery systems expected to be in place at the facility.</p>
<p>8. <i>A significant reduction in truck VMT given Columbia Environmental's proximity to their customers.</i></p>	<p>X</p>			<p>Annual truck VMT are reduced by 107,000 miles in the first phase as a result of this facility. Two thirds of these are from residential routes.</p>
<p>9. <i>Potential cost savings to ratepayers on the east side.</i></p>	<p>X</p>			<p>The applicant has indicated that users of the facility will realize savings. Residential ratepayers may experience lower rates based on these savings as determined by local government rate setting formulas. Savings on residential routes, and some commercial routes, are passed through to customers as a consequence of the local government rate-setting process.</p>
<p>10. <i>Would provide a second transfer station in a watershed that currently generates about 130,000 tons a year.</i></p>	<p>X</p>			<p>Metro has designated six transfer station service areas (waste sheds) based on distance. The existing waste shed on the east side of the region cannot accommodate the volume of waste generated within its boundaries. The estimated annual wet waste service area tonnages and the facility tonnage caps are:</p> <p><u>Local Transfer Station Service Areas</u>  <b>Pride Recycling</b> = 167,000 tons (65,000 ton cap).  <b>Troutdale Transfer Station</b> = 131,000 tons (68,250 ton cap).  <b>Willamette Resources (WRI)</b> = 19,000 tons (68,250 ton cap).</p> <p><u>Regional Transfer Station Service Areas</u>  <b>Forest Grove</b>=52,000 tons (No cap. Accepted about 105,000 tons wet waste in 2004).  <b>Metro Central</b> = 353,000 tons (no cap, accepted about 395,000 tons wet waste in 2004).  <b>Metro South</b> = 160,000 tons (no cap; accepted about 172,000 tons in 2004).</p>



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## Cost Impact Analysis

A number of assumptions underlie Metro staff's analysis of the impact on "the cost of solid waste disposal and recycling services for the citizens of the region." Those assumptions and associated calculations are detailed in the following pages.

**Part 1. Summary of Findings.** This table describes the sources and amounts of potential cost impacts of Columbia Environmental's Phase 1 operations. If Columbia Environmental's haulers realize savings, it is unlikely that 100% of those savings will be passed on to the ratepayers; therefore, a range of probable ratepayer impacts is included. The percentages can be interpreted approximately as the probability that the haulers' savings will be realized *by the ratepayer*. The "bottom line" for two (high & low) cases shows the product of the percentage probabilities and the total potential cost reductions, or, in other words, the expected value of ratepayer impact. Key simplifying assumptions are included at the bottom of the page.

**Part 2. Supporting Calculations and Assumptions.** These tables and notes identify the detailed tonnage, budget, and rate structure assumptions which underlie the cost impact analysis of Part 1.



# Cost Impact Analysis

## Part 1: Summary of Findings

Sources of Ratepayer Impact					
	CE Hauler Costs (based on information provided by CE)		Metro Tip Fees	Non-Metro Revenue Matching	Net Ratepayer Impact
	Transportation	Tip Fees			
<b>Amount</b>	<b>(\$268,465)</b>	<b>(\$248,976)</b>	\$400,834	\$478,489	
Ratepayer Portion	from 77% to 100%*	from 22% to 100%**	100%	from 74% to 100%	
<b>Case 1: 77% of transportation, 22% of tip fees, 100% of Metro &amp; non-Metro</b>					
	<b>(\$206,244)</b>	<b>(\$55,387)</b>	\$400,834	\$478,489	<b><u>\$617,693</u></b>
<b>Case 2: 100% of transportation, 100% of tip fees, 100% of Metro &amp; 74% of non-Metro</b>					
	<b>(\$268,465)</b>	<b>(\$248,976)</b>	\$400,834	\$354,808	<b><u>\$238,201</u></b>
	<i>Reduced Costs</i>		<i>Increased Prices</i>		

*Notes:*

\* The lower estimate for transportation is most likely for year 1; the remainder is likely to be passed through to ratepayers over time as each CE hauler is sampled in the COP's rate setting process.

\*\* In the City of Portland where most of CE's haulers operate, whether or not to pass through commercial dry waste tip fee savings will be at the discretion of the hauler. In general, the more savings haulers share with the ratepayer, the lower CE's and the haulers' profitability.

*Assumptions:*

CE's haulers realize \$517,441 annually in lower transportation and disposal costs.

CE's "residential" vs. "commercial" is equivalent to the City of Portland's franchised/unfranchised designation.

The City of Portland's rate setting process examines costs for 75% of garbage customers.

Commercial waste is primarily dry; residential waste is primarily wet.

No more than 10% of dry waste in Gresham is unfranchised (C&D).

# Cost Impact Analysis

## Part 2: Supporting Calculations and Assumptions

### Effect of Tonnage Diversion on Metro's Per-ton Costs 53,600 tpy diversion

	12-mo. Budget (\$ millions)	Per-ton Cost		Diff (\$/ton)
		current tonnage*	tonnage w/ CE*	
<b>Transfer Operations Part of Tip Fee</b>				
New BFI Contract <small>(BFI budget amount varies with tonnage)</small>	5.4	\$9.63	\$9.69	0.06
WMI Disposal Contract <small>(WMI budget amount varies with tonnage)</small>	11.0	\$19.35	\$19.44	0.09
<b>Subtotal, Variable Costs only \1\</b>		<b>28.98</b>	<b>29.13</b>	<b>0.15</b>
Contribution to Renewal & Replacement	0.6	\$1.10	\$1.22	0.12
Scalehouse & Maint. <small>(fully loaded)</small>	2.1	\$3.75	\$4.14	0.39
<b>Subtotal, Fixed Costs only \2\</b>		<b>4.85</b>	<b>5.36</b>	<b>0.51</b>
<b>Subtotal Metro Transfer Station Operations:</b>		<b>\$33.83</b>	<b>\$34.49</b>	<b>\$0.66</b>
<b>Programs &amp; Gen. Govt. \3\</b>				
Regional Programs <small>(Regional System Fee)</small>	19.6	\$15.09	\$15.17	0.08
General Fund <small>(Metro Excise Tax) \4\</small>	11.1	\$8.58	\$8.63	0.05
<b>Subtotal Programs &amp; Gen. Govt.</b>		<b>\$23.67</b>	<b>\$23.80</b>	<b>\$0.13</b>
<b>Total Impact on Metro's per-ton Costs:</b>				<b>\$0.78</b>

\* Revenue Bases (FY05-06 projected)

	Tons		1=lo; 0=hi	
	current tonnage	tonnage w/ new facility	1 Lo Diff	0 Hi Diff
Metro:	565,203	511,603	-53,600	-80,600
non-Metro:	<u>732,311</u>	<u>778,991</u>	<u>46,680</u>	<u>70,980</u>
Regional:	1,297,514	1,290,594	-6,920	-9,620
			including:	15,600 dry tons
			assumed improvement in recovery rates at CE for wet & dry waste, respectively:	10% 20%

Footnotes denoted with the \n\ symbol can be found on the reverse.

# Cost Impact Analysis

## Part 2 (continued): Supporting Calculations and Assumptions

### Subtotal Regional Ratepayer Disposal Costs 53,600 tpy diversion

#### Transfer Operations

Metro	511,603	tons x \$0.15 =	<u>\$75,851</u>
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#### Fixed Costs

Metro	511,603	tons x \$0.51 =	<u>\$260,053</u>
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#### Programs & Gen. Govt.

Metro	511,603	tons x \$0.13 =	\$64,930
Non-Metro	<u>778,991</u>	tons x \$0.13 =	<u>\$98,866</u>
	1,290,594		<b>\$163,796</b>

#### Non-Metro Revenue Matching Potential

Wet	389,817	tons x \$0.66 =	\$255,942	(all wet waste matches)
Dry	<u>188,374</u>	tons x \$0.66 =	<u>\$123,681</u>	(all dry waste matches) \5\
	578,191		<b>\$379,623</b>	(both wet & dry waste match)

#### Potential Cost to Ratepayers Annually:

between	<b>\$755,642</b>	(wet matches)
and	<b>\$879,323</b>	(wet & dry match) \6\

#### Notes

\1\ Changes in variable costs are based on current contract terms & the tonnage projection in the requested FY 05-06 budget.

\2\ Fixed costs: Contribution to R&R is the FY05-06 amount; Scalehouse costs are based on a \$7.50 transaction fee, assuming 2 tons/load.

\3\ Programs & General Gov't. figures are based on the FY04-05 per-ton RSF and Excise Tax, but FY05-06 tonnage.

\4\ A per-ton increase in excise tax would not occur until Year 2; all other increases likely would occur in Year 1.

\5\ Excluded from the total are about 218,000 tons of dry and special wastes delivered to the Washington Co. landfills, where a rate increase is less likely because those facilities are rate regulated by the county.

\6\ In recent years, the tip fees at private facilities have, on average, followed Metro's rate changes. For this reason, staff believe that the cost increases shown here have a high probability of being passed on to ratepayers regionwide.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF DENYING A SOLID WASTE FACILITY FRANCHISE APPLICATION OF COLUMBIA ENVIRONMENTAL, LLC TO OPERATE A LOCAL TRANSFER STATION ) ORDINANCE NO. 04-1063  
)  
) Introduced by Michael Jordan, Chief Operating Officer, with the concurrence of the Council President

WHEREAS, on July 30, 2004 Columbia Environmental, LLC submitted a solid waste facility franchise application to operate a local transfer station at 14041 NE Sandy Boulevard in Portland Oregon; and

WHEREAS, on August 11, 2004 Columbia Environmental representatives met with Metro staff for a pre-application conference, where the application was determined to be complete; and

WHEREAS, in accordance with Metro Code section 5.01.070(h)(3), the Chief Operating Officer and the applicant agreed to a 30-day extension to the application review process; and

WHEREAS, the Metro Council must approve or deny the application prior to January 8, 2005, or the franchise will be deemed granted (see Metro Code section 5.01.070(g)); and

WHEREAS, Metro Code section 5.01.070 requires the Chief Operating Officer to review the application and other evidence submitted, to investigate as he deems appropriate, and to formulate recommendations regarding whether the applicant is qualified, whether the proposed franchise complies with the Regional Solid Waste Management Plan (RSWMP), whether the proposed franchise meets the requirements of Metro Code section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements; and

WHEREAS, the Chief Operating Officer has concluded that the applicant is qualified and can comply with all other applicable regulatory requirements, but that the proposed franchise does not comply with the RSWMP and does not meet all of the requirements of Metro Code section 5.01.060; and

WHEREAS, on the basis of the application and the Chief Operating Officer's investigation, the Chief Operating Officer recommends denial of the Columbia Environmental application for a solid waste franchise to operate a local transfer station; and

WHEREAS, Columbia Environmental may contest the Council's decision in this matter as explained in the contested case notice attached to this ordinance as Exhibit A, a copy of which shall be provided to Columbia Environmental as provided in Metro Code chapter 2.05; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

The solid waste facility franchise application of Columbia Environmental, L.L.C., is hereby denied. The Chief Operating Officer shall provide the applicant with contested case notice in a form substantially similar to that attached as Exhibit A. In the event that this decision is contested, a hearings officer shall conduct the initial contested case hearing as provided in Metro Code chapter 2.05.

ADOPTED by the Metro Council this 16th day of December, 2004.

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David Bragdon, Council President

Attest:

Approved as to Form:

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Christina Billington, Recording Secretary

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Daniel B. Cooper, Metro Attorney

BM:bjl  
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BEFORE THE METRO REGIONAL GOVERNMENT

IN THE MATTER OF THE METRO	)	
COUNCIL'S DENIAL OF THE SOLID	)	
WASTE FACILITY FRANCHISE	)	CONTESTED CASE NOTICE
APPLICATION OF COLUMBIA	)	
ENVIRONMENTAL, L.L.C.	)	

TO COLUMBIA ENVIRONMENTAL, L.L.C., 14041 NE Sandy Blvd., Portland, OR 97230.

Pursuant to Metro Code § 2.05.005(c), Metro hereby provides Columbia Environmental, L.L.C. with contested case notice in the matter of the Metro Council's approval of Ordinance No. 04-1063 denying Columbia Environmental's solid waste facility franchise application seeking authority to operate a local transfer station. A copy of Ordinance No. 04-1063 is included with this notice.

A contested case arises in this matter pursuant to Metro's authority under Article XI, Section 14 of the Oregon Constitution, the Metro Charter, ORS Chapter 268, including ORS 268.317 and ORS 268.318, and Metro Code Chapters 2.05 and 5.01, including sections 5.01.060 and 5.01.070. Pursuant to Metro Code Chapter 2.05, Columbia Environmental has a right to request a hearing within 60 days of the date of the mailing of this notice. A hearing, if requested, would concern the Metro Council's approval of Ordinance No. 04-1063 denying Columbia Environmental's solid waste facility franchise application seeking authority to operate a local transfer station. Columbia Environmental can be represented by legal counsel at the hearing, if it so desires.

DATED the 17th day of December 2004.

---

Michael Jordan  
Chief Operating Officer

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing CONTESTED CASE NOTICE on the following:

Bryan Engleson  
Columbia Environmental, L.L.C.  
14041 NE Sandy Blvd.  
Portland, OR 97230

and

Anthony J. Motschenbacher  
Registered Agent for Columbia Environmental, L.L.C.  
117 SW Taylor St., Suite 200  
Portland, OR 97204

on December 17, 2004, by mailing to said individuals a complete and correct copy thereof via certified mail, return receipt requested, contained in a sealed envelope, with postage prepaid, and deposited in the U.S. post office at Portland, Oregon.

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Roy Brower  
Regulatory Affairs Manager  
Metro

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 04-1063 FOR THE PURPOSE OF DENYING A SOLID WASTE FACILITY FRANCHISE APPLICATION OF COLUMBIA ENVIRONMENTAL, LLC TO OPERATE A LOCAL TRANSFER STATION

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Date: November 2, 2004

Prepared by: Michael Hoglund

## SUMMARY

Based on the criteria contained in Metro Code sections 5.01.060 and 5.01.070, the Chief Operating Officer recommends approval of Ordinance No. 04-1063 that would deny the solid waste facility franchise application of Columbia Environmental, LLC.

## BACKGROUND

Columbia Environmental, LLC submitted a franchise application for a local transfer station to be located at 14041 NE Sandy Boulevard in Portland, Oregon (Site Location Map #1) and located in Metro Council District 1. The proposed facility is located on a 12.5-acre site zoned IG2, a General Industrial base zone with a Scenic Resources overlay zone. It has operated as a source-separated recyclable processing facility since 1996. The City of Portland has defined the impact area as a 60-acre trapezoid surrounding the site that includes some open channels and wetlands associated with the Columbia Slough. The nearest residential area to the site is south on NE Sandy Boulevard, approximately 200 feet from the proposed facility and separated by a parking area, a berm, a frequently-used rail line atop the berm, and NE Sandy Boulevard.

**Site Location - Map #1**



**Aerial Photo of Subject Site**



The proposed facility is owned by a partnership of independent haulers that also own Oregon Recycling Systems (ORS). The aerial photo shows the location of ORS, the long building in the center of the photo, which presently serves as a recycling processing

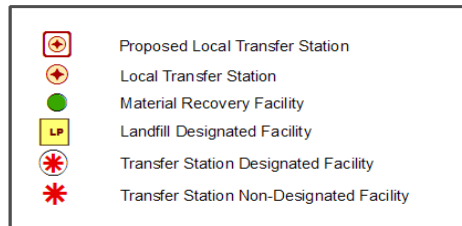
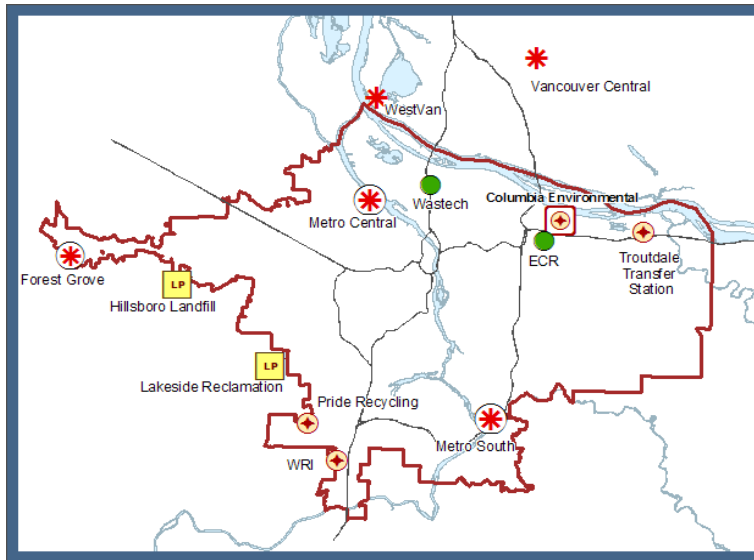


business for residential source separated recyclables. The applicant is proposing to accept a total of 92,000 tons of solid waste annually.<sup>1</sup>

Columbia Environmental submitted its local transfer station franchise application to Metro on July 30, 2004. Columbia Environmental representatives met with Metro staff for a pre-application conference on August 11, 2004, where upon providing additional information requested by Metro and proof of insurance, the application was determined to be complete and the 120-day review period was initiated. However, in accordance with Metro Code section 5.01.070(h)(3), the COO and the applicant agreed to a 30-day extension to the application review process. Therefore, the Council must approve or deny the application within 150 days of the date the application was determined to be complete (by January 8, 2005) or the franchise will be deemed granted (Metro Code 5.01.070(g)).<sup>2</sup>

The following map locates the proposed Columbia Environmental transfer station in relation to other primary facilities of the current solid waste system where waste generated in the Metro region is processed, transferred or disposed.

**Solid Waste Facilities and the  
Proposed Columbia Environmental Transfer Station – Map #2**



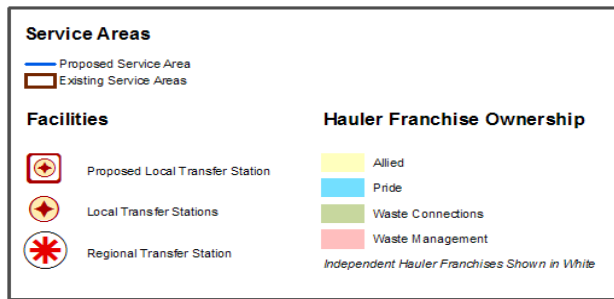
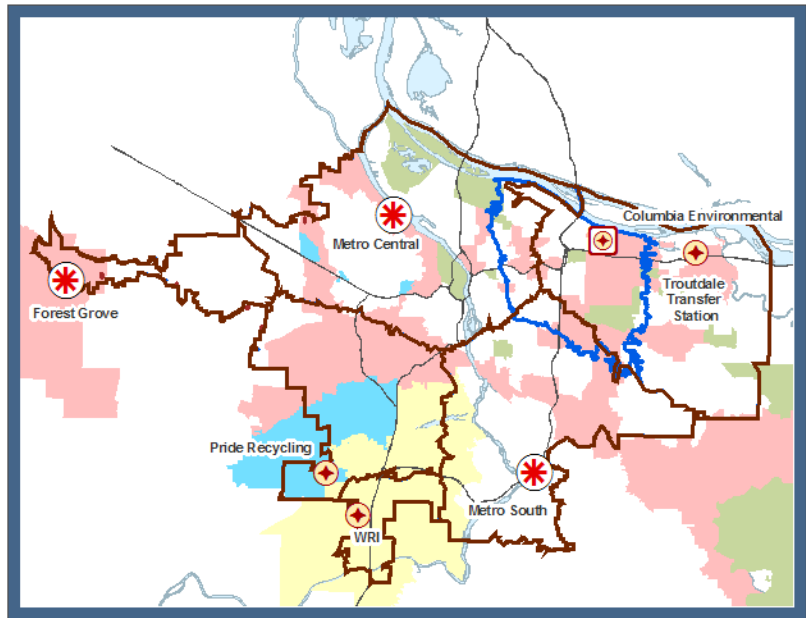
<sup>1</sup> Of the 92,000 tons of solid waste, 55,000 tons are putrescible waste, 32,000 tons are non-putrescible waste, and 5,000 tons are inert or special waste.

<sup>2</sup> The Council may extend the deadline for up to an additional 60 days.

There are also numerous other specialized processing, composting and reload operations throughout the region (not shown). There are two additional transfer facilities located in Clark County, Washington that are used to process some solid waste generated from within the Metro region. Six other general and limited purpose landfills are found throughout Oregon and Washington and serve as disposal destinations for solid waste generated within the Metro region (not shown).<sup>3</sup> These landfills are located anywhere from 47 miles to 170 miles from the Metro region.

Any transfer station in the region would be associated with a service area based on the 2001 amendments to Chapter 5.01 of the Metro Code. Each of the service area boundaries are located equidistant from the next closest transfer station. The following illustrates how the existing transfer station service area boundaries would change if Columbia Environmental's application is approved.

**Proposed Transfer Station Service Areas  
with Approval of Columbia Environmental – Map #3**



<sup>3</sup> Coffin Butte landfill, Columbia Ridge landfill, Finley Buttes landfill, Wasco landfill, Riverbend landfill, and Roosevelt landfill.

As illustrated in map #3, inserting a new local transfer station service area into the regional system shrinks the service areas of the existing transfer stations (both Metro and non-Metro). The service area concept was adopted by the Council as a rationale for establishing the local transfer station tonnage caps, and as specified in Metro Code, are to be arrived at by: 1) establishing geographic service areas based on distance, 2) calculating the amount of putrescible waste for disposal in each service area (“demand”), and 3) limiting the putrescible waste tons that could be delivered to local transfer stations to the calculated demand. In other words “demand” in each service area would set the “tonnage cap” for each local transfer station. Council was also interested in minimizing distances traveled by waste collection vehicles or reducing Vehicle Miles Traveled (VMT). This was to be accomplished by requiring each facility to serve haulers within its service area.

## **EVALUATION OF PROPOSED FRANCHISE APPLICATION**

Columbia Environmental promotes several key points as part of its franchise application package, including:

- granting the franchise would allow its members to reduce their transportation costs, to potentially offset other increases in their solid waste collection costs. They claim this could result in lower collection franchise rate increases, allowing them to charge more competitive fees to Portland commercial customers;
- the proposed facility would help maintain the presence of small haulers as a stabilizing factor in providing solid waste services in the Metro region. The emphasized features of the proposal are improved accessibility to haulers, increased competition and enhanced material recovery capacity. The applicant provided a financial analysis showing a net “benefit” to the overall system of more than \$1.3 million.

### **Description of Evaluation Factors**

*This section provides analysis of explicit criteria for Metro Council consideration in determining whether to grant or deny the franchise application.*

#### **Metro Code**

Metro Code 5.01.070(f) provides that the Council “shall consider but not be limited by” the five factors listed in the Evaluation Factors Summary Table shown on the next page. Further, as part of the Franchise application, Metro Code 5.01.060(d) requires the applicant to provide an analysis of the same factors described above (Metro Code 5.01.070(f)(1-5)). In its application, Columbia Environmental provided a narrative of how the proposal responds to these five factors.

## Evaluation Factors Summary Table

The following table summarizes findings regarding whether or not the application submitted by Columbia Environmental meets the five evaluation factors.

<p align="center"><b>Table 1</b> <b>The Five Metro Code Evaluation Factors For Solid Waste Franchise Applications</b></p>	Meets Criteria	Neutral	Does Not Meet Criteria	Findings on the Columbia Environmental Application
<p><i>1. Consistent with the Regional Solid Waste Management Plan [Metro Code 5.01.070(f)(1)].</i></p> <p><b>Will there be a <i>Net Benefit</i> to the regional solid waste system?</b></p>			<b>X</b>	On balance, staff finds that the proposed facility would not produce a certain, equitably distributed, or sufficiently large net benefit to the regional solid waste system and therefore, the application is not consistent with the RSWMP.
<p><u>RSWMP considerations:</u></p>				
<ul style="list-style-type: none"> <li>• Capacity</li> </ul>			<b>X</b>	The region has more than adequate capacity to accept, manage and transfer all of the region's waste for many years to come (refer to Metro's Regional Transfer Capacity Analysis, April 2004).
<ul style="list-style-type: none"> <li>• Access (under-served area)</li> </ul>			<b>X</b>	The proposed facility location does not meet the RSWMP criteria for an under-served area, characterized as more than 25 minutes to a transfer station. Further, it would be located only 6.6 miles from an existing local transfer station. There are even more nearby options for dry waste. While access may be improved for a small number of haulers, a transfer station in every neighborhood would also improve access, but at the same time create a very inefficient system.
<ul style="list-style-type: none"> <li>• Recovery</li> </ul>	<b>X</b>			The facility would recover an additional 3,000 tons rather than the 20,000 tons claimed by the applicant. The applicant's affiliated haulers have the option of using the nearby existing material recovery facilities rather than the more distant Metro facilities.
<ul style="list-style-type: none"> <li>• Competition <small>(competition also relates to Cost, which is discussed in Evaluation Factor #2)</small></li> </ul>		<b>X</b>		The proposed transfer station could hurt competition since a new facility would cause tip fee increases throughout the region (see Evaluation Criteria #2). This situation would: 1) be detrimental to many other independent haulers that rely on Metro's public transfer stations, and 2) provide a windfall to other solid waste operations in competition with the applicant.
<ul style="list-style-type: none"> <li>• Cost to regional ratepayers</li> </ul>			<b>X</b>	Staff finds a significant negative cost impact on regional ratepayers - refer to comments for Evaluation Criteria #2 on the next page.

<p>...continued...</p> <p><b>The Five Metro Code Evaluation Factors For Solid Waste Franchise Applications</b></p>	Meets Criteria	Neutral	Does Not Meet Criteria	Findings on the Columbia Environmental Application
<p>2. <i>The effect on the cost of solid waste disposal and recycling services for the citizens of the region [Metro Code 5.01.070(f)(2)].</i></p> <p>(Cost relates to Competition, discussed on previous page Evaluation Factor #1-RSWMP consistency)</p>			X	<p><i>If the application were approved, the citizens of the region will likely incur increased costs of about \$1.2 million to \$1.4 million annually.</i></p> <ul style="list-style-type: none"> <li>• <i>Cost increases to Metro’s customers of \$1.30 per ton (+ \$606,000).</i></li> <li>• <i>Cost increases at private facilities would result in higher tip fees region-wide to recover those increased costs (+ \$167,000 excise taxes and fees).</i></li> <li>• <i>In addition, the posted rates at many private facilities are expected to increase to match Metro’s rates (at least +\$439,000 additional revenue at non-Metro facilities).</i></li> <li>• <i>The applicant claims that it could realize an adjusted gross savings of \$1.3 million from transportation and dry waste tip fee savings. However, the applicant states these savings would likely not be passed on to its customers, but might slow down future rate increases.</i></li> </ul>
<p>3. <i>Unlikely to unreasonably adversely affect the health, safety and welfare of Metro’s residents [Metro Code 5.01.070(f)(3)]</i></p>	X			<p>There is no reason to believe the applicant could not meet this criterion.</p>
<p>4. <i>Unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood [Metro Code 5.01.070(f)(4)]</i></p>	X			<p>There is no reason to believe the applicant could not meet this criterion.</p>
<p>5. <i>Comply with all requirements and standards and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise [Metro Code 5.01.070(f)(5)].</i></p>	X			<p>There is no reason to believe the applicant could not meet this criterion.</p>

**Table 2**

**Councilor Values for the Solid Waste System**

(As expressed at the public work session on July 2, 2003 and ordered according to the Council priorities)

- |   |  |
|---|--|
| <p>1. Protect the public investment in the solid waste system.</p> <p>2. “Pay to Play”. Ensure participants/users pay appropriate fees/taxes.</p> <p>3. Environmental sustainability.</p> <p>4. Preserve public access to the disposal options (location &amp; hours)</p> | <p>5. Ensure regional equity - equitable distribution of disposal options.</p> <p>6. Maintain funding source for Metro general government.</p> <p>7. Ensure reasonable / affordable rates.</p> |
|---|--|

Based on balancing the Councilor Values for the Solid Waste System (see Table 2) staff concludes that the most important Metro Code evaluation factors are the first two: Consistency with the RSWMP and cost for the citizens of the region. Values 1, 3 and 7 apply directly to consideration of Columbia Environmental's application and allows staff to consider Code criteria regarding RSWMP considering cost to the ratepayer as the most important criteria. Values 2, 4, 5 and 6 are neutral as they pertain to Columbia Environmental's application

## **Analysis of Evaluation Factors**

*The following is a detailed discussion and analysis of each of the five evaluation factors.*

### **Evaluation Factor #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 [Metro Code 5.01.070(f)(1)]***

The Recommended Practice in the current RSWMP regarding new transfer stations is to:

*“Allow additions to the existing system of three transfer stations as necessary to maintain solid waste transfer and disposal service levels. New transfer stations may be authorized where they provide a net benefit to the regional solid waste system. New transfer stations shall perform material recovery subject to facility recovery rate standards.”*

To determine consistency with the RSWMP, the application must show that it will result in an overall *net benefit* to the existing solid waste system. In order to evaluate the net benefit, the RSWMP includes provisions to be considered and balanced. These are:

- Capacity
- Accessibility (under-served area)
- Material recovery
- Competition
- Cost to regional ratepayers

In its application, Columbia Environmental indicates that the proposed transfer station will be consistent with the RSWMP because the proposed facility will: 1) improve accessibility to haulers, 2) provide services to an under-served area, and 3) enhance the material recovery capacity of the region, contributing to Metro's overall recovery and recycling goals.

The following section provides staff comment and analysis on each of the RSWMP provisions to be considered in order to assist the Council in its consideration of the application.

#### **A. Capacity**

The RSWMP policy on capacity: “...an efficient disposal system depends on both capacity and accessibility. New transfer stations may be considered when the delivery of efficient disposal services is negatively affected by either of these two factors.”

### Summary of applicant's analysis

The applicant did not address capacity.

### Analysis/findings

In April 2004, Metro Solid Waste & Recycling staff issued the *Regional Transfer Capacity Analysis* report that addressed the capacity of the region's solid waste facilities to accept and load waste for transport to disposal sites. The analysis concluded that 1) the region's transfer capacity for putrescible waste currently exceeds the needed capacity by approximately 1.1 million tons per year, and 2) by 2015, the transfer stations that service the region will still have 841,000 tons of unused capacity, based on a very conservative estimate.

### **B. Accessibility**

The RSWMP policy on accessibility: “...an efficient disposal system depends on both capacity and accessibility. New transfer stations may be considered when the delivery of efficient disposal services is negatively affected by either of these two factors.”

The RSWMP's *Key Elements of the Recommended Practice* provide further clarification of the question of *accessibility*, with an emphasis that new transfer stations be located in “under-served” areas:

- “Provide more uniform access to transfer stations, in order to improve system efficiencies in those areas of the Metro region that are under-served.”
- “New transfer stations may be authorized where they benefit residents, businesses and solid waste haulers within the under-served areas.”

### Summary of applicant's analysis

Columbia Environmental's application includes information on how its proposed facility would improve accessibility to its affiliated haulers. The applicant states that physical proximity is not the only factor that determines accessibility to haulers, and that price and ownership are also important. The applicant states that accessibility must be interpreted broadly to include all the factors that influence access to transfer stations. The applicant claims that the proposed new transfer station will significantly reduce travel times for haulers in the areas it will serve. Further, the applicant claims that the proposed transfer station is located in an “underserved” area for transfer stations.

### Analysis/findings

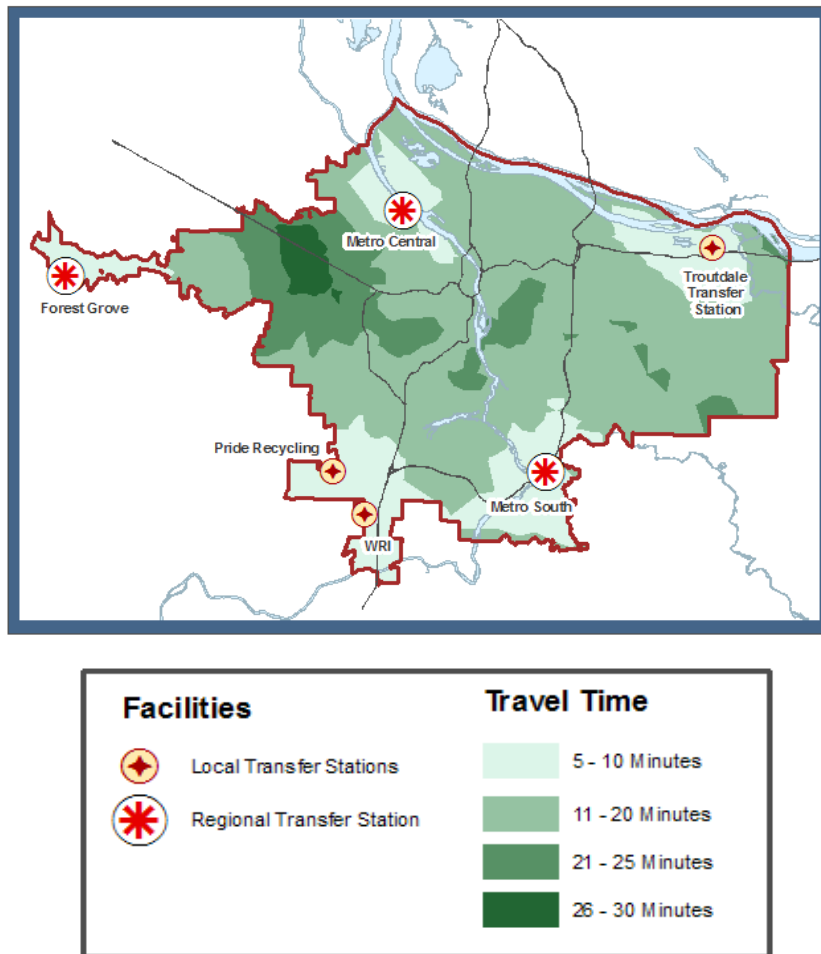
If approved, Columbia Environmental's new local transfer station would improve accessibility and reduce travel times for some of its affiliated haulers. However, the proposed facility would be sited only about 7 miles from the existing Troutdale Transfer

Station (about 12 minutes driving time). This fact, alone, makes it somewhat difficult to characterize the location of the proposed facility as an underserved area.

The working standard used to guide RSWMP policy for underserved areas has been that facility access is an issue in areas of the region that are more than 25 minutes travel time from a transfer station.<sup>4</sup>

Estimated travel time zones for each of the six existing transfer stations are illustrated in Map #4 below.<sup>5</sup> As illustrated, only an area in the western part of the region is more than 25 minutes away from an existing transfer station, and it would be unaffected by the proposed new transfer station.

**Wet Waste: Estimated Travel Time Zones – Map #4**



Moreover, regarding non-putrescible waste (“dry waste”), there are even more options available to the applicant’s affiliated haulers. This is because, in addition to the existing

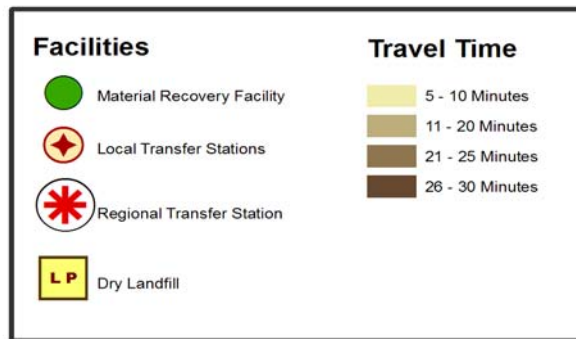
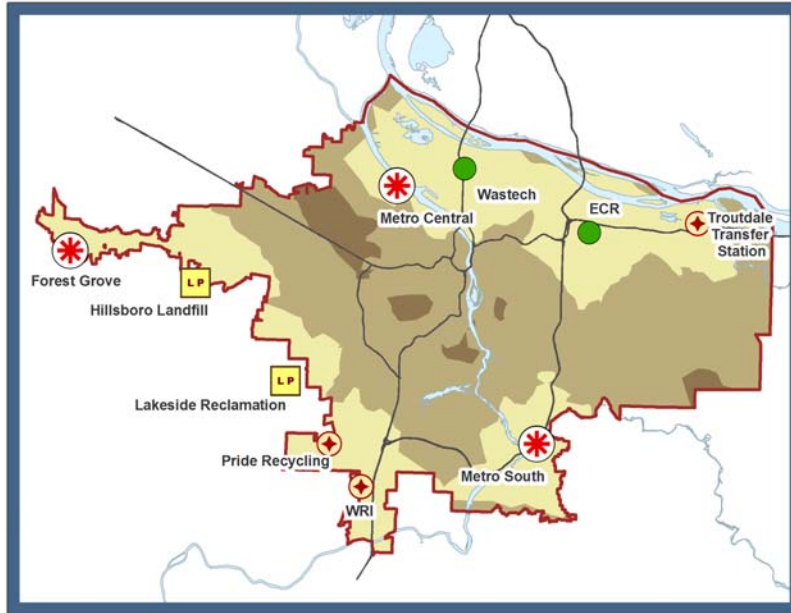
<sup>4</sup> Staff Report to Ordinance No.00-865, adopted by the Metro Council on June 15, 2000.

<sup>5</sup> Metro modeling network mid-day auto travel times for year 2000 are based on the modeling network developed by the Metro Planning Department for transportation planning purposes.



transfer stations that accept both wet and dry waste, there are also two mixed dry waste processing facilities located nearby: Wastech and East County Recycling (ECR).

**Dry Waste: Estimated Travel Time Zones – Map #5**



The applicant based its hauler travel time savings for solid waste on travel time to Metro’s regional transfer stations (Metro Central or Metro South) and did not include consideration of the location of available existing infrastructure, such as Troutdale Transfer Station or the two nearby dry waste recovery facilities (Wastech and ECR). The applicant states that price and ownership are important factors to accessibility, but failed to explain why the applicant’s affiliated haulers did not use those transfer stations or explain why the nearby dry waste recovery facilities are not used.

While the proposed facility would improve access for some Columbia Environmental independent haulers with collection routes within the proposed facility’s new service area, the benefits of improved access cannot be viewed in isolation. Any new transfer station will enhance accessibility for some haulers. At some point the benefits of reducing travel time to the nearest transfer station are outweighed by inefficiencies

caused by deteriorating economies of scale and resulting increased costs to the region's ratepayers (see the cost analysis in Evaluation Factor #2).

Based on the preceding analysis: 1) the proposed location of the new transfer station is not within an underserved area - as defined by the RSWMP, and 2) adding this transfer station will not improve overall system efficiencies for businesses, residents and haulers not affiliated with Columbia Environmental.

### **C. Material Recovery**

The RSWMP policy on material recovery: "*New transfer stations shall perform material recovery subject to facility recovery rate standards.*" Metro Code 5.01.125(b) specifies that franchised local transfer stations will recover at least 25 percent by weight of non-putrescible waste accepted at the facility.

#### Summary of applicant's analysis

The applicant states that recovery at the facility will be accomplished because Columbia Environmental has a strong economic incentive to recover recyclable materials from the waste stream. Columbia Environmental does not own a landfill to which the waste will be transferred and, therefore, has more of an incentive to conduct material recovery, which will bring revenue into the facility. The applicant projects the proposed facility would conduct recovery at a rate of 35% from 52,000 tons of dry waste and from 5,000 tons of special/other wastes, thereby diverting some 20,000 additional tons from being landfilled.

#### Analysis/findings

The applicant has indicated that it intends to maintain a recovery rate of 35%, which is greater than the minimum 25% standard required by Metro Code. The proposed facility will actually accept about 32,000 tons per year of non-putrescible (dry) waste from which recovery would likely be conducted – not 52,000 tons listed in the application. (This number appears to be an error, as it is not consistent with the 32,000 tons number used throughout other parts of the application.) A proposed recovery rate of 35%, would result in 11,200 tons of recovery – not the additional 20,000 tons as claimed by the applicant.

The 11,200 tons of material the applicant projects will be recovered does not represent *additional* tons recovered because wherever that waste is currently delivered, some amount of it is already being recovered. From the application, it is not clear whether any of that waste is currently being delivered to the two dry waste recovery facilities (Wastech and ECR) located closest to where Columbia Environmental is proposed to be located. If so, there would not likely be any increase in additional recovery, as both of these facilities achieve recovery rates at least as high as what the applicant is proposing.

If all of this estimated 32,000 tons of dry waste is currently delivered to one of the two Metro transfer stations, it would likely result in about 8,000 tons of recovery based on the

25% to 30% recovery rate at Metro transfer stations for dry commercial drop-box loads (the recovery rate for public self-haul loads is lower). Therefore, the additional recovery that the applicant could achieve would be between zero and 3,200 *additional* tons above and beyond that which already occurs at Metro facilities.

#### **D. Competition**

The RSWMP policy on competition: “*Metro shall encourage competition when making decisions about transfer station ownership or regulation of solid waste facilities in order to promote efficient and effective solid waste services. Metro shall consider whether the decision would increase the degree of vertical integration in the regional solid waste system and whether that increase would adversely affect the public. Vertical integration is the control by a private firm or firms of two or more of the primary functions of a solid waste system – collection, processing, transfer and hauling, and disposal.*”

##### Summary of applicant’s analysis

The applicant states that the proposed Columbia Environmental transfer station will preserve the presence of small independent haulers in the Metro system, which, in turn, improves competition. The applicant predicts that competition will increase efficiency and reduce system costs. For example, the applicant states that since 1988, there has been a significant decrease in the number of small haulers serving the Metro region due to consolidation and large, vertically integrated, multi-national firms. In response, the small haulers must create the same vertical integration scale advantages.

##### Analysis/findings

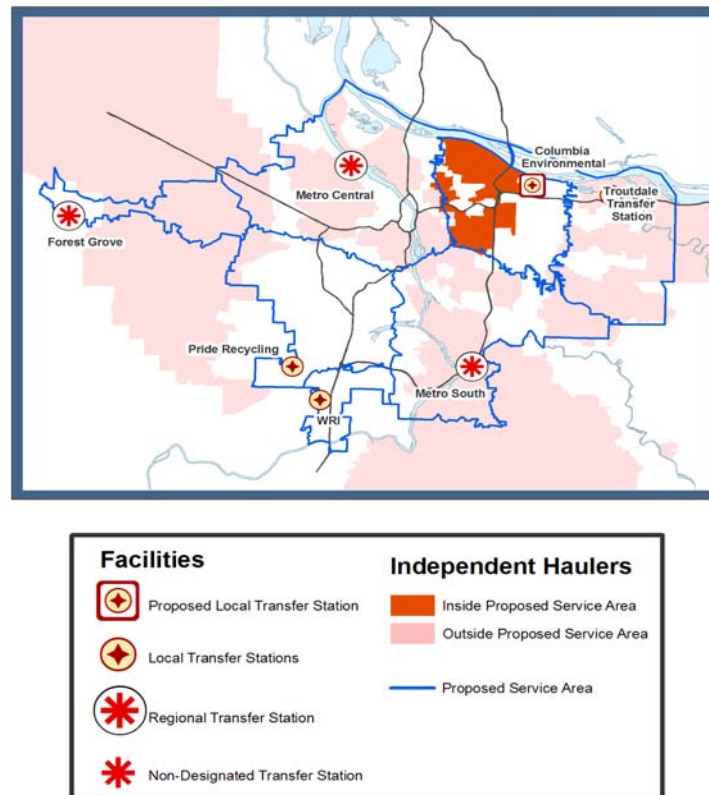
According to the RSWMP policy, competition should be encouraged in order to promote efficient and effective solid waste services. Further, Metro must consider whether the degree of vertical integration in the region would be increased and if it would adversely affect the public.

The applicant has stated that its proposed facility would “preserve the presence of small independent haulers in the Metro system.” No quantitative information was included in the application to support that finding. In fact, as illustrated in Map # 6 below, there are many independent haulers located outside the new Columbia Environmental service area that will not benefit from the proposed transfer station.<sup>6</sup>

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<sup>6</sup> For the purpose of this report, independent haulers mean those haulers that do not own or are not directly affiliated with their own transfer station or landfill.

**Independent Hauler Franchises Located Inside and Outside  
the Proposed Columbia Environmental Service Area – Map #6**



As illustrated in Map #6 above, there are a number of independent hauler franchises (shown in red) inside Columbia Environmental’s proposed service area.<sup>7</sup> These haulers will benefit from the proposed facility (through shorter drive time and lower dry waste tip fees). In contrast, if the transfer station were approved, the other independent haulers in the region (franchises shown in pink), many of whom also use Metro Central or Metro South, would be adversely impacted due to the expected increase in tip fees at Metro transfer stations (see Evaluation Factor #2).

*Would the applicant’s proposed facility result in competition leading to an improvement in the delivery of efficient and effective solid waste services?* Probably not. In a solid waste system that already has ample capacity and only limited access issues, the addition of new transfer capacity within a few miles of three other existing facilities (Wastech, ECR, Troutdale Transfer Station) is unlikely to noticeably improve service efficiency or effectiveness for more than a small subset of the region’s haulers. Moreover, with tip fees expected to increase region-wide in response to Metro’s higher per-ton costs if the facility is approved, many ratepayers would pay higher garbage bills (see Evaluation Factor #2).

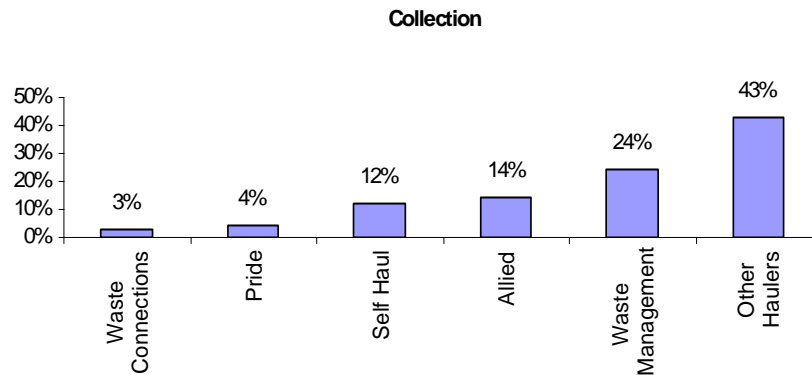
<sup>7</sup> There are other Columbia Environmental affiliated haulers located outside the proposed service area that would use the proposed transfer station.

Would approval of the proposed transfer station have an impact on the degree of vertical integration, and would the public be adversely impacted? Yes to both questions. The Columbia Environmental haulers would become a new vertically integrated company, i.e., its members would control two of the three major pieces of the supply chain (collection and transfer). Hence, there would be a limited increase in the overall degree of vertical integration in the solid waste system. Whereas this new vertically integrated entity would likely gain some market power for commercial accounts, non-affiliated haulers and the general rate paying public would be negatively impacted due to the increased tip fees at other solid waste facilities (see Evaluation Factor #2).

Classical measures of competition commonly utilize the concept of “market share,” i.e., the proportion of the total market controlled by the firm in question. Typically, competition will also lead to either lower prices for the consumer, as a result of market entry, or innovation in service or products. The proposal will actually increase rates (see cost analysis) and new innovation in services or products are not identified in the application.

The following graph illustrates that independent haulers (“other haulers”)—including Columbia Environmental affiliates and non-affiliates—still control 43% of the total collection service market. If approved, the Columbia Environmental transfer station would likely accept about ¼ of the total solid waste delivered to transfer facilities by independent haulers, or about 11% of the total market.<sup>8</sup>

**Solid Waste Collection Markets for the Metro Region (FY 2003/04).**



From a competition standpoint, it should be noted that the City of Portland actively encourages competition for its residential collection franchised routes. In order to prevent a monopoly by any single company, the City of Portland limits the total number of households (50,000) any single residential franchise can serve.<sup>9</sup>

<sup>8</sup> Estimated CY 2004 MSW tons taken to transfer stations by independent haulers is about 372,000 tons. Of this total, about 228,000 tons are delivered to Metro’s public transfer stations.

<sup>9</sup> The City of Portland estimates that there are about 135,000 total households.

In summary, the applicant's proposed facility would allow some of its independent affiliated haulers to operate more profitably. However, the increased "competition" would at best lead to a reduction in some commercial dry waste disposal fees, but an increase for most residential ratepayers. Granting the Columbia Environmental franchise would increase costs for haulers and ratepayers who continue to rely on Metro's public transfer stations, and could provide a financial windfall opportunity to other solid waste facilities in competition with the applicant. One potential use of these windfall revenues elsewhere in the region could be to subsidize the cost of commercial collection in the City of Portland, further squeezing the profitability of independent haulers who currently compete in this market.

### **Consistency with the RSWMP Conclusion**

Based on staff analysis and findings, the Columbia Environmental proposed transfer station would not result in a net benefit to the solid waste system. Therefore, the proposed new transfer station would not be consistent with the current RSWMP.

### **Evaluation Factor #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 [Metro Code 5.01.070(f)(2)]*

#### Summary of applicant's analysis

Columbia Environmental provided a financial analysis, indicating a gross benefit to the overall system of more than \$1.7 million (net 1.3 million dollars). The applicant states that savings realized by its affiliated, smaller haulers will have: 1) a constraining effect on their average collection costs, and rate increases for their residential customers, and 2) that it would allow them the option to charge more competitive rates to provide service to Portland commercial customers.

#### Analysis/findings

Rather than producing a \$1.3 million net benefit to the overall system, the citizens of the region will likely pay about \$1.3 million *more* annually for solid waste and recycling services if Metro grants Columbia Environmental a local transfer station franchise. At the same time, Columbia Environmental haulers may be able to reduce their own transportation and disposal costs. Some of those savings could be passed on to commercial customers (the applicant claims over \$600,000); however, as stated in the application, they have no plan that lower costs will be passed on to the general public via lower garbage bills.

#### ***Impacts at Columbia Environmental***

1. The applicant's cost savings is overstated by over \$550,000. Staff analysis reveals the error to be a double-count of transportation savings. Partially offsetting this,

however, the applicant's tip fee savings are understated by about \$80,000 because the applicant did not consider Metro's \$7.50/load transaction fee. Making these two adjustments, the applicant's savings are as follows:

Transportation Savings: (\$536,000)

MSW Tip Fee Savings: (\$579,000)

Special Waste Savings: (\$158,000)

**(\$1,273,000) Adjusted gross savings claimed by the applicant**

2. The applicant's calculated gross savings, as adjusted for the errors described above, may be overstated regarding travel time assumptions. For example:

Travel Time:

- Although the applicant did not supply sufficient data for Metro staff to verify the applicant's travel time savings claims, it appears that a significant proportion of the tonnage collected by the applicant's haulers is located closer to an existing facility than to Columbia Environmental. For example, nearly all Columbia Environmental's dry waste is closer to East County Recycling; and Gresham Sanitary (one-fifth of the applicant's wet tonnage) is closer to Troutdale Transfer Station. Delivery of these tons to Columbia Environmental would actually require traveling longer distances than using the closest existing facility.
- The applicant assumes a minimum of 20 minutes two-way travel-time savings for every load. This seems unlikely for a number of member franchise areas, especially those inner Eastside franchise areas that are about equidistant from Metro South, Metro Central, and the new proposed facility (e.g., Trashco, City Sanitary). Conversely, travel-time savings may be underestimated in some cases, such as for the Argay franchise area, which is located virtually adjacent to the proposed facility location. There, travel-time savings may actually exceed the 35 minutes represented by the applicant.

***Tip Fee Impacts at Public & Private Facilities***

3. If Metro maintains a cost-based tip fee<sup>10</sup>, the diversion of about 92,000 tons of mixed waste from Metro's transfer stations would increase Metro's tip fee by \$1.30 per ton: 23¢ RSF and Excise Tax, plus \$1.07 in cost recovery at Metro's transfer stations (see Attachment 1).

**Cost Increase**

**to Metro's Customers:**

**\$605,000**

*(466,157 tons x \$1.30)*

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<sup>10</sup> First fully implemented this fiscal year (FY2004-05).

4. Private facilities are likely to raise tip fees to recover their increased cost of Metro's fees & taxes.

**Cost Increase**

**to Private Facility Customers:                    \$167,000**  
*(741,476 tons x 23¢)*

5. Consistent with past practice, the posted rates for wet waste at the other private transfer stations will be revised to match Metro's tip fee. Similarly, ECR will likely match the Metro tip fee.

**Non-Metro Revenue**

**Matching Potential                                    \$439,000 to \$662,000**  
*(409,391 to 606,985 tons x \$1.07)*

**TOTAL INCREASE FROM TIP FEES:            \$1,211,000 to 1,435,000**

*Note: The approximately \$1.3 million increase from higher tip fees throughout the region is likely to be incorporated into the average basis used by local government rate setters and, hence, passed on to ratepayers via higher garbage bills.*

**Cost to Ratepayers Summary**

Adjusted Gross Savings

    Passed on to Ratepayer:                                    \$0

Total Increase from Tip Fees: \_\_\_\_\_ \$1.2 to 1.4 million

**ANNUAL COST TO RATEPAYERS:            \$1.2 to 1.4 million**

In summary, the citizens of the region will likely pay about \$1.2 to \$1.4 million more annually, through increased tip fees, for solid waste and recycling services if Metro grants Columbia Environmental (CE) a local transfer station franchise.

The applicant plans to make significant capital improvements to expand wet waste processing capacity and dry waste material recovery capacity at the site. Columbia Environmental has not said how much capital it intends to invest, nor over what period the applicant intends to recover those increased system costs.

**Evaluation Factor #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 Code 5.01.070(f)(3)]***



### Summary of applicant's analysis

The applicant posits that the issue of adverse effects on area residents was completely reviewed as part of the City of Portland conditional use approval for the proposed Columbia Environmental transfer station. A "Decision of the Hearings Officer" was issued by the City of Portland (LUR 02-137433) in 2003 and the Hearings Officer concluded that:

- The "proposed waste-related uses pose no significant health or safety risk to nearby uses."
- Operations at the site "adequately address potential nuisance impacts."
- "Taking into consideration expected traffic impacts of the proposed use, both City and State requirements for traffic levels and safety on nearby streets would be met."
- From any residential property, "noise, vibration, odor, and glare will be difficult to detect at significant levels."
- "The existing facility has not had a citation of non-compliance in the five years it has been in operation."

In summary, the applicant claims that based on the information presented to the City of Portland, the Oregon Department of Environmental Quality, and in its application to Metro, there is no indication that the activities on the proposed site would be likely to unreasonably adversely affect residents of the region.

### Analysis/findings

The proposed facility is located on a 12.5-acre site zoned IG2, a General Industrial base zone with a Scenic Resources overlay zone. It has operated as a source-separated recyclable processing facility since 1996. The City of Portland has defined the impact area as a 60-acre trapezoid surrounding the site that includes some open channels and wetlands associated with the Columbia Slough. The nearest residential area to the site is south on NE Sandy Boulevard, approximately 200 feet from the proposed facility and separated by a parking area, a berm, a frequently-used rail line atop the berm, and NE Sandy Boulevard.

Following hearings on Columbia Environmental's application to the City of Portland for a conditional use permit, the Hearings Officer made a finding that "There will be no significant health or safety risk to nearby uses." Factors considered in the Hearings Officers written decision included evaluations of the potential for nuisances caused by traffic, noise, vibration, odor, glare, litter, dust, mud, and vectors. A conditional use permit was approved with conditions intended to assure the minimization of any impacts to nearby residents. Such conditions include the processing of waste only within enclosed buildings, the implementation of an odor control system that limits the migration of odors off-site, and on-going monitoring by Metro. These are conditions that are also routinely included in Metro transfer station franchises. Metro staff concurs with the Portland Hearings Officer's findings and concludes that the granting of the requested

franchise is unlikely to unreasonably adversely affect the health, safety, and welfare of Metro's residents. In summary, the application satisfies this criterion.

#### **Evaluation Factor #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 Code 5.01.070(f)(4)]***

##### Summary of applicant's analysis

The applicant states that the potential for impacts on nearby residents and property owners was reviewed as part of the City of Portland conditional use approval for the proposed facility. The applicant refers to the Hearing Officer quotes listed above in responses to evaluation factor #4 as applicable to this factor. Further, the "existing character or expected future development of the surrounding neighborhood" was also considered as part of the land use case. The applicant asserts that the industrial area around the proposed facility is already mostly developed, with some vacant parcels, and the proposed transfer station would have no significant adverse impact on future development, residents, property owners, or the character of the area.

##### Analysis/findings

Following hearings on Columbia Environmental's application to the City of Portland for a conditional use permit, the Hearing Officer made a finding that "There will be no significant health or safety risk to nearby uses." Factors considered in the Hearings Officers written decision included evaluations of the potential for nuisances caused by traffic, noise, vibration, odor, glare, litter, dust, mud, and vectors. A conditional use permit was approved with conditions intended to assure the minimization of any impacts to nearby residents. Such conditions include the processing of waste only within enclosed buildings, the implementation of an odor control system that limits the migration of odors off-site, and on-going monitoring by Metro.

Metro staff concurs with the Portland Hearings Officer's findings and concludes that the granting of the requested franchise is unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood. The area immediately adjacent to the facility is zoned for industrial uses, and two other solid waste facilities are already in operation on the site. The granting of this franchise therefore, is not likely to have any significant additional impact on nearby residents, property owners or the character and future development potential of the area. However, staff notes that there could be odor impacts on nearby residents or businesses that are created by Pacific Power-Vac (PPV), a tenant of Oregon Recycling Systems and co-located at the proposed Columbia Environmental facility. PPV treats sludges, wastewaters and sludge-like material for landfill disposal. In 2003, for example, Metro received a series of odor complaints regarding PPV's operations. In summary, the application satisfies this criterion.

## Evaluation Factor #5

*Whether the applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter (Metro Code Chapter 5.01), the administrative rules and performance standards adopted pursuant to section 5.01.132 of this chapter and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise [Metro Code 5.01.070(f)(5)].*

### Summary of applicant's analysis

The applicant states that Columbia Environmental will comply with all applicable regulations for the transfer station, and that the existing management team at the facility has an excellent history of meeting its regulatory obligations. Further, as stated by the City of Portland in the land use decision, "The existing facility has not had a citation of non-compliance in the five years it has been in operation."

### Analysis/findings

To evaluate the likelihood that the applicant will comply with all applicable regulations, staff contacted both the City of Portland's Bureau of Environmental Services and the DEQ in order to examine the applicant's past record of compliance. Neither agency has had compliance issues with Columbia Environmental. Oregon Recycling Systems is the recycling processing business currently located on the site.

Oregon Recycling Systems has not been regulated by Metro except to periodically inspect them to assure only source-separated recyclables are being taken. The facility operators have always been cooperative with Metro staff. There is a presumption of a strong likelihood that Columbia Environmental will comply with all the requirements and standards of Metro Code Chapter 5.01. In summary, the application satisfies this criterion.

## **CHIEF OPERATING OFFICER'S RECOMMENDATION**

The Metro Code requires the Chief Operating Officer to formulate recommendations to the Metro Council "regarding whether the applicant is qualified, whether the proposed Franchise complies with the Regional Solid Waste Management Plan, whether the proposed Franchise meets the requirements of [Metro Code] section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements." (See Metro Code 5.01.070(c).) In addition, the Metro Code requires the Council to consider five criteria when deciding whether to grant or deny an application for a regional transfer station franchise, but the Code explicitly provides that the Council need not be limited by only those five criteria. The previous analysis in this

report has addressed all of the issues that the Chief Operating Officer is required to analyze, as well as all five of the criteria the Council is required to consider.

The Chief Operating Officer finds that the applicant is qualified to operate a local transfer station and has complied and can comply with all other applicable regulatory requirements. The Chief Operating Officer also finds that the application meets the requirements of Metro Code sections 5.01.060(a), (b) and (c), and 5.01.070(f)(3), (4) and (5).

The Chief Operating Officer believes, however, that the most important criteria are demonstration by the applicant that the proposed new facility will be consistent with the RSWMP and the effect that granting the franchise would have on the cost of solid waste services for the region's citizens (see Metro Code sections 5.01.070(c), (f)(1) and, (f)(2), and 5.01.060(d)). The RSWMP provides that new transfer stations may be considered when disposal services have been impaired by either of two factors: inadequate capacity or inadequate access.

It should be emphasized that the region's current transfer stations have more than adequate capacity to accept, manage, and transfer all of the region's waste for many years to come (refer to Metro's *Regional Transfer Capacity Analysis, April 2004*). If a new transfer station is to be granted, the primary rationale must be improved access. Moreover, the RSWMP also specifically provides that a transfer station may be approved if it will provide a net benefit for the region and if located in an "under-served" area.

The net benefit analysis of the applicant's proposal requires the weighing and balancing of several different RSWMP factors. Thus, to grant an application for a transfer station, an applicant must demonstrate that the benefits of doing so outweigh the costs that will accompany such a decision. Given this, prudence demands that new transfer station franchises be approved only if the potential benefits are large and certain enough to outweigh potential risks and costs to the system.

Taking into consideration the changes made to the RSWMP in 2000 to allow consideration of new transfer station applications, the Chief Operating Officer concludes that the two most important issues to be considered are whether:

- (1) The proposed transfer station is located in an underserved area, and
- (2) The effect on the costs of solid waste and recycling services for the citizens of the region.

Furthermore, the Chief Operating Officer has considered the Councilor Values for the Solid Waste System. The Councilor Values are listed in Table 2 on page 6. In addition to each value, the Metro Council has indicated that all system-related scenarios or decisions will "maintain safety and public health throughout the solid waste system" as a minimal threshold for operation.

## **Underserved Area**

One of Metro's key objectives in deciding to consider the establishment of additional transfer stations was to provide for better access within the *underserved areas*. The working standard for underserved areas that guides the RSWMP policies for authorizing new transfer stations, are those areas within the region that are more than 25 minutes from a transfer station.<sup>11</sup>

As illustrated previously in the Estimated Travel Time Zone maps for both wet and dry waste (map #4 and map #5), the proposed transfer station would not be located in an area of the region where estimated travel time for wet waste would exceed 25 minutes. For dry waste, there are even more options available to haulers in this area when the dry waste recovery facilities are also considered since there are two nearby mixed dry waste processing facilities (Wastech and ECR). Therefore, based on the RSWMP considerations for establishing an under-served area, the proposed Columbia Environmental transfer station would not be located in an underserved area, and therefore does not meet the RSWMP requirement for approving a new transfer station.

As a local transfer station, Columbia Environmental would be located only 7 miles, or about 12 minutes away, from an existing local transfer station (the Troutdale Transfer Station), which already has both the authority and capacity to serve a substantial portion of their service area. Nevertheless, granting Columbia Environmental's application would result in better access for those haulers affiliated with the proposed Columbia Environmental facility and located within its proposed service area boundary.

However, any new local transfer station would achieve similar results by improving local access by reducing travel time for some haulers, but at the same time create a very inefficient overall disposal system. Unless an area is truly underserved, the benefits of reducing travel time (and minimizing VMT) are outweighed by inefficiencies caused by deteriorating economies of scale at the region's existing transfer stations and resulting increase in cost to the regional ratepayers.

## **Costs to the Regional Ratepayers**

If this application were approved, the citizens of the region would likely incur increased costs estimated to be between \$1.2 million to \$1.4 million annually (over the status quo). At the same time, Columbia Environmental's affiliated haulers may be able to reduce their own costs; they state that it is unlikely these lower costs will be passed on to the ratepayers via lower garbage bills. The applicant claims, however, that future rate *increases* might be delayed.

Even if it could be assured that some savings would be passed through to ratepayers, it must be recognized that granting a local transfer station franchise to Columbia Environmental would create both winners and losers. That is to say, residents in

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<sup>11</sup> Staff Report to Ordinance No.00-865, adopted by the Metro Council on June 15, 2000.

franchised areas close to Columbia Environmental whose haulers began using that facility might see a savings in their garbage bills as their local governments factored the greater transportation efficiencies and localized tip fee savings into collection rates. However, the much larger group of ratepayers whose haulers continue to use Metro's transfer stations would be burdened with higher rates as Metro increased its tip fee to pay for its costs after having lost tonnage and, along with it, part of those stations' economies of scale.

Tip fee increases at Metro transfer stations would result directly in a local rate increase; whereas, transportation cost reductions have only a slight chance of lowering local rates. In addition, it has historically been the case when Metro increases its tip fee, other privately operated transfer stations and dry waste material recovery facilities also increase their tip fees. Thus, the cost of solid waste disposal services for the region's citizens and businesses would likely increase even more.

Staff concludes that, in the end, there would be far more "losers" than "winners" if this application were granted.

### **COO Conclusion and Recommendation**

The applicant's proposal is not without merit. It appears that granting its application would result in some transportation cost savings and some *dry waste* tip fee savings to its affiliated haulers. The question, however, is whether the estimated cost benefits are sufficiently certain, large, equitably distributed, and likely to be realized by the region's ratepayers to outweigh the likely costs and potential risks of granting this application. On balance, the Chief Operating Officer finds that the benefits to a limited number of haulers and customers do not outweigh the certain and substantial overall increases in costs to the rest of the citizens and businesses of the region.

For the above reasons, the Chief Operating Officer recommends approval of Ordinance No. 04-1063, denying Columbia Environmental's application for a local transfer station franchise.

If the ordinance to deny the application is upheld by the Council and the matter is contested by the applicant, the Council has the option of having the matter heard by a Hearings Officer or by the Council (Metro Code section 2.05.025). The Chief Operating Officer recommends that the matter, if contested, be referred to a Hearings Officer for consideration. This would allow the Hearings Officer, an unaffiliated third party, to hear all of the evidence in the matter and to draft a Proposed Order, which the Council would then consider, along with any of the parties' objections to the Proposed Order, before issuing a Final Order in the matter.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

The applicant, Columbia Environmental, LLC and its affiliated haulers that would use the facility would be opposed to the proposed legislation.

**2. Legal Antecedents**

Metro Code Chapter 5.01 and the Regional Solid Waste Management Plan.

**3. Anticipated Effects**

If the legislation were adopted, the proposed local transfer station franchise application would be denied.

**4. Budget Impacts**

There would be no cost to implement the legislation, as the legislation would deny the franchise application.

**RECOMMENDED ACTION**

Council should approve Ordinance No.04-1063, denying Columbia Environmental's application for a local transfer station franchise.

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ATTACHMENT 1

**TABLE 1**  
**Approximate Effect of CE on Metro's Per-ton Costs**

	12-mo. Budget (\$ millions)	Per-ton Cost		Diff (\$/ton)
		current tonnage*	tonnage w/ CE*	
<b>Transfer Operations</b>				
New BFI Contract	5.4	\$9.63	\$9.73	0.10
<small>(BFI budget amount varies with tonnage; all other budget amounts shown are fixed)</small>				
<b>Fixed Costs</b>				
Contribution to Renewal & Replacement	0.6	\$1.12	\$1.34	0.22
Scalehouse & Maint. <small>(fully loaded)</small>	2.1	\$3.75	\$4.50	0.75
<b>Subtotal Fixed Costs:</b>				<b>0.97</b>
<b>Subtotal Metro Transfer Station Operations:</b>				<b>\$1.07</b>
<b>Programs &amp; Gen. Govt.</b>				
Regional Programs	18.4	\$15.09	\$15.23	0.14
General Fund**	10.5	\$8.58	\$8.66	0.08
<b>Subtotal Programs &amp; Gen. Govt.</b>				<b>\$0.23</b>
<b>Total Impact on Metro's per-ton Costs:</b>				<b>\$1.30</b>

	* Revenue Bases		
	Tons		
	current tonnage	tonnage w/ CE	Diff
Metro:	558,264	466,157	-92,107
non-Metro:	<u>660,882</u>	<u>741,476</u>	<u>80,594</u>
Regional:	1,219,146	1,207,633	-11,513

\*\* A per-ton increase in excise tax would not occur until Year 2; all other increases likely would occur in Year 1.



**TABLE 2**  
**Approximate Effect of CE on Citizens of the Region\***

**Transfer Operations**

Metro	466,157	tons x \$0.10 =	<u>\$46,616</u>	
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**Fixed Costs**

Metro	466,157	tons x \$0.97 =	<u>\$453,223</u>	
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**Programs & Gen. Govt.**

Metro	466,157	tons x \$0.23 =	\$105,196	
Non-Metro	<u>741,476</u>	tons x \$0.23 =	<u>\$167,326</u>	
	1,207,633		<b>\$272,522</b>	

**Non-Metro Revenue Matching Potential**

Wet	409,391	tons x \$1.07 =	\$438,971	(all wet waste matches)
Dry*	<u>208,249</u>	tons x \$1.07 =	<u>\$223,296</u>	(all dry waste matches)
	606,985		<b>\$662,266</b>	(both wet & dry waste match)

**Total Potential Cost to Ratepayers Annually:**

	between	<b>\$1,211,331</b>	(wet matches)
	and	<b>\$1,434,626</b>	(wet & dry match)

\* "Citizens of the Region" is Code language [5.01.070(f)(2)], here understood to mean solid waste ratepayers.

\*\* Excluded from the total are about 130,000 tons of dry waste delivered to the Washington Co. landfills, where a rate increase is less likely because those facilities are rate regulated by the county.