

A G E N D A

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**METRO**

**Agenda**

**MEETING:** METRO COUNCIL REGULAR MEETING  
**DATE:** December 2, 2004  
**DAY:** Thursday  
**TIME:** 2:00 PM  
**PLACE:** Metro Council Chamber

**CALL TO ORDER AND ROLL CALL**

**1. INTRODUCTIONS**

**2. CITIZEN COMMUNICATIONS**

**3. SALMON FESTIVAL PRESENTATION** Desmond

**4. CONSENT AGENDA**

4.1 Consideration of Minutes for the November 18, 2004 Metro Council Regular Meeting.

4.2 **Resolution No. 04-3508**, For the Purpose of Confirming the Appointment Of Paul Edwards to the Regional Solid Waste Advisory Committee (SWAC).

4.3 **Resolution No. 04-3516**, For the Purpose of Appointing Citizen Members to The Transportation Policy Alternatives Committee and the Regional Travel Options Subcommittee in December 2004.

**5. ORDINANCES – FIRST READING**

5.1 **Ordinance No. 04-1066**, For the Purpose of Amending the FY 2004-05 Budget and Appropriations Schedule Transferring \$62,280 From the General Fund Contingency to the Zoo Operating Fund Materials and Services For Completion of Capital Maintenance Projects; and Declaring an Emergency.

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.

5.3 **Ordinance No. 04-1068**, For the Purpose of Amending the FY 2004-05 Budget and Appropriations Schedule, Recognizing \$200,000 in Grant Funds and Increasing Capital Outlay in the Zoo Operating Fund, Amending the FY 2004-05 Through FY 2008-09 Capital Improvement Plan For Completion of Storm Water Handling Projects; and Declaring an Emergency.

6. **ORDINANCES - SECOND READING**

6.1 **Ordinance No. 04-1063**, For the Purpose of Denying a Solid Waste Franchise Application of Columbia Environmental, LLC to Operate a Local Transfer Station (*PUBLIC HEARING ONLY, NO FINAL ACTION*). Park

6.2 **Ordinance No. 04-1064**, For the Purpose of Amending the FY 2004-05 Budget and Appropriations Schedule Recognizing the Transfer of \$504,000 From Metro's General Fund Tourism Opportunity and Competitiveness Account to MERC Pooled Capital Fund, Capital Outlay and Transferring \$150,000 From MERC Pooled Capital Fund Contingency to MERC Pool Capital Fund, Capital Outlay; and Declaring an Emergency. Park

7. **RESOLUTIONS**

7.1 **Resolution No. 04-3517**, For the Purpose of Authorizing the Chief Operating Officer to Execute an Intergovernmental Agreement With the City of Portland Providing For Funding and Construction of Stormwater Improvements at the Oregon Zoo. Monroe

8. **CONTRACT REVIEW BOARD**

8.1 **Resolution No. 04-3511**, For the Purpose of Amending Contract No. 923895 With Ducks Unlimited For the Water Control Structure at Smith and Bybee Lakes Wildlife Area. Hosticka

9. **CHIEF OPERATING OFFICER COMMUNICATION**

10. **COUNCILOR COMMUNICATION**

**ADJOURN**

**Television schedule for December 2, 2004 Metro Council meeting**

<p><b>Clackamas, Multnomah and Washington counties, and Vancouver, Wash.</b>  Channel 11 -- Community Access Network  <a href="http://www.yourtv.org">www.yourtv.org</a> -- (503) 629-8534  Thursday, December 2 at 2 p.m. (live)</p>	<p><b>Portland</b>  Channel 30 (CityNet 30) -- Portland Community Media  <a href="http://www.pcatv.org">www.pcatv.org</a> -- (503) 288-1515  Sunday, December 5 at 8:30 p.m.  Monday, December 6 at 2 p.m.</p>
<p><b>Gresham</b>  Channel 30 -- MCTV  <a href="http://www.mctv.org">www.mctv.org</a> -- (503) 491-7636  Monday, December 6 at 2 p.m.</p>	<p><b>Washington County</b>  Channel 30 -- TVTV  <a href="http://www.yourtv.org">www.yourtv.org</a> -- (503) 629-8534  Saturday, December 4 at 11 p.m.  Sunday, December 5 at 11 p.m.  Tuesday, December 7 at 6 a.m.  Wednesday, December 8 at 4 p.m.</p>
<p><b>Oregon City, Gladstone</b>  Channel 28 -- Willamette Falls Television  <a href="http://www.wftvaccess.com">www.wftvaccess.com</a> -- (503) 650-0275  Call or visit website for program times.</p>	<p><b>West Linn</b>  Channel 30 -- Willamette Falls Television  <a href="http://www.wftvaccess.com">www.wftvaccess.com</a> -- (503) 650-0275  Call or visit website for program times.</p>

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

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

Agenda Item Number 4.1

Consideration of Minutes of the November 18, 2004 Regular Council meeting.

Metro Council Meeting  
Thursday, December 2, 2004  
Metro Council Chamber

## MINUTES OF THE METRO COUNCIL MEETING

Thursday, November 18, 2004  
Metro Council Chamber

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

Councilors Absent: Rex Burkholder (excused)

Council President Bragdon convened the Regular Council Meeting at 2:03 p.m.

### 1. INTRODUCTIONS

There were none.

### 2. CITIZEN COMMUNICATIONS

Mary Ann Schwab, BCA, Chinese Community and the Friends of Lone Fire Cemetery, 605 SE 38<sup>th</sup> Portland Oregon 97214 spoke to Council concerning an issue at Lone Fire Cemetery. She noted an article in the Oregonian yesterday. She was aware the Metro was in charge of cemeteries. She urged Council to respect the guidelines of the Oregon Historical Cemeteries on record with the State. She addressed the demolition of the building at Lone Fir Cemetery. She talked about the history of the historical cemeteries. She asked Council to review the issue and she would be coming back to talk with them about what their plans were for future cemeteries so this issue didn't have to be revisited. Council President Bragdon explained that Multnomah County transferred the cemeteries in the 1990s but that portion of the property she had referred to where the building stood was still owned by Multnomah County. The Council continued to have an interest in the results. Ms. Schwab said there was a problem and she urged that Council move forward on this. Councilor Park talked about the operating procedures for cemeteries and asked if Metro operated under the State guidelines. Mr. Jordan said they had to comply with State statutes for the operation of Pioneer Cemeteries. Councilor McLain said she had also asked for a review of the regulations that Metro operated under and felt that we might want to have additional guidelines instead of just following State policy. Mr. Jordan said Metro had adopted our own policies several months ago. They were broader than the State statutes.

### 3. ILLEGAL DUMPING AND ENFORCEMENT

Roy Brower, Solid Waste and Recycling Department, provided a power point presentation on Illegal Dumping and Enforcement (a copy of this presentation is included in the meeting record). He provided a history of the program, the goals of the program, and where the program was primarily focused, in Multnomah and Clackamas County. He explained that they had an ongoing issue with Washington County, which he thought had been resolved. They were now available to help in Washington County as well. Councilors asked about the dumpsites around the region and how these sites were reported. Mr. Brower responded to their questions. Mr. Brower said the program was well regarded with the public and the jurisdictions. They had cleaned up over 12,000 sites. He talked about the citations that had been issued. He shared some pictures of the different sites they had cleaned up. He noted the success of the Metro SOLV effort. The large dumps around the region had been nearly eliminated. They were finding more dumping in the farm and forestland outside the Urban Growth Boundary. They wanted to collaborate more with local jurisdictions and expand their civic outreach. He said they would be coming to Council this

year during budget cycle to explore the possibility of replacing the inmate work crews with Metro crews. They had been experiencing issues with staff stability.

Councilor Newman asked how the program was funded. Mr. Brower shared how the program was funded. Councilor McLain acknowledged the other staff that worked in the program. Councilor Park asked what it cost to operate this program. Mr. Brower responded that it was about \$150,000 to \$200,000 for the clean up portion of the program. He acknowledged that we only recovered about 25% of the fines that were issued. Councilor Park commented that he would like to see the cost differential between an inmate crew and a Metro crew. He noted that there were other State goals that we were trying to accomplish. The public wanted to see inmates doing some type of work. It had been difficult to find tasks for inmates to do that wasn't competing with the private sector. He wanted to see the cost benefit analysis before we abandoned the inmate crews.

#### 4. CONSENT AGENDA

##### 4.1 Consideration of minutes of the November 4, 2004 Regular Council Meetings.

Motion:

Councilor Newman moved to adopt the meeting minutes of the November 4, 2004 Regular Metro Council.

Vote:

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

#### 5. ORDINANCES – FIRST READING

##### 5.1 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.

Council President Bragdon assigned Ordinance No. 04-1063 to Council.

##### 5.2 Ordinance No. 04-1064, For the Purpose of Amending the FY 2004-05 Budget and Appropriations Schedule Recognizing the Transfer of \$504,000 from Metro's General Fund Tourism Opportunity and Competitiveness Account to the MERC Pooled Capital Fund Capital Outlay and Transferring \$150,000 From MERC Pooled Capital Contingency to MERC Pooled Capital Fund, Capital Outlay; and Declaring an Emergency.

Council President Bragdon assigned Ordinance No. 04-1064 to Council.

##### 5.3 Ordinance No. 04-1065, For the Purpose of Amending Chapter 2.04 of the Metro Code Relating to Public Contracting.

Council President Bragdon assigned Ordinance No. 04-1065 to Council.

#### 6. ORDINANCES – SECOND READING

##### 6.1 Ordinance No. 04-1062, For the Purpose of Amending the FY 2004-05 Budget and Appropriations Schedule Recognizing \$1,586,918 in Grant

Funds and Private Contributions for a Series of Specific Projects in the Regional Parks Operating Fund; Transferring \$19,765 from Contingency to Operating Expenses in the Regional Parks Operating Fund; Amending the FY 2004-05 through FY 2008-09 Capital Improvement Plan; and Declaring an Emergency.

Motion:	Councilor McLain moved to adopt Ordinance No. 04-1062.
Seconded:	Councilor Hosticka seconded the motion

Councilor McLain introduced the ordinance and indicated that the title said it all. She urged support.

Council President Bragdon opened a public hearing on Ordinance No. 04-1062. No one came forward to testify. Council President Bragdon closed the public hearing.

Vote:	Councilors Park, Newman, Hosticka,, McLain, Monroe and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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## 7. RESOLUTIONS

7.1 **Resolution No. 04-3515**, For the Purpose of Ratifying the 2004-07 Collective Bargaining Agreement between AFSCME Local 2580 and Metro.

Motion:	Councilor Monroe moved to adopt Resolution No. 04-3515.
Seconded:	Councilor Newman seconded the motion

Councilor Monroe said this resolution would ratify the tentative agreement reached between AFSCME 3580 and Metro for the period July 1, 2004 through June 30, 2007. 256 Metro employees were affected by this agreement. The following key economic work conditions in the agreement were: COLA wage increased for each of the three years, (retroactive to September 1, 2004), ranging from 1.5% to 3.5%, reimbursement for 2004 out-of-pocket health insurance of \$337.50 per member, employer contribution caps set for each of the three years. He thanked all of the Metro employees and managers who worked diligently for several months to negotiate an agreement that was fair to all parties. He urged support.

Councilors added their comments and support.

Vote:	Councilors Park, Hosticka, Newman, McLain, Monroe, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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7.2 **Resolution No. 04-3506**, - Removed from the agenda.

7.3 **Resolution No. 04-3498**, For the Purpose of Endorsing Regional Priorities For State Transportation Funding Package.

Motion:	Councilor Park moved Resolution No. 04-3498A.
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Seconded:	Councilor McLain seconded the motion
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Councilor Park said the Metro Council approved the Regional Transportation Plan (RTP) in 2000 and a Plan update in 2004. Currently the RTP called for \$7.8 billion in multi-modal transportation improvements in the region that were necessary to ensure a healthy economy and livable region; however about 50% of these had no identified funding source. Metro's Transportation Funding Task Force had recommended that Metro propose a legislative package as part of the funding solution for the shortfall. This resolution had widespread local government support and had been approved by the Joint Policy Advisory Committee on Transportation (JPACT). It has also been shopped at the MPO Summit in Eugene. The legislative funding proposal, shown in Exhibit A, included: funding for road operations, maintenance and modernization, funding for transit, freight and passenger rail, marine and aviation projects, funding through Oregon Department of Transportation (ODOT) for elderly and disabled transit service, bus replacement and transportation demand management. Without additional investment in Oregon's transportation infrastructure, increasing congestion would cost Oregon businesses and motorists tens of millions of dollars each year. He urged support of this resolution.

Richard Brandman, Deputy Planning Director, said there was a large funding gap but the gap translated into specific projects. The projects were designed to build a strategy for a livable community and economic viability in the Metro region. There were a variety of projects included in the package. They would focus on why they needed funding to build these projects. They would be describing how these projects fit into an economic development strategy as well as providing jobs and a better region. There was wide spread support.

Councilor Hosticka asked about the proposal for a ballot measure in 2006. Mr. Brandman responded that was separate from this resolution. This resolution only addresses the legislative funding. They would see how we did at the legislation, see if any of these needs got funded, and then come back as a group to conclude if the timing was right to go forward with a ballot measure.

Councilor Park thanked those who had done the work. The legislative package helped set the stage to determine if they would go out for a ballot measure.

Vote:

Councilors Park, Hosticka, Newman, McLain, Monroe, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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## 8. CONTRACT REVIEW BOARD

8.1 **Resolution No. 04-3507, For the Purpose of Authorizing Execution of Change Order No. 30 to the Contract for Waste Transport Services for Provision of a \$2.5 Million Dollar Performance Bond.**

Motion:	Councilor Newman moved to adopt Resolution No. 04-3507.
Seconded:	Councilor Hosticka seconded the motion

Councilor Newman introduced the resolution and provided history of the transport services of CSU. This resolution would allow the transporter, CSU, to substitute a \$2.5 performance bond for the existing security instruments. He said the Office of Metro Attorney, the Finance and Solid Waste staff all believed that the proposal was neutral or slightly beneficial to Metro. He urged an aye vote.



Vote:

Councilors Park, Hosticka, Newman, McLain, Monroe, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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**8.2 Resolution No. 04-3509, For the Purpose of Approving Change Order 31 to the Waste Transport Services Contract.**

Motion:	Councilor Newman moved to adopt Resolution No. 04-3509.
Seconded:	Councilor McLain seconded the motion

Councilor Newman explained that Metro originally leased parking spaces from CSU. Staff had reevaluated the need for these parking spaces and had recommended reducing this spaces to 12. He spoke to the savings and urged an aye vote.

Vote:

Councilors Park, Hosticka, McLain, Newman, Monroe, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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**9. CHIEF OPERATING OFFICER COMMUNICATION**

Michael Jordan, COO, reminded the Council that they would be having a work session on November 30<sup>th</sup> concerning Measure 37 and its implications as well as the varies option concerning Goal 5. He acknowledged that the business community had a conference today and a number of Metro employees had volunteered to go over and facilitate discussion among the business leaders in the community.

**10. COUNCILOR COMMUNICATION**

Council President Bragdon reminded that November 25<sup>th</sup> was Thanksgiving so there would be no Council meeting that day.

Councilor McLain talked about a Solid Waste Advisory Committee (SWAC) meeting where they had participants talked about hospital waste and e-waste. She found it very interesting.

Councilor Park said Councilor Burkholder had asked him to bring forward a letter on global warming. He asked the Council, if they were comfortable with the letter to Governor's Advisory Group on Global Warming, that they send this off as soon as possible. Mark Turpel, Planning Department, said both Metro Policy Advisory Committee (MPAC) and JPACT had reviewed the letter and had made some additional comments, which strengthened the comments on global warming. He reviewed the additional comments. JPACT, Metro Council and MPAC would co-sign the letter. The Council concurred with the letter.

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**11. ADJOURN**

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 5:15 p.m.

Prepared by

Chris Billington

Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF NOVEMBER  
18, 2004**

Item	Topic	Doc Date	Document Description	Doc. Number
7.3	Resolution	11/18/04	Resolution No. 04-3498, For the Purpose of Endorsing Regional Priorities For State Transportation Funding Package	111804c-01
2	Notice of public hearing	11/18/04	To: Metro Council From: Mary Ann Schwab Re: Public Hearing on November 23, 2004 concerning Lone Fir Cemetery	111804c-02
8.1	Memo	11/12/04	To: Metro Council From: Michael Hogle, Solid Waste & Recycling Director Re: CSU Transport	111804c-03
10	Letter	11/18/04	To: Metro Council From: David Bragdon, Rod Park and Charles Becker Re: draft Oregon Strategy for Greenhouse Gas Reductions	111804c-04
3	Power Point Presentation	11/18/04	To: Metro Council From: Roy Brower, Solid Waste and Recycling Department Re: Metro's Illegal Dumping Program	111804c-05

Agenda Item Number 4.2

**Resolution No. 04-3508, For the Purpose of Confirming the Appointment  
Of Paul Edwards to the Regional Solid Waste Advisory Committee (SWAC).**

*Consent Agenda*

Metro Council Meeting  
Thursday, December 2, 2004  
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE ) RESOLUTION NO. 04-3508  
APPOINTMENT OF PAUL EDWARDS TO THE )  
REGIONAL SOLID WASTE ADVISORY ) Introduced by David Bragdon,  
COMMITTEE (SWAC) ) Council President

WHEREAS, Metro Code Chapter 2.19.130 established the Regional Solid Waste Advisory Committee (SWAC) to evaluate policy recommendations to the Metro Council regarding regional solid waste management and planning; and,

WHEREAS, Metro Code Chapter 2.19.030 states that all members and alternate members of all Metro Advisory Committees shall be appointed by the Council President subject to confirmation by the Council; and,

WHEREAS, Metro Code Chapter 2.19.130 authorizes representatives and alternates for the SWAC; and,

WHEREAS, vacancies have occurred in the SWAC membership; and,

WHEREAS, the Council President has appointed Paul Edwards as a member of the Washington County Cities' representatives, subject to confirmation by the Metro Council; now therefore,

BE IT RESOLVED, that the Metro Council confirms the appointment of Mr. Edwards to Metro's SWAC.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
David Bragdon, Council President

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

## **STAFF REPORT**

### **IN CONSIDERATION OF RESOLUTION NO. 04-3508 FOR THE PURPOSE OF CONFIRMING THE APPOINTMENT OF PAUL EDWARDS TO THE REGIONAL SOLID WASTE ADVISORY COMMITTEE (SWAC)**

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Date: October 27, 2004

Prepared by: Susan Moore

## **BACKGROUND**

The 25-member Regional Solid Waste Advisory Committee (SWAC), representing recyclers, the hauling industry, disposal sites, citizen-ratepayers and local governments, evaluates policy options and presents recommendations to the Metro Council regarding regional solid waste management and planning.

Ms. Sarah Jo Chaplen has stepped down from her position as a representative for Washington County Cities. Her responsibilities for the City of Hillsboro have changed such that she will no longer be working on solid waste issues. Ms. Chaplen has recommended Mr. Paul Edwards, Purchasing Agent for the City of Hillsboro, to replace her as the Washington County Cities' representative to Metro's Solid Waste Advisory Committee. (See Attachment 1.)

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

There is no known opposition.

### **2. Legal Antecedents**

ORS 192.610 "Governing Public Meetings", Metro Code Chapter 2.19.030, "Membership of the Advisory Committees" and 2.19.130, "Metro Solid Waste Advisory Committee", are the relevant legal documents related to these appointments.

### **3. Anticipated Effects**

This resolution is intended to appoint Mr. Paul Edwards as the Washington County Cities' representative, for a two-year term of service on the SWAC.

### **4. Budget Impacts**

None.

## **RECOMMENDED ACTION**

The Council President has reviewed the qualifications of Mr. Paul Edwards and finds him qualified to advise Metro in the matters of solid waste management and planning. Therefore, Council confirmation of this appointment by adoption of Resolution No. 04-3508 is recommended.

CITY OF HILLSBORO -----

October 11, 2004

Mr. David Bragdon

Metro Council President  
Metro Regional Center 600  
NE Grand Avenue  
Portland, OR 97232-2736

Dear President Bragdon:

I regret the need to step down from my official responsibilities as Washington County Cities' representative on Metro's SWAC. I have enjoyed my time on this committee, but my duties for the City of Hillsboro have now changed and I will no longer be working on solid waste issues.

Paul Edwards, Purchasing Agent for the City of Hillsboro will be taking over my solid waste franchise duties at the City. In addition, at the last Washington County Cooperative Recycling meeting, Paul Edwards was voted in as their chosen candidate representative to Metro's SWAC.

On behalf of the Cooperative, I am officially requesting that Paul Edwards to be appointed as our representative to Metro's SWAC.  
Thank you for your consideration.

Sincerely,

CITY OF HILLSBORO

Sarah Jo Chaplen  
Interim Information Services Director

cc: Mark Altenhofen  
Paul Edwards  
Janet Matthews

Agenda Item Number 4.3

**Resolution No. 04-3516, For the Purpose of Appointing Citizen Members to the Transportation Policy Alternatives Committee (TPAC) and the Regional Travel Options Subcommittee in December 2004.**

Metro Council Meeting  
Thursday, December 2, 2004  
Metro Council Chamber



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPOINTING CITIZEN ) RESOLUTION NO. 04-3516  
MEMBERS TO THE TRANSPORTATION )  
POLICY ALTERNATIVES COMMITTEE AND ) Introduced by Councilor Rod Park  
THE REGIONAL TRAVEL OPTIONS  
SUBCOMMITTEE IN DECEMBER 2004

WHEREAS, three citizen terms (out of six) on the Transportation Policy Alternatives Committee (TPAC) and their alternates expire in November 2004; and

WHEREAS, all three citizen terms on the Regional Travel Options (RTO) Subcommittee of TPAC and their alternates expire in November 2004; and

WHEREAS, 27 applications were received and 13 citizens were interviewed for TPAC and RTO Subcommittee positions in November by the Council Nomination Committee; and

WHEREAS, three qualified citizen candidates and alternates were nominated by the committee to fill a two-year term on the Transportation Policy Alternatives Committee; and

WHEREAS, three qualified citizen candidates and alternates were nominated by the committee to fill a two-year term on the Regional Travel Options Subcommittee; now therefore

BE IT RESOLVED that the Metro Council approve the selection of the following three citizens and their alternates to a two-year term on TPAC from December 2, 2004 to November 30, 2006; and the selection of the following three citizens and their alternates to a two-year term on the Regional Travel Options Subcommittee of TPAC from December 2, 2004 to November 30, 2006;

**NOMINEES FOR THE TRANSPORTATION POLICY ALTERNATIVES COMMITTEE:**

Scott Bricker, Multnomah County, education director, Bicycle Transportation Alliance, (second term)

Alternate: Jessica Roberts, Multnomah County, bicycle advocate, BTA (first term)

Leland Johnson, Washington County, president-owner, Jet Delivery Systems (first term)

Alternate: Sorin Garber, Multnomah County, transportation consultant, Sorin Garber Consulting Group, (first term)

James Castaneda, Clackamas County; consultant, Industrial Design and Construction, CH2M (first term)

Alternate: Matthew Butts, Clackamas County, director, civil and traffic engineering, Group Mackenzie (first term)

NOMINEES FOR THE REGIONAL TRAVEL OPTIONS SUBCOMMITTEE OF TPAC:

Mark Gorman, Multnomah County, commute reduction manager, Intel, (first term)

Alternate: Kathryn Harrington, Washington County, retired marketing manager, Intel (first term)

Dan Zalkow, Multnomah County, manager of transportation & parking, PSU (first term)

Alternate: Angela Timman, Clackamas County, director, parking & transportation, OHSU (first term)

Steve Gutmann, Multnomah County, business development & sales, Flexcar Portland

Alternate: Gregg Snyder, Multnomah County, transportation consultant, Parsons Brinkerhoff

ADOPTED by the Metro Council this \_\_\_\_\_ day of December, 2004.

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David Bragdon, Council President

Approved as to Form:

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Daniel B. Cooper, Metro Attorney

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 04-3516 FOR THE PURPOSE OF MAKING CITIZEN APPOINTMENTS TO THE TRANSPORTATION POLICY ALTERNATIVES COMMITTEE (TPAC) AND THE REGIONAL TRAVEL OPTIONS SUBCOMMITTEE OF TPAC IN DECEMBER 2004

Date: November 12, 2004

Prepared by Marilyn Matteson

## BACKGROUND

Three out of six citizen positions on the Transportation Policy Alternatives Committee will expire in November 2004. In addition, all three citizen positions on the Regional Travel Options Subcommittee of TPAC will expire in November 2004. Potential candidates were selected from 27 applications received during the fall solicitation to fill citizen terms on TPAC and the RTO Subcommittee. The citizen recruitment had an extensive public notification process, including advertisements in newspapers, post card notices, web page information and transportation hotline message. In all, 27 applications were received for the TPAC and RTO Subcommittee positions. A total of 13 citizens were interviewed by the Nomination Committee, which consisted of Councilors Rod Park, Rex Burkholder and Rod Monroe, and staff members Tom Kloster, Bridget Wieghart, Bill Barber and Marilyn Matteson.

## EXISTING LAW

Metro Code [reference Ordinance No. 00-860A Section 2.19.003 (a) and (b) (6)] states that citizen representatives and their alternates be nominated through a public application process, confirmed by the Metro Council and appointed by the President of the Metro Council. Citizen members serve for two years upon appointment. Citizen members are limited to two consecutive two-year terms.

## ANALYSIS/INFORMATION

- |                        |  |
|------------------------|--|
| 1. Known Opposition    | None   |
| 2. Legal Antecedents   | Metro Code and TPAC Bylaws                             |
| 3. Anticipated Effects | Citizen participation on TPAC and the RTO Subcommittee |
| 4. Budget Impacts      | None   |

## RECOMMENDED ACTION

This resolution approves the appointment of three citizen members and their alternates to two-year terms on the Transportation Policy Alternatives Committee (TPAC). In addition, this resolution approves the appointment of three citizen members and their alternates to the Regional Travel Options Subcommittee of TPAC. The terms will run from December 2, 2004 to November 30, 2006.

The Council Nomination Committee interviewed candidates on November 4 and selected the nominees at their November 5, 2004 meeting. The committee recommends Metro Council appointment of the following members and alternates.

**NOMINEES FOR THE TRANSPORTATION POLICY ALTERNATIVES COMMITTEE:**

Scott Bricker, Multnomah County, youth programs and education director, Bicycle Transportation Alliance, (second term)

Alternate: Jessica Roberts, Multnomah County, bicycle advocate, Bicycle Transportation Alliance (first full term)

Leland Johnson, Washington County, president-owner, Jet Delivery Systems (first term)

Alternate: Sorin Garber, Multnomah County, transportation consultant, Sorin Garber Consulting Group (first term)

James Castaneda, Clackamas County; consultant, Industrial Design and Construction, CH2M (first term)

Alternate: Matthew Butts, Clackamas County, director, traffic engineering, Group Mackenzie (first term);

**NOMINEES FOR THE REGIONAL TRAVEL OPTIONS SUBCOMMITTEE:**

Mark Gorman, Multnomah County, commute reduction manager, Intel, (first term)

Alternate: Kathryn Harrington, Washington County, retired marketing manager, Intel (first term)

Dan Zalkow, Multnomah County, manager of transportation & parking, PSU (first term)

Alternate: Angela Timman, Clackamas County, director, parking & transportation, OHSU (first term)

Steve Gutmann, Multnomah County, business development & sales, Flexcar Portland (first term)

Alternate: Gregg Snyder, Multnomah County, transportation consultant, Parsons Brinkerhoff (first term)

## **Terms of office for citizens on TPAC**

### Term of office Dec. 2, 2004 to Nov. 30, 2006

Scott Bricker, Multnomah Cty.	Second term	(alternate Jessica Roberts)
Leland Johnson, Washington Cty.	First term	(alternate Sorin Garber)
James Castaneda, Clacamas Cty.	First term	(alternate Matthew Butts)

### Term of office Nov. 20, 2003 to Nov. 17, 2005

Frank Angelo, Beaverton	Second term	(alternate Howard Roll)
Christopher Smith, NW Portland	Second term	(alternate Rick Browning)
Greg DiLoreto, West Linn	First term	(alternate Michael Webb)

### Term of office Nov. 2002 to Nov. 2004

John Lynch, Milwaukie	First term	(alternate Elaine Wells)
Scott Bricker, NE Portland	First term	(alternate Tom Miller)
Elizabeth Wemple, Portland	First term	(alternate Julia Kuhn)

### Term of office Nov. 2001 – Nov. 2003

Frank Angelo, Beaverton (to replace Gary Katsion, moved)	First partial term	(alternate Howard Roll)
Christopher Smith, NW Portland (to replace Jon Putman, resigned)	First partial term	(alternate Rick Browning)
Victoria Brown, Hillsboro	First term	(alternate Chris Eaton)

### Term of office Nov. 2000 to Nov. 2002

Katie Mangel, NE Portland	First term	
Jon Putman, NW Portland	Second term – resigned early	
Bill Stewart, NE Portland	Second term – moved to Alaska	

**Scott Bricker** Selected to TPAC second term, 2004-06

Bicycle Transportation Alliance  
PO Box 9072  
Portland, OR 97207  
County of residence: Multnomah  
(503) 226-0676, ext. 14 (503) 757-8342 cell  
(503) 226-0498 fax  
[www.bta4bikes.org](http://www.bta4bikes.org)

**Occupation:** BTA Youth Programs and Education Director

**Education and experience:** Master of Urban and regional planning, transportation focus at PSU; bachelor's at State University of New York at Albany. BTA Youth Programs and Education Director; Metro Transportation Planning intern, Multnomah County transportation planning intern.

**Volunteer and committee experience:** American Planning Association, Oregon Chapter, Association of Pedestrian and Bicycle Professionals, League of American Bicyclists – effective cycling instructor. Lloyd District TMA board member, Alberta Street Coop founding member, Irvington Neighborhood Association board and transportation chair.

**Committee interest:** Incumbent on TPAC, would like second term.

I am an active member of TPAC. I have good meeting attendance and have been involved in a number of subcommittees, including the Transportation Enhancements and RTP Update committees. As an urban planning and transportation planning professional, I understand the issues TPAC faces each month. I have been a quick study and a full and active participant. I look forward to continuing my participation on TPAC and helping to shape the region's transportation programs and policies.

**Mr. Sorin Garber**                      **TPAC alternate to Johnson, 2004-06**  
2615 NE 37<sup>th</sup> Ave  
Portland, OR 97212  
County of residence: Multnomah  
(503) 227-3173 (w) (503) 757-8342 cell  
(503) 525-0478 fax  
[sorin@garberconsult.com](mailto:sorin@garberconsult.com)

**Occupation:** Sorin Garber Consulting Group, transportation planning.

**Education/Work Experience:** Masters in urban planning, Hunter College. New York City DOT, Bureau of Planning; PBQD-NYC/Boston; DEA-Portland, Cambridge Systematics-Portland; HDR-Portland.

**Volunteer/committee experience:** Served on Portland Pedestrian Program CAC; Portland Sidewalk Obstructions Committee; Women's Transportation Seminar member; ODOT Rail Passenger Advisory Committee; ITE Goods Movement Committee; RTB Inland Ports and Waterways Committee. Grant Park Neighborhood Committee participant; Walk Boston founding member. Wide variety of experience in transportation system planning, corridor planning, transit systems plans and freight mobility studies.

**Committee of interest:** TPAC

My professional interest in joining TPAC is in the integrity of the technical information and the exploration of opportunities that are being used to advance our transportation and land use investment decision-making. I have a new special interest in the economic development generated by transportation investments. I believe that my local experience in transportation planning and my deep familiarity with our rules, processes and context can help make TPAC even more effective than it currently is.

**Mark Gorman**

1023 SW Rivington Drive

Portland, OR 97201

County of residence: Multnomah

(503) 696-2368 (w)

(503) 696-1754 fax

[mark.s.gorman@intel.com](mailto:mark.s.gorman@intel.com)

**Selected RTO first term, 2004-06**

**Employment:** Intel Corporation, commute reduction manager

**Education/employment:** University of Oregon, telecommunications/journalism; PDC Public Affairs Department, Intel Corp, presently in Public Affairs and Corporate Services as Senior marketing specialist and program manager. Created Intel's National Commute Reduction Program that won the EPA's #1 ranking of Fortune 500 Companies Best Workplaces for Commuters Program.

**Committee experience:** Westside Transportation Alliance board of directors; Metro Traffic Relief Options Task Force, ODOT Transportation Options Marketing Project Steering Committee, various TriMet committees. Developed Intel's Commute Reduction Program for 12 sites in U.S.

**Interest: RTO Subcommittee**

RTO provides the TDM knowledge that is lacking on TPAC and JPACT. It brings the region's government agencies together in the decision-making process for the distribution of TDM funds, allowing for better understanding of the needs of other parts of the region and possible collaboration on projects such as the marketing collaboration.



**Steve Gutmann**

**Selected RTO first term, 2004-06**

1823 SE 33<sup>rd</sup> Ave

Portland, OR 97214

County of residence: Multnomah

(503) 572-4487 phone (w)

(503) 241-3076 fax

[Steve.gutmann@flexcar.com](mailto:Steve.gutmann@flexcar.com)

**Occupation:** Business Development & Sales, Flexcar Portland

**Education and work experience:** PSU teacher certification; University of Wisconsin-Madison graduate study in environmental studies; Dartmouth College history major, minor in economics. Flexcar business development and sales; ShoreBank Pacific assistant vice president; high school and middle school teacher with Portland Public Schools and American Overseas School of Rome. Work and travel through US, Europe and Asia and wrote Alternative Summer Job guides. Nonprofit Facilities Fund, Loan program manager, NYC; United Nations Organization, graduate fellowship.

**Volunteer experience:** Oregon Environmental Council's Business Roundtable; two-term board member of Bicycle Transportation Alliance; Portland Business Alliance Transportation Policy Committee; president of American Condominiums HOA. Spearheaded with other advocates and BTA significant funding for three bridges in the Gresham-to-Portland Springwater Corridor multi-use trail.

**Committee of interest:** TPAC

In my opinion, free parking is the primary incentive that discourages residents in the region from riding mass transit and using other transportation options. I am interested in engaging some of the region's more forward-thinking large employers to explore whether there might be a simple, non-regulatory solution to this problem. Given a full range of options, I believe that more employees of suburban office parks will choose not to drive, thereby freeing up valuable land currently devoted to parking lots, for more economically productive uses.

**Gregg S. Snyder**

**RTO alternate to Gutmann, 2004-06**

227 North Highland St

Portland, OR

County of residence: Multnomah

(503) 417-9359 (w)

no fax

[snyderworld@aol.com](mailto:snyderworld@aol.com)

**Occupation:** Transportation consultant and professional associate,  
Parsons Brinkerhoff

**Education and work experience:** BS from Washington State University; Certificate in Urban Design, University of Copenhagen, Denmark; MS in transportation planning, University of Arizona. Background primarily in transit infrastructure design and alternative modes planning, including work on six transit centers, five park-and-rides, five transit AA/DEIS projects, eight bike/trails projects and more than three dozen transit service and alternative modes planning project in seven western states.

**Civic and professional associations:** Active in Oregon Transit Association, Women's Transportation Seminar, Arizona Transit Association and Friends of Transit in Phoenix. Volunteer for more than 10 years with neighborhood groups and alternative modes advocacy organizations supporting alternative mode development, building public trust and building coalitions with government, private sector and the community.

**Committee of interest: TPAC and RTO Subcommittee**

These committee issues are vital to our community because they have the ability to positively reinforce our region's economic vitality and further regional economic development goals. The private sector has a significant stake in both TPAC and RTO committee outcomes. If appointed, I will work to build a bridge between the committee and private sector. I will pledge to build cooperative alliances; create workable transportation and alternative mode solutions; leverage existing resources; incorporate market-tested performance measures and develop a marketing approach that is creative, financially sustainable and effective.

**Jessica Roberts**

**TPAC alternate to Bricker, 2004-06**

3903 N Borthwick Ave

Portland, OR 97227

County of residence: Multnomah

(503) 226-0676 ext. 11

(503) 226-0498 fax

[Jessica@bta4bikes.org](mailto:Jessica@bta4bikes.org)

**Occupation:** Metro-area bicycle advocate, Bicycle Transportation Alliance

**Education and work experience:** BA from Lewis & Clark College; PSU Traffic & Transportation class; PSU Planning for Bicycles & Pedestrians; Membership director for Bicycle Transportation Alliance; added metro-area advocacy to job. Active in projects such as Red Electric Trail, Metro Regional Trails Group, Highway 217, Three Bridges Project.

**Professional associations and volunteer experience:** Board member of Bike/Walk PAC Oregon; volunteer with SMART; member of Association of Pedestrian and Bicycle Professionals; volunteer, transportation options, books & bikes rides.

**Community and civic organizations:** Three Bridges Design group, Metro Regional Trails working group; helped found Bike/Walk Oregon PAC.

**Committee of interest:** RTO Subcommittee

Our mission at BTA is to help more people use bicycles for transportation, recreation and exercise. More people on bikes means fewer people in cars, which is good for air quality, congestion and public health. Bicycles are only part of the answer, however. In order to create true transportation choices and achieve our goals of fewer people in single-occupancy cars, it is essential to create a robust range of accessible, affordable, easy-to-use alternatives. This includes bicycling, as well as ride-sharing, transit, walking and other commute options.

**Dan Zalkow**

1431 SW Park Ave, #508

Portland, OR 97201

County of residence: Multnomah

(503) 725-4412 work phone

(503) 725-6245 fax

[zalkowd@pdx.edu](mailto:zalkowd@pdx.edu)

**Selected to RTO first term, 2004-06**

**Occupation:** Manager of Transportation and Parking Services, PSU

**Education and work experience:** Masters in Urban and Regional Planning from PSU (specialty in land use and transportation); BA from University of Georgia. Manager of Transportation and Parking Services at PSU, previously assistant manager.

**Community and civic groups:** Metro RTO Subcommittee citizen alternate; Downtown Neighborhood Association board of directors, transportation representative and land use and planning committee chair. Portland Mall Revitalization CAC. Most active role is DNA Land Use and Planning Committee chair of monthly meetings, discussing land use review notices, hosting guest speakers and speaking for the DNA on land use, planning and transportation issues.

**Committee of interest:** RTO Subcommittee (incumbent alternate)

I enjoy promoting alternative transportation at PSU and have implemented new transit, car-sharing and bicycle programs during the last two years. But these programs have only been able to be successful due to the strength of transportation options throughout the region. These issues have connections across borders, which need a voice at the regional level to increase their funding, political support and marketing efforts.

**Leland O. Johnson**      **Selected to TPAC first term, (freight) 04-06**

835 SW 67<sup>th</sup> Place

Portland, OR 97225

County of residence: Washington

(503) 256-3621 work phone

(503) 256-2975 fax

[leej@jetdeliverysystems.com](mailto:leej@jetdeliverysystems.com)

**Occupation:** President-owner of Jet Delivery Systems

**Education and work experience:** Attended PSU with a major in accounting and a minor in economics. Previously manager of Consolidated Freightways for payroll, mileage and taxes. President of Jet Delivery Systems for 27 years.

**Professional associations and volunteer experience:** Past-president, Portland Air Cargo Association; board member of Metropolitan Business Association; committee member of Portland Airport Master Plan-2003. Portland Freight Committee; Oregon Trucking Association legislative committee; Oregon Freight Advisory Committee.

**Community and civic groups:** Active member of above groups to provide ideas from my work experience in 30 years of transportation service. Knowing the manufacturing needs of many of Oregon's companies and providing air and trucking service to customers regionally through Portland, Seattle and San Francisco.

**Committee of interest:** TPAC

I have worked on finding funds for highway projects to continue improvement of Oregon's traffic flow. Improving the excellent flow of all forms of traffic movement improve the economic opportunities and livelihood of the people and business of Oregon in worldwide competition. I have worked with many groups and appeared at committee meetings to provide insight into the needs for transportation for today and the future.

**Kathryn Harrington**                      **RTO Alternate to Gorman, 2004-06**  
4230 NW 147<sup>th</sup> Ave  
Portland, OR 97229  
County of residence: Washington  
(503) 645-5229  
no fax  
[Kathryn@sansoucie.com](mailto:Kathryn@sansoucie.com)

**Occupation:** Recently retired from Intel as marketing manager. Seeking an opportunity to apply skills in community involvement positions.

**Education and work experience:** BS in electrical and computer engineering from University of New Hampshire; software development manager and software engineer for Wang Laboratories in Lowell, Mass. Central Point Software in Beaverton; Intel Corporation product marketing and technical support manager, software development manager.

**Professional association and volunteer experience:** Long-time member of Bicycle Transportation Alliance in Portland. Member of board of directors for Memorial Student Union Building at University of New Hampshire. Volunteer assistant for several political candidates.

**Committee of interest: Both TPAC and RTO Subcommittee**

Transportation access and alternatives affect the everyday lives of the citizens of our region. While the greater Portland area is known for being pedestrian and bicycle friendly, more infrastructure needs to be put into place in order to increase participation levels in transportation means other than autos. For example, too many close calls ended my desire to bicycle commute to the Intel Jones Farm campus. I am an avid cyclist, runner and pedestrian in Washington County. I have a personal interest in seeing that the needs of my county and the region (citizens, businesses, farmers and autos) are addressed and that Metro's success in this area continues.

**Matthew Butts**                      **TPAC alternate to Castaneda, 2004-2006**  
2345 Michael Drive  
West Linn, OR 97068  
County of residence: Clackamas  
(503) 224-9560 work phone  
(503) 228-1285 fax  
[mwbutts@aol.com](mailto:mwbutts@aol.com)

**Occupation:** Director of civil and traffic engineering, Group Mackenzie

**Education and work experience:** Civil engineering degree from University of the Pacific; MBA St. Mary's College. Civil engineer with URS/Greiner, project manager with Mark Thomas Co, in California.

**Professional associations and volunteer experience:** American Public Works Association member; American Council of Engineering Companies, past member; American Society of Civil Engineers, past member. City of West Linn Stormwater Advisory Board; State Advisory Committee on Regulatory Permitting, Transportation Infrastructure Work Group.

**Committee of interest:** TPAC

Having a workable and well-thought transportation program is vital to a community in terms of economy and quality of life. I would appreciate the chance to use my technical background in transportation design and programs toward serving a set of overall community goals beyond my work toward individual projects.

**Angela Timman** **RTO alternate to Zalkow, 2004-2006**  
12788 SE Markwood Ct.  
Milwaukie, OR 97222  
County of residence: Clackamas  
(503) 418-1299 work phone  
(503) 418-12399 fax  
[timmana@ohsuedu](mailto:timmana@ohsuedu)

**Occupation:** Director, Parking and Transportation, OHSU

**Education and work experience:** Employed at OHSU since 1989, currently director of parking and transportation services.

**Professional associations and volunteer experience:** Women in Transportation (WTS), Association of Higher Ed Facilities Officers, member of California Parking Professionals, member of OHSU Wayfinding Committee, acting as key member of start-up NW Association of Parking Professionals.

**Committee of interest: RTO Subcommittee**

I am interested in both committees but feel the importance of alternative transportation is key in the Metro area, specifically at OHSU. Our mode split for alternative transportation usage is one of the highest in the city and we are very proud of the strides we have made in this area. However, there is much more to do.

**James Castaneda**  
4390 SW Douglas Way  
Lake Oswego, OR 97035

**TPAC first term, 2004-2006**



County of residence: Clackamas  
(503) 813-6228 work phone  
no fax  
[jamescastaneda@comcast.net](mailto:jamescastaneda@comcast.net)

**Occupation:** Environmental, health and safety consultant with Industrial Design and Construction, CH2M

**Education and work experience:** U of California at Los Angeles, engineering and construction management. Community College of the Air Force, Central Texas College. More than 25 years managing development and execution of health, safety and environmental programs, including regulatory compliance, risk management, worker's comp, accident/incident investigation, training, management, emergency preparedness, government regulations. U.S. Dept. of Transportation, Transit Safety Institute; Southern California Association of Governments; San Gabriel Valley Council of Governments; California League of Cities, city of San Gabriel.

**Community and civic groups:** American Red Cross volunteer and Habitat for Humanity volunteer.

**Committee of interest:** TPAC

I am a commuter in the transportation system with first-hand knowledge of TriMet and MAX trains. I have been a member of regional government committees on transportation policy with an understanding of the workings of committees and agencies. Extensive experience in public meetings; what works and does not work during the public presentations. Private industry observation on effective transit systems throughout US and foreign countries. Interest to serve my extended community and be a part of the positive direction that has been established.

Agenda Item Number 5.1

**Ordinance No. 04-1066, For the Purpose of Amending the FY 2004-05 Budget and Appropriations Schedule Transferring \$62,280 from the General Fund Contingency to the Zoo Operating Fund Materials and Services for Completion of Capital Maintenance Projects; and Declaring an Emergency.**

***First Reading***

Metro Council Meeting  
Thursday, December 2, 2004  
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE FY )  
2004-05 BUDGET AND APPROPRIATIONS )  
SCHEDULE TRANSFERRING \$62,280 FROM )  
THE GENERAL FUND CONTINGENCY TO THE )  
ZOO OPERATING FUND MATERIALS AND )  
SERVICES FOR COMPLETION )  
OF CAPITAL MAINTENANCE PROJECTS; AND )  
DECLARING AN EMERGENCY )

ORDINANCE NO. 04-1066  
Introduced by Mike Jordan, Chief Operating  
Officer, with the concurrence of the Council  
President

WHEREAS, the Metro Council has reviewed and considered the need to transfer appropriations within the FY 2004-05 Budget; and

WHEREAS, Oregon Budget Law ORS 294.450(1) provides for transfers of appropriations within a fund, including transfers from contingency, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction; and

WHEREAS, Oregon Budget Law ORS 294.450(3) provides for transfers of appropriations and a like amount of budget resources from the general fund to another fund, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction; and

WHEREAS, the need for the transfer of appropriation has been justified; and

WHEREAS, adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2004-05 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$62,280 from the Metro's General Fund Contingency to Operating Expenses in the Zoo Operating Fund.
2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

Exhibit A  
Ordinance No. 04-1066

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund - General Expenses</b>							
<b>Total Personal Services</b>		<b>23.00</b>	<b>\$1,796,906</b>	<b>0.00</b>	<b>\$0</b>	<b>23.00</b>	<b>\$1,796,906</b>
<b>Total Materials &amp; Services</b>			<b>\$569,286</b>		<b>\$0</b>		<b>\$569,286</b>
<b><u>Interfund Transfers</u></b>							
<i>INDTEX</i>	<i>Interfund Reimbursements</i>						
5800	Transfer for Indirect Costs						
	* to Building Management Fund		337,777		0		337,777
	* to Support Services Fund		680,958		0		680,958
	* to Risk Mgmt Fund-Liability		5,660		0		5,660
	* to Risk Mgmt Fund-Worker Comp		7,550		0		7,550
<i>EQTCHG</i>	<i>Fund Equity Transfers</i>						
5810	Transfer of Resources						
	* to Planning Fund (general allocation)		4,066,611		0		4,066,611
	* to Planning Fund (project allocation)		75,234		0		75,234
	* to Reg. Parks Fund (general allocation)		476,847		0		476,847
	* to Reg. Parks Fund (earned on SW revenues)		730,198		0		730,198
	* to Reg. Parks Fund (\$1 per ton on SW)		1,235,149		0		1,235,149
	* to Reg. Parks Fund (\$1.50 per ton on SW)		1,512,917		0		1,512,917
	* to Reg. Parks Fund (landbanking)		231,008		0		231,008
	* to MERC Operating Fund (VDI Compliance)		182,129		0		182,129
	* to Zoo Operating Fund		0		62,280		62,280
<b>Total Interfund Transfers</b>			<b>\$9,542,038</b>		<b>\$62,280</b>		<b>\$9,604,318</b>
<b><u>Contingency and Ending Balance</u></b>							
<i>CONT</i>	<i>Contingency</i>						
5999	Contingency						
	* General Contingency		563,000		(62,280)		500,720
	* Prior Year PERS Reserve		58,550		0		58,550
	* Current Year PERS Reserve		86,758		0		86,758
	* Tourism Opportunity & Competitiveness Fund		504,307		0		504,307
<i>UNAPP</i>	<i>Unappropriated Fund Balance</i>						
5990	Unappropriated Fund Balance						
	* Ending balance		902,361		0		902,361
	* Prior Year PERS Reserve		0		0		0
	* Recovery Rate stabilization reserve		412,042		0		412,042
<b>Total Contingency and Ending Balance</b>			<b>\$2,527,018</b>		<b>(\$62,280)</b>		<b>\$2,464,738</b>
<b>TOTAL REQUIREMENTS</b>		<b>23.00</b>	<b>\$14,435,248</b>	<b>0.00</b>	<b>\$0</b>	<b>23.00</b>	<b>\$14,435,248</b>

*The Amended Column does not reflect the impact of Ordinance No. 04-1064, transferring \$504,307 out of the Tourism Opportunity & Competitiveness Account.*

**Exhibit A**  
**Ordinance No. 04-1066**

<b>ACCT</b>	<b>DESCRIPTION</b>	<b>Current Budget</b>	<b>Revision</b>	<b>Amended Budget</b>
<b>Zoo Operating Fund - Resources</b>				
<i>Resources</i>				
<i>BEGBAL</i>	<i>Beginning Fund Balance</i>			
	* Prior year ending balance	5,455,062	0	5,455,062
	* Prior year PERS Reserve	550,000	0	550,000
<i>RPTAX</i>	<i>Real Property Taxes</i>			
4010	Real Property Taxes-Current Yr	8,673,597	0	8,673,597
4015	Real Property Taxes-Prior Yrs	260,307	0	260,307
<i>GRANTS</i>	<i>Grants</i>			
4100	Federal Grants - Direct	77,000	0	77,000
<i>CHGSVC</i>	<i>Charges for Service</i>			
4500	Admission Fees	5,679,420	0	5,679,420
4510	Rentals	265,023	0	265,023
4550	Food Service Revenue	4,143,070	0	4,143,070
4560	Retail Sales	2,108,419	0	2,108,419
4630	Tuition and Lectures	838,074	0	838,074
4635	Exhibit Shows	273,121	0	273,121
4640	Railroad Rides	481,860	0	481,860
4645	Reimbursed Labor	186,047	0	186,047
4650	Miscellaneous Charges for Svc	500	0	500
<i>INTRST</i>	<i>Interest Earnings</i>			
4700	Interest on Investments	90,076	0	90,076
<i>DONAT</i>	<i>Contributions from Private Sources</i>			
4750	Donations and Bequests	912,500	0	912,500
<i>MISCRV</i>	<i>Miscellaneous Revenue</i>			
4170	Fines and Forfeits	20,000	0	20,000
4890	Miscellaneous Revenue	27,907	0	27,907
<i>INFREQ</i>	<i>Special Items-Infrequent Items</i>			
4810	Sale of Fixed Assets	2,000	0	2,000
<i>EQTREV</i>	<i>Fund Equity Transfers</i>			
4970	Transfer of Resources			
	* from General Fund	0	62,280	62,280
<b>TOTAL RESOURCES</b>		<b>\$30,043,983</b>	<b>\$62,280</b>	<b>\$30,106,263</b>

**Exhibit A  
Ordinance No. 04-1066**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Zoo Operating Fund - Expenditures</b>							
<b>Total Personal Services</b>		<b>150.85</b>	<b>\$12,313,752</b>	<b>0.00</b>	<b>\$0</b>	<b>150.85</b>	<b>\$12,313,752</b>
<i>Materials &amp; Services</i>							
<i>GOODS Goods</i>							
5201	Office Supplies		77,385		0		77,385
5205	Operating Supplies		1,177,688		0		1,177,688
5210	Subscriptions and Dues		28,621		0		28,621
5214	Fuels and Lubricants		40,000		0		40,000
5215	Maintenance & Repairs Supplies		277,335		0		277,335
5220	Food		980,481		0		980,481
<i>SVCS Services</i>							
5240	Contracted Professional Svcs		743,140		0		743,140
5245	Marketing		163,500		0		163,500
5251	Utility Services		2,016,245		0		2,016,245
5255	Cleaning Services		37,630		0		37,630
5260	Maintenance & Repair Services		103,845		0		103,845
5265	Rentals		141,320		0		141,320
5280	Other Purchased Services		509,378		0		509,378
5290	Operations Contracts		1,575,402		0		1,575,402
<i>CAPMNT Capital Maintenance</i>							
5262	Capital Maintenance - Non-CIP		318,760		62,280		381,040
<i>IGEXP Intergov't Expenditures</i>							
5300	Payments to Other Agencies		18,385		0		18,385
<i>OTHEXP Other Expenditures</i>							
5450	Travel		44,690		0		44,690
5455	Staff Development		12,570		0		12,570
5490	Miscellaneous Expenditures		75,100		0		75,100
<b>Total Materials &amp; Services</b>			<b>\$8,341,475</b>		<b>\$62,280</b>		<b>\$8,403,755</b>
<b>Total Capital Outlay</b>			<b>\$85,700</b>		<b>\$0</b>		<b>\$85,700</b>
<b>Total Interfund Transfers</b>			<b>\$2,790,366</b>		<b>\$0</b>		<b>\$2,790,366</b>
<b>Total Contingency and Ending Balance</b>			<b>\$6,512,690</b>		<b>\$0</b>		<b>\$6,512,690</b>
<b>TOTAL REQUIREMENTS</b>		<b>150.85</b>	<b>\$30,043,983</b>	<b>0.00</b>	<b>\$62,280</b>	<b>150.85</b>	<b>\$30,106,263</b>

**Exhibit B**  
**Ordinance No. 04-1066**  
**FY 2004-05 SCHEDULE OF APPROPRIATIONS**

	<u>Current Appropriation</u>	<u>Revision</u>	<u>Amended Appropriation</u>
<b>GENERAL FUND</b>			
Council Office/Public Affairs			
Operating Expenses (PS & M&S)	\$2,101,192	\$0	\$2,101,192
<u>Subtotal</u>	<u>2,101,192</u>	<u>0</u>	<u>2,101,192</u>
Special Appropriations			
Operating Expenses (PS & M&S)	265,000	0	265,000
<u>Subtotal</u>	<u>265,000</u>	<u>0</u>	<u>265,000</u>
General Expenses			
Interfund Transfers	9,542,038	62,280	9,604,318
Contingency	1,212,615	(62,280)	1,150,335
<u>Subtotal</u>	<u>10,754,653</u>	<u>0</u>	<u>10,754,653</u>
Unappropriated Balance	1,314,403	0	1,314,403
<b>Total Fund Requirements</b>	<b>\$14,435,248</b>	<b>\$0</b>	<b>\$14,435,248</b>
<b>ZOO OPERATING FUND</b>			
Operating Expenses (PS & M&S)	\$20,655,227	\$62,280	\$20,717,507
Capital Outlay	85,700	0	85,700
Interfund Transfers	2,790,366	0	2,790,366
Contingency	2,030,595	0	2,030,595
Unappropriated Balance	4,482,095	0	4,482,095
<b>Total Fund Requirements</b>	<b>\$30,043,983</b>	<b>\$62,280</b>	<b>\$30,106,263</b>

*The Amended Column does not reflect the impact of Ordinance No. 04-1064, transferring \$504,307 out of the Tourism Opportunity & Competitiveness Account in the General Fund.*

*The Amended Column does not reflect the impact of Ordinance No. 04-1068, recognizing \$200,000 in grant revenue in the Zoo Operating Fund, and increasing capital outlay accordingly.*

*All Other Appropriations Remain as Previously Adopted*

## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 04-1066, FOR THE PURPOSE OF AMENDING THE FY 2004-05 BUDGET AND APPROPRIATIONS SCHEDULE TRANSFERRING \$62,280 FROM THE GENERAL FUND CONTINGENCY TO THE ZOO OPERATING FUND MATERIALS AND SERVICES FOR COMPLETION OF CAPITAL MAINTENANCE PROJECTS; AND DECLARING AN EMERGENCY

Date: December 2, 2004

Prepared by: Sarah Chisholm/Brad Stevens

### BACKGROUND

The Oregon Zoo received accreditation from the Aquarium and Zoological Association (AZA) in September 2004. Through the process of accreditation, the Oregon Zoo was required to put together a plan for improvements in some of the older exhibits. Additionally, the United States Department of Agriculture (USDA) inspectors had recommendations for maintenance work after visiting this summer. The required improvements have been identified and costs have been calculated at \$65,950. The breakdown is as follows:

Resurface cages and floor painting in the primate building (AZA)	\$46,150
Paint sun bear and polar bear doors and railings in holding area (AZA)	9,000
Paint five tiger cages (AZA)	6,000
Floor work in the tiger holding area (USDA)	4,800
<b>Total Costs</b>	<b>\$65,950</b>

In June 2004 the Council approved an amendment to the FY 2004-05 budget providing the opportunity for Council consideration of funding for a Zoo capital maintenance or renewal & replacement project to be paid for by a transfer from the General Fund, using excise tax proceeds generated from the Winged Wonders exhibit and the Simulator attraction. The amendment did not guarantee that such a transfer would be authorized. However, in recognition of the Zoo's inability to fund its capital maintenance needs in the FY 2004-05 budget, this amendment provided an opportunity for the Zoo to make some headway on its capital backlog.

The following budget note was included in the FY 2004-05 Adopted Budget:

*Budget Note #5: Transfer from General Fund*

*The amount of excise tax generated through the end of FY 2003-04 from the proceeds of the Simulator and Winged Wonders attractions at the Oregon Zoo will be considered by the Council for transfer to the Zoo Operating Fund upon presentation by Zoo staff of a capital maintenance or renewal & replacement project in FY 2004-05. The amount is estimated to be \$63,000, but the actual amount will be determined by actual excise tax proceeds calculated at FY 2003-04 year end (second close).*

The actual amount of excise tax proceeds collected in FY 2003-04 were \$62,280.



## **ANALYSIS/INFORMATION**

- 1. Known Opposition** None known
- 2. Legal Antecedents** ORS 294.450(1) provides for transfers of appropriations within a fund, including transfers from contingency, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction.

ORS 294.450(3) provides for transfers of appropriations and a like amount of budget resources from the general fund to another fund, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction.

- 3. Anticipated Effects** This action would allow the Oregon Zoo to complete three capital maintenance projects recommended by the Aquarium and Zoological Association as part of the accreditation process and one project recommended by United States Department of Agriculture.
- 4. Budget Impacts** This action would reduce contingency in the General Fund by \$62,280, with a corresponding increase to interfund transfers out. In the Zoo Operating Fund, interfund transfers in and materials & services expenditures would increase by \$62,280. Detailed information on the budget impacts of this amendment can be found in Exhibits A and B of the ordinance.

## **RECOMMENDED ACTION**

The Chief Operating Officer, in concurrence with the Council President, recommends adoption of this Ordinance.

Agenda Item Number 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.**

*First Reading*

Metro Council Meeting  
Thursday, December 2, 2004  
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE FY	)	ORDINANCE NO. 04-1067
2004-05 BUDGET AND APPROPRIATIONS	)	
SCHEDULE FOR THE PURPOSE OF	)	Introduced by Mike Jordan, Chief Operating
TRANSFERRING \$97,902 FROM	)	Officer, with the concurrence of the Council
CONTINGENCY TO PERSONAL SERVICES IN	)	President
THE PLANNING FUND TO ADD 1.00 FTE	)	
REGIONAL PLANNING DIRECTOR	)	
(PROGRAM DIRECTOR II); AND DECLARING	)	
AN EMERGENCY	)	

WHEREAS, the Metro Council has reviewed and considered the need to transfer appropriations within the FY 2004-05 Budget; and

WHEREAS, the need for the transfer of appropriation has been justified; and

WHEREAS, adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2004-05 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$97,902 from contingency to personal services in the Planning Fund to add 1.0 FTE Regional Planning Director (Program Director II).
2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

**Exhibit A  
Ordinance No. 04-1067**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Planning Fund</b>							
<i><b>Personal Services</b></i>							
<i>SALWG Salaries &amp; Wages</i>							
5010	Reg Employees-Full Time-Exempt						
	Director II	1.00	113,234	-	0	1.00	113,234
	Manager I	3.00	220,868	-	0	3.00	220,868
	Manager II	8.00	667,213	-	0	8.00	667,213
	Program Director II	1.00	108,880	1.00	73,143	2.00	182,023
	Program Supervisor II	6.00	460,771	-	0	6.00	460,771
	Administrative Assistant	2.00	72,434	-	0	2.00	72,434
	Assoc. Management Analyst	1.00	56,197	-	0	1.00	56,197
	Assoc. Regional Planner	7.00	386,112	-	0	7.00	386,112
	Assoc. Trans. Planner	5.00	276,099	-	0	5.00	276,099
	Asst. Regional Planner	4.00	187,671	-	0	4.00	187,671
	Asst. Trans. Planner	2.00	90,275	-	0	2.00	90,275
	Asst. Management Analyst	1.00	46,255	-	0	1.00	46,255
	Principal Regional Planner	5.00	365,926	-	0	5.00	365,926
	Principal Transportation Planner	3.00	230,928	-	0	3.00	230,928
	Program Analyst IV	1.00	65,056	-	0	1.00	65,056
	Program Analyst V	2.00	144,456	-	0	2.00	144,456
	Senior Management Analyst	1.00	61,958	-	0	1.00	61,958
	Senior Regional Planner	3.00	195,620	-	0	3.00	195,620
	Senior Trans. Planner	11.00	717,349	-	0	11.00	717,349
	Senior Public Affairs Specialist	2.00	110,498	-	0	2.00	110,498
5015	Reg Empl-Full Time-Non-Exempt						
	Administrative Secretary	3.00	107,281	-	0	3.00	107,281
	Program Assistant 2	1.00	39,964	-	0	1.00	39,964
5020	Reg Employees-Part Time-Exempt						
	Associate Regional Planner	1.50	84,423	-	0	1.50	84,423
	Assistant Management Analyst	0.75	33,014	-	0	0.75	33,014
	Asst. Regional Planner	0.90	41,630	-	0	0.90	41,630
5080	Overtime		5,000		0		5,000
	Salary Adjustments						
	Adjustment Pool (Non-Rep/AFSCME)		241,204		0		241,204
<i>FRINGE Fringe Benefits</i>							
5100	Fringe Benefits						
	Base Fringe		1,736,613		24,759		1,761,372
<b>Total Personal Services</b>		<b>76.15</b>	<b>\$6,866,929</b>	<b>1.00</b>	<b>\$97,902</b>	<b>77.15</b>	<b>\$6,964,831</b>
<b>Total Materials &amp; Services</b>			<b>\$8,795,515</b>		<b>\$0</b>		<b>\$8,795,515</b>

Exhibit A  
Ordinance No. 04-1067

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Planning Fund</b>							
	<b>Total Capital Outlay</b>		<b>\$47,000</b>		<b>\$0</b>		<b>\$47,000</b>
	<b>Total Interfund Transfers</b>		<b>\$2,189,991</b>		<b>\$0</b>		<b>\$2,189,991</b>
<i><b>Contingency and Ending Balance</b></i>							
<i>CONT Contingency</i>							
	5999 Contingency						
	* General contingency		474,577		(97,902)		376,675
	* Prior Year PERS Reserve		150,000		0		150,000
	* Current Year PERS Reserve		162,263		0		162,263
<i>UNAPP Unappropriated Fund Balance</i>							
	5990 Unappropriated Fund Balance						
	* Computer Replacement Reserve		90,000		0		90,000
	<b>Total Contingency and Ending Balance</b>		<b>\$876,840</b>		<b>(\$97,902)</b>		<b>\$778,938</b>
	<b>TOTAL REQUIREMENTS</b>	<b>76.15</b>	<b>\$18,776,275</b>	<b>1.00</b>	<b>\$0</b>	<b>77.15</b>	<b>\$18,776,275</b>

**Exhibit B**  
**Ordinance No. 04-1067**  
**FY 2004-05 SCHEDULE OF APPROPRIATIONS**

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
<b>PLANNING FUND</b>			
Operating Expenses (PS & M&S)	\$15,662,444	\$97,902	\$15,760,346
Capital Outlay	47,000	0	47,000
Interfund Transfers	2,189,991	0	2,189,991
Contingency	786,840	(97,902)	688,938
Unappropriated Balance	90,000	0	90,000
<b>Total Fund Requirements</b>	<b>\$18,776,275</b>	<b>\$0</b>	<b>\$18,776,275</b>

*All Other Appropriations Remain as Previously Adopted*

## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 04-1067, FOR THE PURPOSE OF TRANSFERRING \$97,902 FROM CONTINGENCY TO PERSONAL SERVICES IN THE PLANNING FUND TO ADD 1.00 FTE REGIONAL PLANNING DIRECTOR (PROGRAM DIRECTOR II); AND DECLARING AN EMERGENCY

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Date: November 4, 2004

Prepared by: Andy Cotugno

### BACKGROUND

This is a critical leadership position that assists the Planning Director by ensuring progress on and completion of the Division's work programs. Inclusion of this key leadership position will ensure work programs are consistent with the Council goals and objectives included in Council's Strategic Planning Process and reflected in the annually adopted budget. This position ensures a high level interface with the Metro Council, Joint Policy Advisory Committee on Transportation and will have contact with elected officials at the federal, state and local level, and with the Metro Policy Advisory Committee, which are comprised of local elected officials. Planning's previous Regional Director was transferred and appointed as Director of Solid Waste and Recycling Department early in 2003. This request is for the addition of 1.00 FTE and the funding of a Program Director II, reporting to the Planning Director.

### ANALYSIS/INFORMATION

1. **Known Opposition** None Known
2. **Legal Antecedents** ORS 294.450 provides for transfers of appropriations within a fund, including transfers from contingency, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction
3. **Anticipated Effects** This is a critical leadership position in the Planning Department. Re-filling this position will add 1.00 FTE, ensure more divisional effectiveness, create more efficiency and free up the Director's schedule.
4. **Budget Impacts** This action would reinstate 1.00 FTE Program Director II in the Regional Planning Division of the Planning Department. In addition, this action would transfer \$97,902 from the Planning Department's contingency for the salary and fringe benefits for the position for seven months, through the end of the current fiscal year. This is a permanent position, and would add \$175,379 in salary and fringe to the Planning Department budget in fiscal year 2005-06.

### RECOMMENDED ACTION

The Chief Operating Officer, in concurrence with the Council President, recommends adoption of this Ordinance.



METRO

PEOPLE PLACES  
OPEN SPACES

**Title:** **Regional Planning Director (Program Director I or II\*\*)**  
**Planning Department**

**Annual Salary (PD I):** \*Min: \$89,000; Mid: \$106,650; Max: \$124,300, annually, FT, exempt  
(Program Director I)

**Annual Salary (PD II):** \*Min: \$97,600; Mid: \$119,450; Max: \$141,290, annually, FT, exempt  
(Program Director II)

**Internal Deadline:** \_\_\_\_\_, 5:00 p.m.

**General Deadline:** \_\_\_\_\_, 5:00 p.m.

This position is not represented and is exempt.

Recruitment Number: Planning-1720-Nov04

**\*Note:** This position is not represented and is exempt. For non-represented classifications, Metro encourages and rewards excellent performance with increases in base salary to the mid point of the salary range at this time, and an annual bonus of up to 3 percent, at this time, for employees whose salary is at the midpoint, but below the maximum. Therefore, the incumbent in this position at this time can earn up to \$106,650 in base salary for Program Director I, and \$119,450 in base salary for Program Director II.

**Summary:** Provides overall direction and supervision to the Long Range Planning and Policy Division of the Planning Department. The division is composed of sections that are assigned key agency tasks of: Regional Transportation Planning (includes the federally designated Metropolitan Planning Organization, maintains the Regional Transportation Plan and the Metropolitan Transportation Improvement Program); planning and administrative oversight of the region's Urban Growth Boundary and the 2040 Growth Concept; administration and update to the Regional Framework Plan and planning for the protection and enhancement of natural resources. Ability to inspire and motivate assigned staff in these sections is essential.

This position is a key leadership position for the department. It is expected that the individual will work closely with the Metro Council and elected officials at the federal, state and local level. In addition, it is expected that there will be close coordination and cooperation with private sector business and environmental advocacy groups. Ability to work with elected and citizen policy groups to implement Metro's program is essential.

This position ensures progress on and completion of the Division's work program consistent with the objectives and measures included in the adopted budget. Oversees a team of managers, a supervisor, and project managers and team leaders to develop and maintain budgets, schedules, timelines and work quality. Interfaces closely with Joint Policy Advisory Committee on Transportation (JPACT) and Metro Policy Advisory Committee (MPAC), which are comprised of local elected officials. This position reports directly to the Planning Director, and works closely with the Metro Chief Operating Officer and the Metro Council. This position is responsible for 23 full time equivalents and an annual budget of approximately \$5 million.

The key project this position will be responsible for is the re-evaluation of Metro's 2040 Growth Concept. Adopted in 1995, the 2040 Growth Concept has provided the vision for growth in the region and has galvanized numerous public and private organizations to support a transportation and growth strategy that is unique in the U.S. A decade later, Metro is interested in evaluating the successes and failures in order to renew and refine this essential policy framework. This position will be expected to guide Metro staff,



provide policy support to the Metro Council and effectively engage business and community interests through this important process.

**Essential Job Duties:**

An employee in this position must be able to perform all of the essential job duties listed below with or without reasonable accommodation; however, this list is not intended to include all of the specific tasks which an employee in this position may be expected to perform.

- Plans, organizes and directs Long Range Planning and Policy Division program area priorities encompassing transportation, land use and natural resources planning. Establishes, implements and monitors policies and procedures for the effective, efficient operation of assigned areas.
- Provides leadership in the development and implementation of policies and programs for Metro's transportation and growth management planning programs.
- Consults with elected officials and senior management on issues; establishes strategic direction, and guides processes for critical functions/programs for a department.
- Develops partnering relationships with external entities in support of Metro programs; meets with high level, internal & external, public & private officials to represent programs.
- Chairs or co-chairs regional technical and policy committees related to transportation and growth management planning. Represents Metro in various outreach activities, including participation in committees organized by state and local agencies, business and neighborhood organization meetings, speaking engagements, and conferences and training events.
- Provides full supervision over supervisory, professional and technical positions with primary responsibility for hiring, promoting, transferring, assigning, evaluating performance, initiating salary action, handling grievances, disciplining, and discharging employees.
- Assists in short- and long-range planning of the department; manages special projects or studies to meet the overall direction and objectives of the department.
- Develops and implements the budget for assigned areas of responsibility; oversees controls to ensure expenditures are in legal compliance and within limits authorized through the budget.
- Ensures compliance with relevant federal and state transportation, land use and air quality statutes, rules and regulations.
- Evaluates internal departmental systems to ensure maximum efficiency and effectiveness: develops and establishes department policies and code revisions.
- Responds to various department's operational problems and determines appropriate action or resolutions.
- Prepares documents and reports, interprets department rules and directives, reviews all contracts and resolves contract disputes; ensures compliance with Metro Code and relevant laws.
- Performs other related duties, as assigned.

**Minimum Requirements for Program Director I:** Bachelor's degree in planning or a related field, and seven years of specialized experience or operational management in area of responsibility; or any combination of education and experience which provides the applicant with the knowledge, skills and abilities required to perform the job. Experience in the private sector is a plus. Certification from the American Institute of Certified Planners is a plus. May require the possession of or ability to obtain a valid driver's license issued in the incumbent's state of residency, for travel to meetings.

**Minimum Requirements for Program Director II:** Bachelor's degree in planning or a related field, and eight to ten years of specialized experience or operational management in area of responsibility; or any combination of education and experience which provides the applicant with the knowledge, skills and abilities required to perform the job. Experience in the private sector is a plus. Certification from the American Institute of Certified Planners is a plus. May require the possession of or ability to obtain a valid driver's license issued in the incumbent's state of residency, for travel to meetings.

**Required Knowledge, Skills and Abilities:**

- Executive level knowledge of the principles and practices, legal requirements, regulations, and laws applicable to area of assigned responsibility.
- Knowledge and understanding of market forces affecting land use and transportation decisions.
- Thorough knowledge of fiscal management, including budget preparation and expenditure control.
- Knowledge of management theory and the principles and practices of supervision.
- Knowledge of and experience with a balanced mix of regulatory programs and economic incentives to implement desired land use and transportation outcomes.
- Strong leadership skills with the ability to build consensus among diverse groups.
- Skill and ability in using computers, and major business and specialized software programs.
- Ability to communicate successfully with elected officials, the media, the public, and various interest groups regarding sensitive and/or complex issues.
- Ability to work with elected and citizen policy groups to implement Metro's program is essential.
- Ability to understand and articulate the "Big Picture" and oversee and engage in the details.
- Ability to inspire and motivate assigned staff in these sections is essential.
- Ability to analyze and evaluate operations and develop and implement corrective action.
- Demonstrated ability to plan, organize and oversee assigned work programs, monitor work schedules, and evaluate the work of others.
- Ability to develop departmental goals and objectives and perform strategic and operational planning activities.
- Ability to establish and maintain effective working relationships with managers and non-managers, elected officials, other agencies, and the general public.
- Demonstrated ability to facilitate large and small groups dealing with a wide variety of issues.

**Working Conditions:** Duties are primarily performed in an office environment while sitting at a desk or computer terminal. Employees in this series may encounter the hazardous chemicals, equipment and situations normally found in such an environment. Travel, extensive overtime and evening meetings may be required. Physical requirements include continuous sitting and hearing; frequent talking, walking, fingering, repetitive motions of the hand and wrist and handling; and lifting, pushing, carrying and/or pulling of up to 25 pounds. Mental activities required by jobs in this series include continuous use of discretion, decision-making and interpersonal skills. Depending on the area of responsibility, advanced math and programming may be required. Customer Service, negotiations, mentoring, training and supervision, presentations and teaching are frequently performed. Reading, writing, understanding and speaking English is required.

**Benefits:** Metro participates in the Public Employees Retirement System (PERS), contributing both the employer and employee portion; eligibility generally begins after working 600 or more hours in a 12-month period. Metro provides generous health care benefits that vary depending on the plan the employee chooses, bargaining unit affiliation, and employment status.

**Immigration law notice:** Only US citizens and aliens authorized to work in the United States will be hired. All new employees will be required to complete and sign an employment eligibility form and present documentation verifying identity and employment eligibility.

**Equal employment opportunity:** All qualified persons will be considered for employment without regard to race, color, religion, sex, national origin, age, marital status, veteran status, political affiliation, disability, or sexual orientation. Assistance will be gladly provided upon request, for any applicant with sensory or non-sensory disabilities.

**Application Procedure:** This position opens on \_\_\_\_\_. To apply, submit a resume with a cover letter describing why your background and experience make you the ideal candidate, in addition to completing our AA/EEO form, to: Metro Human Resources, 600 NE Grand Avenue, Portland, OR 97232; or fax to (503) 797-1798; or email [jobs@metro.dst.or.us](mailto:jobs@metro.dst.or.us).

Your resume and cover letter must be received at the Human Resource Department, 600 NE Grand Avenue, Portland, OR 97232, by 5:00 p.m., on \_\_\_\_\_ (for internal candidates), and \_\_\_\_\_ (for general candidates).

**\*\* This position will be filled at either a Program Director I or II,  
depending upon qualifications.**

***An Equal Opportunity/Affirmative Action Employer***

Agenda Item Number 5.3

**Ordinance No. 04-1068, For the Purpose of Amending the FY 2004-05 Budget and Appropriations Schedule, Recognizing \$200,000 in Grant Funds and Increasing Capital Outlay in the Zoo Operating Fund, Amending the FY 2004-05 through FY 2008-09 Capital Improvement Plan for Completion of Storm Water Handling Projects; and Declaring an Emergency.**

***First Reading***

Metro Council Meeting  
Thursday, December 2, 2004  
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE FY	)	ORDINANCE NO. 04-1068
2004-05 BUDGET AND APPROPRIATIONS	)	
SCHEDULE, RECOGNIZING \$200,000 IN	)	Introduced by Mike Jordan, Chief Operating
GRANT FUNDS AND INCREASING CAPITAL	)	Officer, with the concurrence of the Council
OUTLAY IN THE ZOO OPERATING FUND,	)	President
AMENDING THE FY 2004-05 THROUGH FY	)	
2008-09 CAPITAL IMPROVEMENT PLAN FOR	)	
COMPLETION OF STORM WATER HANDLING	)	
PROJECTS; AND DECLARING AN	)	
EMERGENCY	)	

WHEREAS, the Metro Council has reviewed and considered the need to increase appropriations within the FY 2004-05 Budget; and

WHEREAS, Oregon Budget Law ORS 294.326(3) allows for the expenditure in the year of receipt of grants, gifts, bequests, and other devices received by a municipal corporation in trust for a specific purpose; and

WHEREAS, the need for the increase of appropriation has been justified; and

WHEREAS, adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2004-05 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of recognizing \$200,000 in grant funds for specific projects and increasing capital outlay in the Zoo Operating Fund.
2. That the FY 2004-05 through FY 2008-09 Capital Improvement Plan is hereby amended to include the projects shown in Exhibit C to this Ordinance.
3. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

Exhibit A  
Ordinance No. 04-1068

ACCT	DESCRIPTION	<u>Current Budget</u>	<u>Revision</u>	<u>Amended Budget</u>
<b>Zoo Operating Fund - Resources</b>				
<i><u>Resources</u></i>				
<i>BEGBAL</i>	<i>Beginning Fund Balance</i>			
	* Prior year ending balance	5,455,062	0	5,455,062
	* Prior year PERS Reserve	550,000	0	550,000
<i>RPTAX</i>	<i>Real Property Taxes</i>			
4010	Real Property Taxes-Current Yr	8,673,597	0	8,673,597
4015	Real Property Taxes-Prior Yrs	260,307	0	260,307
<i>GRANTS</i>	<i>Grants</i>			
4100	Federal Grants - Direct	77,000	0	77,000
4120	Local Grants - Direct	0	200,000	200,000
<i>CHGSVC</i>	<i>Charges for Service</i>			
4500	Admission Fees	5,679,420	0	5,679,420
4510	Rentals	265,023	0	265,023
4550	Food Service Revenue	4,143,070	0	4,143,070
4560	Retail Sales	2,108,419	0	2,108,419
4630	Tuition and Lectures	838,074	0	838,074
4635	Exhibit Shows	273,121	0	273,121
4640	Railroad Rides	481,860	0	481,860
4645	Reimbursed Labor	186,047	0	186,047
4650	Miscellaneous Charges for Svc	500	0	500
<i>INTRST</i>	<i>Interest Earnings</i>			
4700	Interest on Investments	90,076	0	90,076
<i>DONAT</i>	<i>Contributions from Private Sources</i>			
4750	Donations and Bequests	912,500	0	912,500
<i>MISCRV</i>	<i>Miscellaneous Revenue</i>			
4170	Fines and Forfeits	20,000	0	20,000
4890	Miscellaneous Revenue	27,907	0	27,907
<i>INFREQ</i>	<i>Special Items-Infrequent Items</i>			
4810	Sale of Fixed Assets	2,000	0	2,000
<b>TOTAL RESOURCES</b>		<b>\$30,043,983</b>	<b>\$200,000</b>	<b>\$30,243,983</b>

*The Amended Column does not reflect the impact of Ordinance No. 04-1066, transferring \$62,280 from the General Fund to the Zoo Operating Fund, and increasing materials & services accordingly.*

**Exhibit A**  
**Ordinance No. 04-1068**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Zoo Operating Fund - Expenditures</b>							
<b>Total Personal Services</b>		150.85	\$12,313,752	0.00	\$0	150.85	\$12,313,752
<b>Total Materials &amp; Services</b>			\$8,341,475		\$0		\$8,341,475
<i>Capital Outlay</i>							
<i>CAPNON Capital Outlay (Non-CIP Projects)</i>							
5710	Improve-Oth thn Bldg (non-CIP)		45,700		0		45,700
5720	Buildings & Related (non-CIP)		40,000		0		40,000
<i>CAPCIP Capital Outlay (CIP Projects)</i>							
5715	Improve-Oth thn Bldg (CIP)		0		200,000		200,000
<b>Total Capital Outlay</b>			\$85,700		\$200,000		\$285,700
<b>Total Interfund Transfers</b>			\$2,790,366		\$0		\$2,790,366
<b>Total Contingency and Ending Balance</b>			\$6,512,690		\$0		\$6,512,690
<b>TOTAL REQUIREMENTS</b>		150.85	\$30,043,983	0.00	\$200,000	150.85	\$30,243,983

*The Amended Column does not reflect the impact of Ordinance No. 04-1066, transferring \$62,280 from the General Fund to the Zoo Operating Fund, and increasing materials & services accordingly.*



**Exhibit B**  
**Ordinance No. 04-1068**  
**FY 2004-05 SCHEDULE OF APPROPRIATIONS**

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
<b>ZOO OPERATING FUND</b>			
Operating Expenses (PS & M&S)	\$20,655,227	\$0	\$20,655,227
Capital Outlay	85,700	200,000	285,700
Interfund Transfers	2,790,366	0	2,790,366
Contingency	2,030,595	0	2,030,595
Unappropriated Balance	4,482,095	0	4,482,095
<b>Total Fund Requirements</b>	<b>\$30,043,983</b>	<b>\$200,000</b>	<b>\$30,243,983</b>

*The Amended Column does not reflect the impact of Ordinance No. 04-1066, transferring \$62,280 from the General Fund to the Zoo Operating Fund, and increasing materials & services accordingly.*

*All Other Appropriations Remain as Previously Adopted*

## Capital Project Request - Project Detail

**Project Title:** Stormwater Handling System **Fund:** Zoo Operating Fund  
**Project Status:** Incomplete **Funding Status:** Funded **FY First Authorized:** 2004-05 **Department:** Oregon Zoo  
**Project Number:** TEMP204 **Active:**  **Dept. Priority:** 2 **Facility:**  **Division:** Construction Maintenance  
**Source Of Estimate:** Preliminary **Source:** Greenworks **Start Date:** 12/04 **Date:** 11/16/2004  
**Type of Project:** New **Request Type:** Initial **Completion Date:** 6/05 **Prepared By:** Brad Stevens

Project Estimates	Actual	Budget/Est	Prior						Total
Capital Cost:	Expend	2003-2004	Years	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	
Construction	\$0	\$0	\$0	\$200,000	\$0	\$0	\$0	\$0	\$200,000
<b>Total:</b>	\$0	\$0	\$0	\$200,000	\$0	\$0	\$0	\$0	\$200,000
<b>Funding Source:</b>									
Grants	\$0	\$0	\$0	\$200,000	\$0	\$0	\$0	\$0	\$200,000
<b>Total:</b>	\$0	\$0	\$0	\$200,000	\$0	\$0	\$0	\$0	\$200,000

### Annual Operating Budget Impact:

**Project Description / Justification:** **Estimated Useful Life (yrs)** 15 **First Full Fiscal Year of Operation:** 2005-06

A study of potential projects was completed by GreenWorks, a contractor for BES. Based on that study, five projects were identified and agreed to be priorities by BES and the Zoo. The recommended projects are all in public areas where educational messages regarding storm water can be easily communicated via simple interpretives, a requirement of the grant.

The projects selected include installation of bioswales in a portion of the Washington Park Parking Lot, installation of a storm water treatment facility near the concert lawn, disconnecting downspouts on the viewing kiosks adjacent to the elephant front yard, and if funds are available, projects in the Kongo Ranger Station and Sankuru Trader areas of the zoo will be explored.

This project will reduce the amount of water going into the sewer system and reduce the sewer bill of the Zoo. The amount of reduction will not be known until the design work is completed. The operating impact of this project will also not be totally known until design is complete and will be documented at the time contracts for the project are completed.

## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 04-1068, FOR THE PURPOSE OF AMENDING THE FY 2004-05 BUDGET AND APPROPRIATIONS SCHEDULE, RECOGNIZING \$200,000 IN GRANT FUNDS AND INCREASING CAPITAL OUTLAY IN THE ZOO OPERATING FUND, AMENDING THE FY 2004-05 THROUGH FY 2008-09 CAPITAL IMPROVEMENT PLAN FOR COMPLETION OF STORM WATER HANDLING PROJECTS; AND DECLARING AN EMERGENCY

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Date: December 2, 2004

Prepared by: Sarah Chisholm/Brad Stevens

## BACKGROUND

Zoo staff is working together with the City of Portland, Bureau of Environmental Services (BES) to identify innovative storm water handling projects to be constructed at the Zoo. These projects are being funded by the Environmental Protection Agency with pass-through funds to BES. There is \$200,000 in grant funds available for this project. The project will be funded entirely by the grant. The funding period ends June 30, 2005.

A study of potential projects was completed by GreenWorks, a contractor for BES. Based on that study, five projects were identified and agreed to be priorities by BES and the Zoo. The recommended projects are all in public areas where educational messages regarding storm water can be easily communicated via simple interpretives, a requirement of the grant.

The projects selected include installation of bioswales in a portion of the Washington Park Parking Lot, installation of a storm water treatment facility near the concert lawn, disconnecting downspouts on the viewing kiosks adjacent to the elephant front yard, and if funds are available, projects in the Kongo Ranger Station and Sankuru Trader areas of the zoo will be explored

## ANALYSIS/INFORMATION

- 1. Known Opposition** None known
- 2. Legal Antecedents** ORS 294.326(3) provides an exemption to Oregon Budget Law allowing for the expenditure in the year of receipt of grants, gifts and bequests received by a municipal corporation in trust for a specific purpose
- 3. Anticipated Effects** This action allows the department to recognize the grants dedicated to the projects described in this staff report.
- 4. Budget Impacts** This action would increase grant revenue in the Zoo Operating Fund by \$200,000, with a corresponding increase to capital outlay. Detailed information on the budget impacts of this amendment can be found in Exhibits A, B and C of the ordinance. These projects will be funded entirely with grant revenues, with no reduction in fund balance.

## RECOMMENDED ACTION

The Chief Operating Officer, in concurrence with the Council President, recommends adoption of this Ordinance.

Agenda Item Number 6.1

**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.**

***Second Reading –Public Hearing Only, No final action***

Metro Council Meeting  
Thursday, December 2, 2004  
Metro Council Chamber

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.

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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.

---

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

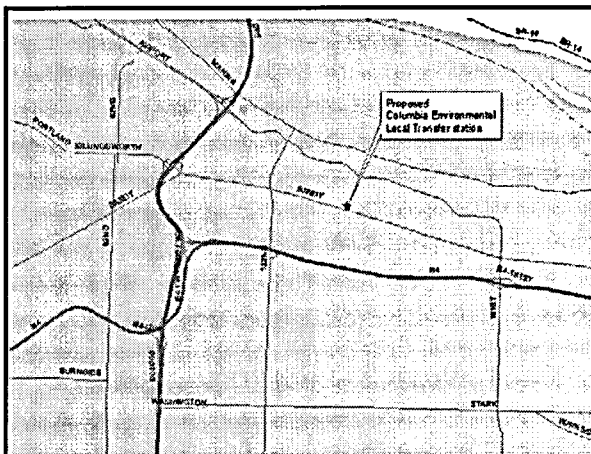
## SUMMARY

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.

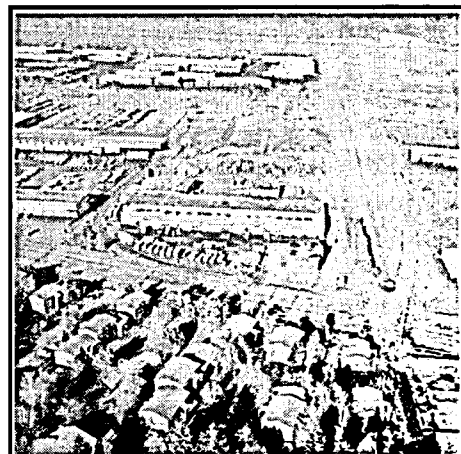
## BACKGROUND

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



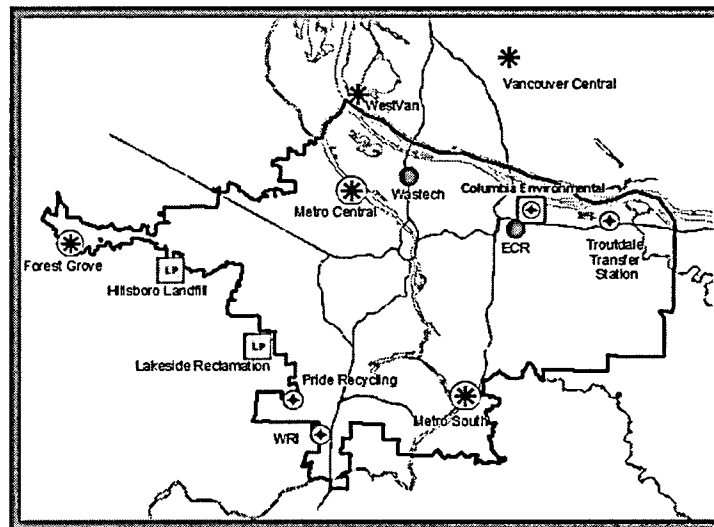
The proposed facility is owned by a partnership of independent haulers that also own Oregon Recycling Systems (ORS). The aerial photo shows the location of ORS, the long building in the center of the photo, which presently serves as a recycling processing

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**



	Proposed Local Transfer Station
	Local Transfer Station
	Material Recovery Facility
	Landfill Designated Facility
	Transfer Station Designated Facility
	Transfer Station Non-Designated Facility

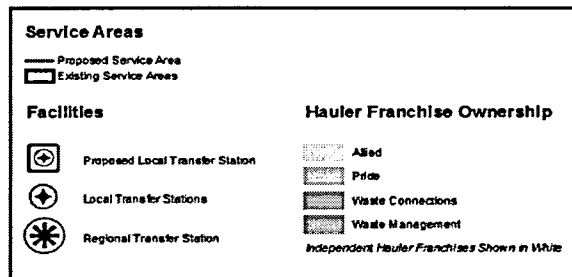
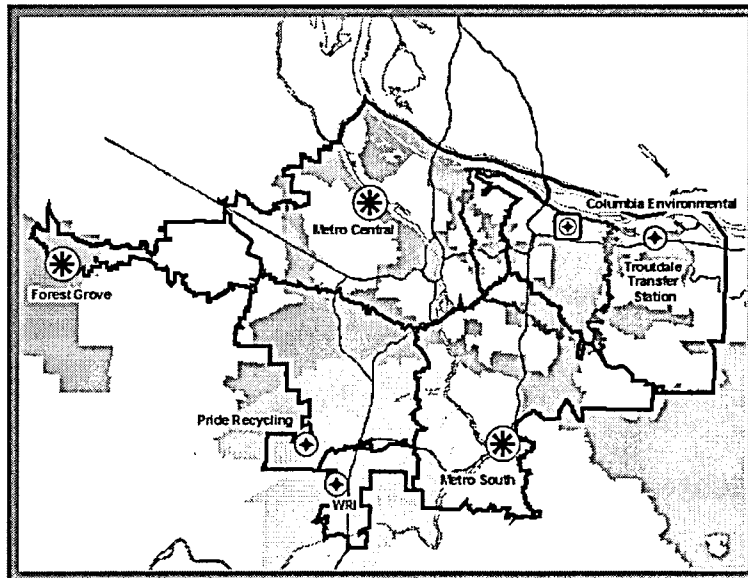
<sup>1</sup> Of the 92,000 tons of solid waste, 55,000 tons are putrescible waste, 32,000 tons are non-putrescible waste, and 5,000 tons are inert or special waste.

<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>I. 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> <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.

<p>...continued...</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**

**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

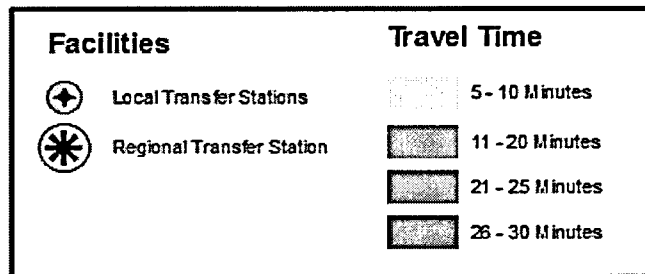
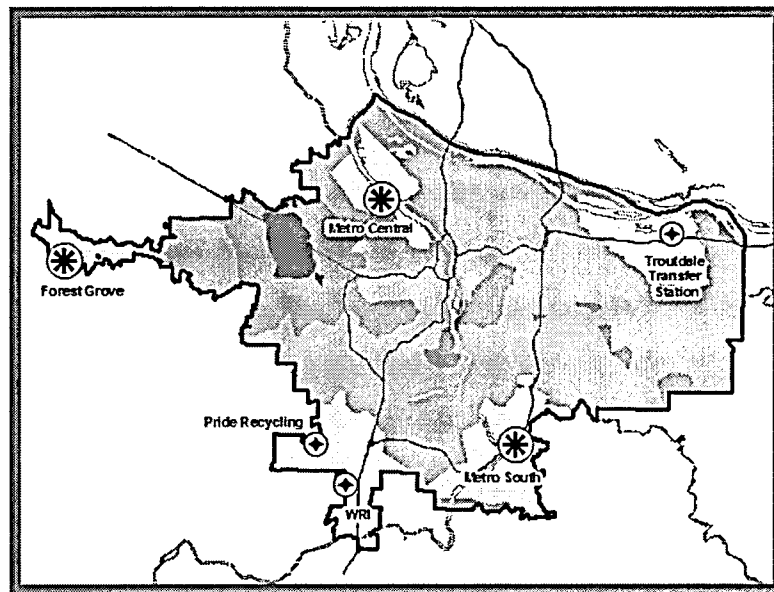


Station (about 12 minutes driving time). This fact, alone, makes it somewhat difficult to characterize the location of the proposed facility as an underserved area.

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**



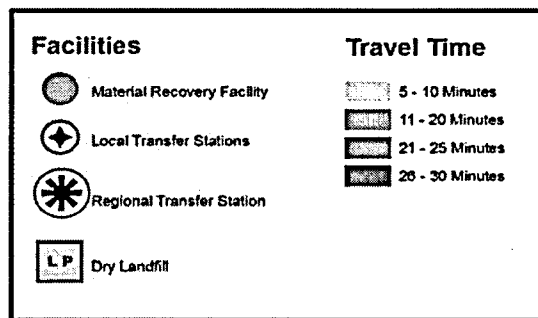
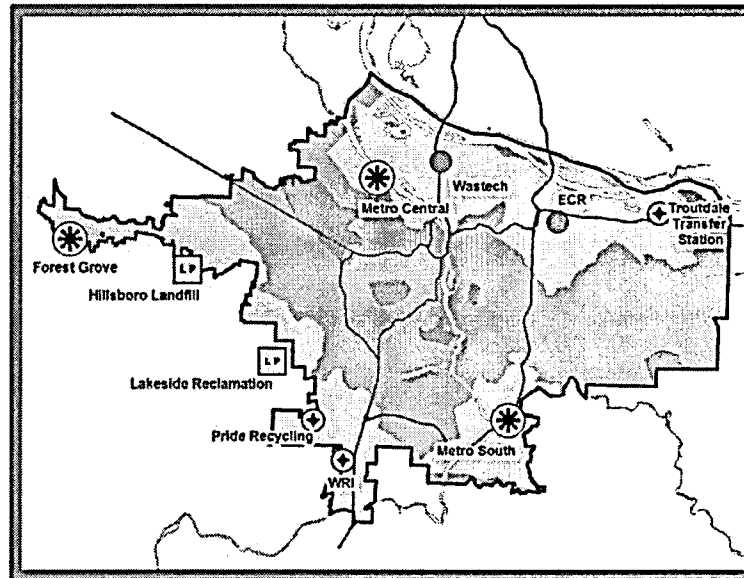
Moreover, regarding non-putrescible waste (“dry waste”), there are even more options available to the applicant’s affiliated haulers. This is because, in addition to the existing

<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

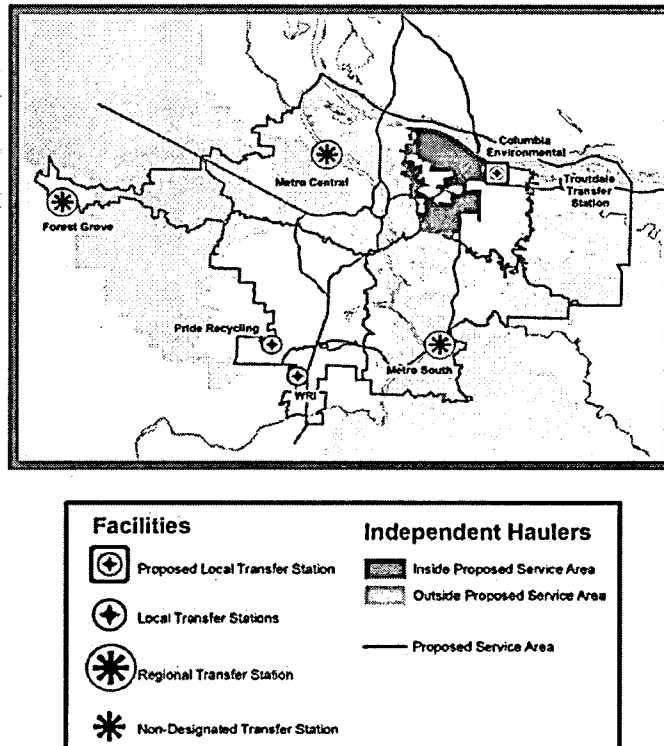
According to the RSWMP policy, competition should be encouraged in order to promote efficient and effective solid waste services. Further, Metro must consider whether the degree of vertical integration in the region would be increased and if it would adversely affect the public.

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).

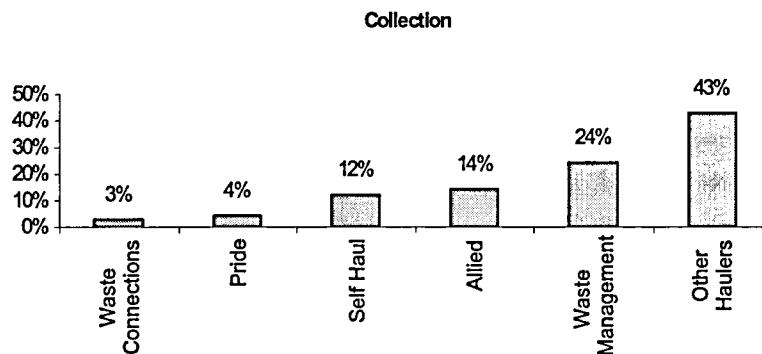
<sup>7</sup> There are other Columbia Environmental affiliated haulers located outside the proposed service area that would use the proposed transfer station.

*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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**METRO**

[www.metro-region.org](http://www.metro-region.org)

**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		Diff
	Tons		
	current tonnage	tonnage w/ CE	
Metro:	558,264	466,157	-92,107
non-Metro:	660,882	741,476	80,594
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>	
--	-------	---------	-----------------	-----------------	--

**Fixed Costs**

	Metro	466,157	tons x \$0.97 =	<u>\$453,223</u>	
--	-------	---------	-----------------	------------------	--

**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.

Agenda Item Number 6.2

**Ordinance No. 04-1064, For the Purpose of Amending the FY 2004-05 Budget and appropriations schedule recognizing the Transfer of \$504,000 from Metro's General Fund Tourism Opportunity and Competitiveness Account in the MERC Pooled Capital Fund Capital Outlay and Transferring \$150,000 from MERC Pooled Capital Contingency to MERC Pooled Capital Fund, Capital Outlay; and Declaring an Emergency**

*Second Reading.*

Metro Council Meeting  
Thursday, December 2, 2004  
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE FY )      **ORDINANCE NO. 04-1064**  
2004-05 BUDGET AND APPROPRIATIONS )  
SCHEDULE RECOGNIZING THE TRANSFER )      Introduced by Mike Jordan, Chief Operating  
OF \$504,000 FROM METRO'S GENERAL FUND )      Officer, with the concurrence of the Council  
TOURISM OPPORTUNITY & )      President  
COMPETITIVENESS ACCOUNT TO THE MERC )  
POOLED CAPITAL FUND CAPITAL OUTLAY )  
AND TRANSFERRING \$150,000 FROM MERC )  
POOLED CAPITAL CONTINGENCY TO MERC )  
POOLED CAPITAL FUND, CAPITAL OUTLAY; )  
AND DECLARING AN EMERGENCY )

WHEREAS, the Metro Council has reviewed and considered the need to transfer appropriations within the FY 2004-05 Budget; and

WHEREAS, Oregon Budget Law ORS 294.326(3) allows for the expenditure in the year of receipt of funds transferred from its General Fund; and

WHEREAS, Oregon Budget Law ORS 294.450 provides for transfers of appropriations within a fund, including transfers from contingency, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction; and

WHEREAS, the need for the transfer of appropriation has been justified; and

WHEREAS, adequate funds exist for other identified needs; now, therefore,

**THE METRO COUNCIL ORDAINS AS FOLLOWS:**

1. That the FY 2004-05 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$504,000 from the Metro's General Fund Tourism Opportunity & Competitiveness Account and transferring \$150,000 from MERC Pooled Capital Contingency to MERC Pooled Capital Fund, Capital Outlay.
2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

**Exhibit A  
Ordinance No 04-1064**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Total Personal Services</b>		<b>23.00</b>	<b>\$1,796,906</b>	<b>0.00</b>	<b>\$0</b>	<b>23.00</b>	<b>\$1,796,906</b>
<b>Total Materials &amp; Services</b>			<b>\$569,286</b>		<b>\$0</b>		<b>\$569,286</b>
<b><u>Interfund Transfers</u></b>							
<i>INDTEX Interfund Reimbursements</i>							
5800	Transfer for Indirect Costs						
	* to Building Management Fund		337,777		0		337,777
	* to Support Services Fund		680,958		0		680,958
	* to Risk Mgmt Fund-Liability		5,660		0		5,660
	* to Risk Mgmt Fund-Worker Comp		7,550		0		7,550
<i>EQTCH Fund Equity Transfers</i>							
5810	Transfer of Resources						
	* to Planning Fund (general allocation)		4,066,611		0		4,066,611
	* to Planning Fund (project allocation)		75,234		0		75,234
	* to Reg. Parks Fund (general allocation)		476,847		0		476,847
	* to Reg. Parks Fund (earned on SW revenues)		730,198		0		730,198
	* to Reg. Parks Fund (\$1 per ton on SW)		1,235,149		0		1,235,149
	* to Reg. Parks Fund (\$1.50 per ton on SW)		1,512,917		0		1,512,917
	* to Reg. Parks Fund (landbanking)		231,008		0		231,008
	* to MERC Pooled Capital Fund		0		504,000		504,000
	* to MERC Operating Fund (OCC - VDI Compliance)		182,129		0		182,129
<b>Total Interfund Transfers</b>			<b>\$9,542,038</b>		<b>\$504,000</b>		<b>\$10,046,038</b>
<b><u>Contingency and Ending Balance</u></b>							
<i>CONT Contingency</i>							
5999	Contingency						
	* General Contingency		563,000		0		563,000
	* Prior Year PERS Reserve		58,550		0		58,550
	* Current Year PERS Reserve		86,758		0		86,758
	* Tourism Opportunity & Competitiveness Fund		504,307		(504,000)		307
<i>UNAPP Unappropriated Fund Balance</i>							
5990	Unappropriated Fund Balance						
	* Ending balance		902,361		0		902,361
	* Recovery Rate stabilization reserve		412,042		0		412,042
<b>Total Contingency and Ending Balance</b>			<b>\$2,527,018</b>		<b>(\$504,000)</b>		<b>\$2,023,018</b>
<b>TOTAL REQUIREMENTS</b>		<b>23.00</b>	<b>\$14,435,248</b>	<b>0.00</b>	<b>\$0</b>	<b>23.00</b>	<b>\$14,435,248</b>

Note: This Ordinance does not reflect Ordinance No. 04-1066 that transfers \$63,208 to the Zoo Operating Fund

**Exhibit A  
Ordinance No 04-1064**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Merc Pooled Capital</b>							
<b><u>Resources</u></b>							
<i>BEGBA Beginning Fund Balance</i>							
	* Prior year ending balance		4,698,164		0		4,698,164
	* Prior year PERS reserve		16,458		0		16,458
<i>GVCN1 Contributions from Governments</i>							
	4145 Government Contributions		321,484		0		321,484
<i>INTRS1 Interest Earnings</i>							
	4700 Interest on Investments		67,779		0		67,779
<i>DONA1 Contributions from Private Sources</i>							
	4750 Donations and Bequests		627,775		0		627,775
	4760 Sponsorship		88,000		0		88,000
<i>EQTRE Fund Equity Transfers</i>							
	4970 Transfer of Resources						
	* from Convention Center Capital Fund		385,000		0		385,000
	* from MERC Operating - OCC		178,750		0		178,750
	* from General Fund		0		504,000		504,000
	* from MERC Operating - Expo Center		117,356		0		117,356
<b>TOTAL RESOURCES</b>			<b>\$6,500,766</b>		<b>\$504,000</b>		<b>\$7,004,766</b>
<b>Total Personal Services</b>		<b>4.95</b>	<b>\$406,287</b>	<b>0.00</b>	<b>\$0</b>	<b>4.95</b>	<b>\$406,287</b>
<b>Total Materials and Services</b>			<b>\$10,000</b>		<b>\$0</b>		<b>\$10,000</b>
<b><u>Capital Outlay</u></b>							
<i>CAPNC Capital Outlay (Non-CIP Projects)</i>							
	5710 Improve-Oth thn Bldg (non-CIP)		40,000		0		40,000
	5720 Buildings & Related (non-CIP)		305,600		0		305,600
	5740 Equipment & Vehicles (non-CIP)		10,000		0		10,000
<i>CAPCI1 Capital Outlay (CIP Projects)</i>							
	5715 Improve-Oth thn Bldg (CIP)		800,000		0		800,000
	5725 Buildings & Related (CIP)		1,720,000		654,000		2,374,000
	5745 Equipment & Vehicles (CIP)		266,750		0		266,750
<b>Total Capital Outlay</b>			<b>\$3,142,350</b>		<b>\$654,000</b>		<b>\$3,796,350</b>
<b>Total Interfund Transfers</b>			<b>\$354,000</b>		<b>\$0</b>		<b>\$354,000</b>
<b><u>Contingency and Ending Balance</u></b>							
<i>CONT Contingency</i>							
	5999 Contingency						
	* General Contingency		500,000		(150,000)		350,000
	* Prior Year PERS Reserve		16,458		0		16,458
	* Current Year PERS Reserve		21,123		0		21,123
<i>UNAPF Unappropriated Fund Balance</i>							
	5990 Unappropriated Fund Balance						
	* Ending Balance		2,050,548		0		2,050,548
<b>Total Contingency and Ending Balance</b>			<b>\$2,588,129</b>		<b>#####</b>		<b>\$2,438,129</b>
<b>TOTAL REQUIREMENTS</b>		<b>4.95</b>	<b>\$6,500,766</b>	<b>0.00</b>	<b>\$504,000</b>	<b>4.95</b>	<b>\$7,004,766</b>

Note: This Ordinance does not reflect Ordinance No. 04-1065 that transfers \$63,208 to the Zoo Operating Fund

**Exhibit B**  
**Ordinance No. 04-1064**  
**FY 2004-05 SCHEDULE OF APPROPRIATIONS**

	<u>Current Appropriation</u>	<u>Revision</u>	<u>Amended Appropriation</u>
<b>GENERAL FUND</b>			
Council Office/Public Affairs			
Operating Expenses (PS & M&S)	\$2,101,192	\$0	\$2,101,192
Subtotal	2,101,192	0	2,101,192
Special Appropriations			
Operating Expenses (PS & M&S)	265,000	0	265,000
Subtotal	265,000	0	265,000
General Expenses			
Interfund Transfers	9,542,038	504,000	10,046,038
Contingency	1,212,615	(504,000)	708,615
Subtotal	10,754,653	0	10,754,653
Unappropriated Balance	1,314,403	0	1,314,403
<b>Total Fund Requirements</b>	<b>\$14,435,248</b>	<b>\$0</b>	<b>\$14,435,248</b>
<b>MERC POOLED CAPITAL FUND</b>			
Operating Expenses (PS & M&S)	\$416,287	\$0	\$416,287
Capital Outlay	3,142,350	654,000	3,796,350
Interfund Transfers	354,000	0	354,000
Contingency	537,581	(150,000)	387,581
Unappropriated Balance	2,050,548	0	2,050,548
<b>Total Fund Requirements</b>	<b>\$6,500,766</b>	<b>\$504,000</b>	<b>\$7,004,766</b>

Note: This Ordinance does not reflect Ordinance No. 04-1066 that transfers \$62,280 to the Zoo Operating Fund

**ALL OTHER APPROPRIATIONS REMAIN AS PREVIOUSLY ADOPTED**



**METROPOLITAN EXPOSITION-RECREATION COMMISSION**

**Resolution No. 04-24**

**For the purpose of recommending to the Metro Council a proposal for an investment funded by the Metro Tourism Opportunity and Competitiveness Account (MTOCA), recommending a budget amendment to the fiscal year 2004-05 adopted Metro budget to authorize the transfer of \$504,000 from Metro's general fund contingency to MERC pooled capital fund capital outlay and the transfer of \$150,000 from MERC pooled capital contingency to MERC capital outlay, and approving transmittal of the recommended amendment to the Metro Council.**

WHEREAS, Metro Code 6.01.050 provides that the Commission shall annually prepare and approve an annual budget which shall, to the maximum extent permitted by law, consist of one commission-wide series of appropriations in those categories which are required by local budget law, applicable to all buildings, facilities, and programs managed by the Commission; and

WHEREAS, the Commission previously approved and transmitted to the Metro Council the Fiscal Year 04-05 budgets for the MERC Operating Fund, the MERC Pooled Capital Fund, and the Convention Center Project Capital Fund; and

WHEREAS, on May 20, 2004, the Metro Council passed Ordinance No. 04-1052, increasing the excise tax on solid waste by \$.50 per ton; and

WHEREAS, the proceeds from this tax are allocated to the Metro Tourism Opportunity and Competitiveness Account ("MTOCA"), to be used to maximize the competitiveness, financial viability, economic impact, and continued success of the Oregon Convention Center; and

WHEREAS, on October 7, 2004, the Metro Council passed Resolution No. 04-3494A, which adopted MTOCA Policy And Guidelines; and

WHEREAS, in Resolution No. 04-3494A, the Metro Council directed the MERC Commission to submit proposals for funding the goals and strategies listed in the adopted MTOCA Policy And Guidelines, with priority given to those under Goal Number 1; and

WHEREAS, Goal Number 1 in the MTOCA Policy And Guidelines includes Strategy A, expending funds to obtain official green building (LEED) certification for the Oregon Convention Center; and

WHEREAS, obtaining LEED certification for the Oregon Convention Center will enhance OCC's marketing advantages and enhance OCC and Portland's distinctive reputation for environmental quality and build on the state's "Brand Oregon" campaign; and

WHEREAS, this certification could be used to enhance OCC's marketing advantages, particularly in conjunction with the Portland Visitor's Association (POVA's) "It's Not Easy Being Green" marketing plan for Portland. Such certification would enhance OCC and Portland's distinctive reputation for environmental quality and build on the State's "Brand Oregon" campaign; and

WHEREAS, the MERC Commission recommends expending funds from MTOCA for Fiscal Year 2004-05 to assist OCC to obtain official green building (LEED) certification, based on the understanding that fully funding the improvements to obtain LEED certification will also require funding from MTOCA in future fiscal years; and

WHEREAS, the Metro Council is the ultimate budget authority for MERC and, in accordance with budget law and the MTOCA Policy and Guidelines, final decisions on the recommendation made by the MERC Commission will be made as Supplementary Budget actions by the Metro Council.

**BE IT THEREFORE RESOLVED AS FOLLOWS:**

1. The MERC Commission recommends the expenditure of \$1,378,000 to obtain Green Building (LEED) certification for the Oregon Convention Center, as shown as "Strategy A" in the attached Exhibit "A," which recommendation is based on the understanding that the initial funding for the work will come in part from MTOCA funds for Fiscal Year 2004-05, and that additional MTOCA funds in future fiscal years will also be allocated to this project, as shown more particularly in the attached Exhibit "A," and
2. The MERC Commission recommends adoption of a budget amendment transferring \$504,000 from Metro's General Fund Tourism Opportunity & Competitiveness Fund Contingency to Metro's General Fund Transfer of Resources to MERC's Transfer of Resources and the appropriation of those funds in MERC's Pooled Capital, Capital Outlay; and
3. The MERC Commission recommends adoption of a budget amendment transferring \$150,000 from MERC Pooled Capital Contingency to MERC Pooled Capital Fund, Capital Outlay; and
4. The MERC Commission authorizes a five-year \$850,000 intra-fund loan from those funds identified as Expo's in MERC Pooled Capital Fund to OCC for expenditure on the Green Building (LEED) certification projects, which shall be repaid over a five-year term in semi annual payments with an interest rate of 3.5% per annum.
5. The MERC Commission grants the authority to MERC staff to prepare and present a Budget Ordinance to the Metro Council to amend the Fiscal Year 04-05 budget to reflect the above changes.

Passed by the Commission on October 27, 2004.

Approved as to Form:  
Daniel B. Cooper, Metro Attorney

\_\_\_\_\_  
Chair

By: \_\_\_\_\_  
Lisa Umscheid  
Senior Attorney

\_\_\_\_\_  
Secretary-Treasurer

## MERC STAFF REPORT

**Agenda Item:** For purpose of submitting to the METRO Council a proposal for the investment in the LEED Certification for the Oregon Convention Center, funded from the new Tourism Opportunity and Competitiveness Account (MTOCA) capital Improvements totaling \$1,378,000.

**Resolution:** 04-24

**Date:** October 28, 2004

**Prepared by:** Kathy Taylor and Jeff Blosser

**Background:** The MERC Commission previously approved a Policy and Guidelines for establishing a process and criteria for proposed investments from the Metro Tourism and Opportunity and Competitiveness Account. The MERC Budget Committee discussed the Goals and Strategies identified in the Policy and Guidelines and is recommending investment in Goal #1, Targeted Capital Investments in the Oregon Convention Center's physical plant that yield demonstrable marketing advantages. Strategy A: Green Building (LEED) Certification.

Funds could be expended to obtain official LEED certification for OCC. This certification could be used to enhance OCC's marketing advantages, particularly in conjunction with the Portland Oregon Visitor's Association (POVA's) "It's Not Easy Being Green" marketing plan for Portland. Such certification would enhance OCC and Portland's distinctive reputation for environmental quality and build on the State's "Brand Oregon" campaign.

### **Fiscal Impact:**

- A. **Expenditure:** of \$1,378,000 to obtain Green Building (LEED) certification, as described in the attached Exhibit "A."
- B. **Funding:**
1. Amendment transferring \$504,000 from Metro's General Fund Tourism Opportunity & Competitiveness Fund Contingency to Metro's General Fund Transfer of Resources to MERC's Transfer of Resources and the appropriation of those funds in MERC's Pooled Capital, Capital Outlay; and
  2. Amendment transferring \$150,000 from MERC Pooled Capital Contingency to MERC Pooled Capital Fund, Capital Outlay;
  3. A five-year \$850,000 intra-fund loan from those Funds identified as Expo's in MERC Pooled Capital Fund to OCC for expenditure on the Green Building (LEED) certification projects. The loan to be repaid over a five-year term in semi annual payments with an interest rate of 3.5%.

**Recommendation:** Staff recommends approval of Resolution No. 04-24.

## Metro Tourism Opportunity and Competitiveness Account

Program	Request	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
<b>Beginning Balance</b>		-	32,568	440,705	863,717	1,301,975	1,755,862
<b>Resources</b>							
Excise Tax from Metro		A 504,000	B 595,000	609,875	625,122	640,750	656,769
Intra-fund transfer from Expo to OCC	12/1/2004	850,000					
Business Energy Tax Credits (BETC)		150,000					
<b>Loan Payments</b>							
To repay funds to Expo							
5 years/3.5% annual interest, with semiannual payments		(93,432)	(186,863)	(186,863)	(186,863)	(186,863)	(93,432)
<b>MTOCA Goals</b>							
<b>Goal 1</b>	Targeted capital investments in the Oregon Convention Center's physical plant that yield demonstrable marketing advantages.						
<b>Strategy A -- Green Building LEED Certification</b>	Apply for LEED Certification on expansion by November 2004						
			n/a				
	Retrofit existing building to meet LEED standards						
	Replace three 800 ton chiller units	870,000	E				
	Replace 250 ton chiller	130,000	E				
	Chiller room ventilation/noise abatement	60,000					
	Chiller controls	28,000					
	Replace 198 Toilet/Urinals (auto flush)	125,000					
	Replace light sensors	10,000					
	ZGF Consulting	30,000					
	Contingency 10%	125,000					
		<u>1,378,000</u>		(1,378,000)			
<b>Strategy B -- OCC Operational Advantage</b>			C				
<b>Strategy C -- Headquarters Hotel Related Investments</b>			C				
<b>Goal 2</b>	Assist the Visitor Development Fund with Oregon Convention Center Facility Costs.						
<b>Strategy A -- Offset Facility Costs when VDI allocation not fully funded</b>			C				
<b>Goal 3</b>	Maintain the Oregon Convention Center in First Class Condition						
<b>Strategy A -- Ensure sufficient funds for basic OCC cleaning, maintenance, and event service.</b>			C				
<b>Net Change for the Year</b>		<u>32,568</u>	<u>408,137</u>	<u>423,012</u>	<u>438,258</u>	<u>453,887</u>	<u>563,337</u>
<b>Ending Balance Available for other Items</b>		<u>32,568</u>	<u>440,705</u>	<u>863,717</u>	<u>1,301,975</u>	<u>1,755,862</u>	<u>2,319,199</u>

- A Budget amount for 2004-05. Effective September 1, 2004.  
 B Assume future MTOCA funds will be available. Apply Metro inflation estimate 2.5% to this and all future periods.  
 C Assume investment in all strategies -- amounts by strategy to be determined.  
 D Concept only -- projects to be submitted to Metro Council for approval.  
 E Chillers in the existing building need to be replaced to meet environmental standards

### Operating Impact

Reduced energy costs LEED		10,000	10,000	10,000	10,000	10,000
Additional convention revenue from LEED, net		50,000	50,000	50,000	50,000	50,000
		<u>-</u>	<u>10,000</u>	<u>60,000</u>	<u>60,000</u>	<u>60,000</u>

## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO 04-1064, FOR THE PURPOSE OF AMENDING THE FY 2004-05 BUDGET AND APPROPRIATIONS SCHEDULE RECOGNIZING THE TRANSFER OF \$504,000 FROM METRO'S GENERAL FUND TOURISM OPPORTUNITY & COMPETITIVENESS ACCOUNT TO MERC POOLED CAPITAL FUND, CAPITAL OUTLAY AND TRANSFERING \$150,000 FROM MERC POOLED CAPITAL FUND CONTINGENCY TO MERC POOLED CAPITAL FUND, CAPITAL OUTLAY; AND DECLARING AN EMERGENCY

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Date: November 1, 2004

Prepared by: Kathy Taylor and Jeff Blosser

### BACKGROUND

The purpose of this Ordinance is to take the necessary budget action to implement the MERC Commission's recommendation for use of the Metro's General Fund Tourism and Opportunity Contingency Fund (MTOCA). Metro Resolution No. 04-3494 adopted a policy and established a process and criteria for proposed investments from the Metro Tourism Opportunity and Competitiveness Account (MTOCA). This Ordinance reflects the recommendation of the MERC Commission as stated in the attached Exhibit C, MERC's Commission approved Resolution No. 04-24 and staff report.

The MERC Commission is recommending that these funds be expended to obtain official green building (LEED) certification for the Oregon Convention Center. This certification would enhance OCC's marketing plan by making the center attractive to conventions that require LEED certification. In addition, this project fits nicely with POVA's "It's Not Easy Being Green" marketing plan for Portland.

The complete project is expected to cost \$1,378,000 to obtain Green Building (LEED) certification. The details of the project components are included in an attachment to the MERC Staff Report. Funding for the total project is proposed to be from the transfer of \$504,000 from MTOCA account, \$150,000 from MERC Pooled Capital contingency (which will be reimbursed by expected Business Energy Tax Credits) and an \$850,000 intra fund loan from Expo's fund balance. The repayment of the intra fund loan is to be over five years with semi annual payments bearing interest of 3.5%. The initial funding of this project allows for the first of these payments. Subsequent payments on the intra fund loan will be from future years transfers from the MTOCA account.

### ANALYSIS/INFORMATION

1. **Known Opposition:** None known
2. **Legal Antecedents:** ORS 294.326(3) provides an exemption to Oregon Budget Law allowing for the expenditure in the year of receipt funds transferred from Metro's General Fund. ORS 294.450 provides for transfers of appropriations within a fund, including transfers from contingency, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction.
3. **Anticipated Effects:** This action allows the department to complete the LEED Certification for the Oregon Convention Center that will increase the marketability of the Oregon Convention Center

4. **Budget Impacts** This action requests the recognition of \$504,000 in capital outlay from the transfer from the Metro General Fund MTOCA account, and \$150,000 in capital outlay from MERC Pooled Capital Contingency. The balance of the appropriation for this project comes from canceling the \$750,000 Expo Center Electrical Project. Expected energy credits of \$150,000 will replace the \$150,000 used from contingency.

#### **RECOMMENDED ACTION**

The Chief Operating Officer, in concurrence with the Council President, recommends adoption of this Ordinance.

Agenda Item Number 7.1

**Resolution No. 04-3517, For the Purpose of Authorizing the Chief Operating Officer to Execute an Intergovernmental Agreement with the City of Portland Providing for Funding and Construction of Stormwater Improvements at the Oregon Zoo.**

Metro Council Meeting  
Thursday, December 2, 2004  
Metro Council Chamber



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF ) RESOLUTION NO. 04-3517  
OPERATING OFFICER TO EXECUTE AN )  
INTERGOVERNMENTAL AGREEMENT WITH THE )  
CITY OF PORTLAND PROVIDING FOR FUNDING )  
AND CONSTRUCTION OF STORMWATER ) Introduced by Chief Operating Officer  
IMPROVEMENTS AT THE OREGON ZOO ) Michael J. Jordan, with the Concurrence  
of Council President David Bragdon

WHEREAS, in September of 2002, the City of Portland's Bureau of Environmental Services ("BES") received an Innovative Wet Weather Projects Grant from the U.S. Environmental Protection Agency ("EPA") to identify and construct innovative storm water handling projects in the City of Portland; and

WHEREAS, BES selected the Oregon Zoo ("Zoo") as a potential innovative storm water handling project site, and in 2003 conducted a study that identified a list of several potential innovative storm water handling projects on the Zoo campus and Washington Park parking lot where educational messages regarding storm water could be easily communicated via simple interpretives, as required by the EPA grant; and

WHEREAS, BES and Zoo staff now propose that Metro and BES enter into the intergovernmental agreement attached as Exhibit A, providing for the pass-through of EPA grant funds to Metro in the amount of \$200,000.00, for the purpose of design, engineering and construction of certain projects selected by BES from its list of potential innovative storm water handling projects on the Zoo campus and Washington Park parking lot; and

WHEREAS, there will be no impact on the Zoo's fund balance as no Metro funds will be made available or authorized for expenditure to finance the costs of this IGA, with the exception of long term maintenance costs of the improvements constructed; now therefore

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to execute the attached intergovernmental agreement with the City of Portland providing for funding and construction of storm water improvements at the Oregon Zoo.

ADOPTED by the Metro Council this 2<sup>nd</sup> day of December, 2004.

\_\_\_\_\_  
David Bragdon, Council President

Approved as to form:

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

**Exhibit A to Resolution No. 04-3517**

**INTERGOVERNMENTAL AGREEMENT**

This Intergovernmental Agreement (“IGA”) is entered into by and between the City of Portland acting by and through its Bureau of Environmental Services, hereafter called BES and Metro, acting by and through its agents, hereafter called METRO.

This IGA is authorized pursuant to ORS 190.110 and becomes effective upon full execution of this document.

**PURPOSE**

BES and METRO desire to work together to implement Innovative Wet Weather Projects (“IWWP”) being funded by the Environmental Protection Agency (“EPA”) as pass through funds to BES.

By this IGA, METRO agrees to plan and implement a variety of stormwater improvement projects on the Oregon Zoo campus at 4001 SW Canton Road. BES agrees to reimburse METRO for costs associated with the provision of these services and improvements as described in this document.

**GENERAL PROVISIONS**

**1. Effective Date and Duration.**

This IGA is effective from the date of execution by both parties. Unless earlier terminated or extended, this IGA shall expire when METRO’s completed performance has been accepted by BES or June 30, 2005 whichever date occurs first. Metro’s performance hereunder shall be substantially complete by June 30, 2005.

**2. Statement of Work.**

The statement of work, (the “Work”) including the delivery schedule for such Work, is contained in Exhibit A. METRO agrees to perform the Work in accordance with the terms and conditions of this IGA.

**3. Consideration.**

BES agrees to pay METRO a sum not to exceed \$200,000.00, as allocated in Exhibit B.

**4. Project Representatives.**

Each party has designated a project manager to be the formal representative for this project. All reports, notices, and other communications required under or relating to this IGA shall be directed to the appropriate individual.

**Zoo Campus Retrofits**

**BES**

Project Manager: Dawn Hottenroth  
Organization: City of Portland  
Address: 1120 SW 5<sup>th</sup> Avenue, Suite 1000  
Portland, Oregon 97204  
Phone: (503) 823-7767  
Fax: (503) 823-6995  
Email: dawnh@bes.ci.portland.or.us

**METRO – Zoo**

Project Manager: Teri Dressler  
Organization: Oregon Zoo  
Address: 4001 SW Canyon Road  
Portland, Oregon 97221-2799  
Phone: (503) 220-2453  
Fax: (503) 226-6836  
Email: dreslert@metro.dst.or.us

**5. Subcontracts.**

It is anticipated that METRO will enter into design and construction contracts for the installation of the stormwater facilities. BES and METRO shall jointly develop the contractor scopes for the work scheduled under this IGA. The BES project managers or their designees shall participate on any hiring committee to award contracts to implement these stormwater projects. At 30% and 80% design, BES shall receive design drafts for review and approval. BES shall offer any design comments within 10 working days from the receipt of materials. If BES fails to respond within said 10 working days, said design drafts shall be deemed reviewed and approved. METRO or their contractor shall be responsible for obtaining applicable City permits and for gaining approval for Zoo parking lot projects from the Oregon Zoo Parking Lot Operating Committee ("PLOC"). However, the BES Project Manager shall coordinate with METRO, Metro's contractor, and Portland's Bureau of Development Services ("BDS") and support METRO's permit applications, assisting METRO and/or Metro's contractor in obtaining approval of said permit applications from BDS. All day-to-day contract oversight, including construction management, shall be the sole responsibility of the METRO project managers.

**6. Pass Through of Federal Funds.**

- a. Metro, as a recipient of federal funds, pursuant to this Agreement with BES, assumes liability for Metro's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Metro's breach of any such conditions that requires BES to return funds to the EPA, hold harmless and indemnify BES for an amount equal to the funds received under this Agreement.
- b. Metro is responsible for complying with the contracting requirements stipulated as part of the Innovative Wet Weather grant. These common EPA provisions include assurance of BOLI wages rates and MBE/WBE firm utilization. Additionally, Metro shall allow design review, contract review, and construction inspection by EPA staff as required during the course of the project; any such reviews/inspections will be facilitated by BES. BES will require 5 working days after a contractor is selected and before the contract is officially awarded, to facilitate the contract review by local EPA staff. BES will also facilitate design review by federal staff within the 10 working days stipulated in section 5 above. BES will facilitate any inspections required by federal agency staff during the implementation phase of the project.

**7. METRO In-Kind Construction Services.**

METRO will be responsible for the following items:

- a. Coordinating all volunteers or staff members to install facility plantings on Zoo sites. BES shall provide funding to acquire plants, but shall not reimburse for any plant installation costs.
- b. Providing contract management and oversight during the construction phase.

**8. Maintenance.**

METRO will be responsible for all maintenance incurred with the establishment and the ongoing survivability of all stormwater facility vegetation and structural components. Metro shall submit site specific O & M Plans for BES review and approval. This plan shall be recorded against the deed for the Zoo property.

**9. Public information.**

Neither party is obligated to produce public relations and education information or educational signage regarding facility installation and operation. However, if public relations and education information regarding facility installation and operation is produced by the parties, said materials shall be jointly prepared and released. METRO may develop and produce signage and educational brochures for the stormwater projects. METRO will deliver to BES electronic versions of all informational and educational materials for BES use. Each agency shall be solely responsible to cover their own materials printing and reproduction costs for their own use. Metro shall provide access to the Zoo campus and the associated stormwater retrofit sites with appropriate notice. Notice shall be provided at least 24 hours in advance.

**10. Future Stormwater Efforts on the Zoo Campus.**

BES shall provide METRO with a finalized version of the Oregon Zoo Stormwater Retrofit Inventory prepared by Greenworks Consultants – include electronic versions of all maps and materials. METRO agrees to provide further consideration of all stormwater retrofit opportunities identified within that report and to implement said storm water retrofit opportunities if and when it becomes financially feasible to do so, as determined by the Zoo in its sole discretion.

**11. IGA Documents.**

This IGA consists of the following documents, which are listed, in descending order of precedence: This IGA less all exhibits, attached Exhibit A, Work Statement and Exhibit B, Budget. All attached Exhibits are hereby incorporated for reference.

**12. Amendments.**

The terms of this IGA shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties.

**13. Reimbursement.**

- a. METRO shall submit itemized, project specific invoices to BES for reimbursement of services performed; noting the specific IWWP project and CITY IGA number and the allocation of costs in accordance with line items identified in Exhibit B.
- b. Costs incurred for travel, lodging and meals shall be reimbursed to the extent that they do not exceed on a daily basis per diem rates in effect at the time of travel as set forth in the Federal Travel Regulations and all travel has been approved by the BES Project Manager.
- c. Non-itemized or incomplete billings shall be detained for payment processing until METRO has supplied correct information to BES.
- d. METRO shall submit to BES invoices for costs incurred during the contract period no later than 45 days following the end of the contract period. BES shall not be liable for reimbursement of costs after that date.
- e. Invoices shall be submitted in duplicate to the appropriate project manager identified in item 4 above. All invoices shall specify the specific IWWP project, the CITY IGA number, the services being billed and the amount. BES shall pay all approved invoices within 30 days of date of invoice.

- f. All non-expendable property, including computer hardware and related software, acquired in the provision of these services are the sole property of BES and shall be surrendered upon completion of services or termination of this IGA.
- g. The parties recognize and agree that some of the activities and obligations for reimbursement addressed in this IGA have or will commence or arise prior to the effective date of this IGA.
- h. The parties recognize that invoices for costs incurred by METRO prior to June 30, 2005 may be submitted to BES for reimbursement after the June 30, 2005 expiration date set forth in section 1 above, and that notwithstanding the expiration of the IGA, said costs shall be reimbursed as set forth herein. All invoices shall be received prior to July 18, 2005 unless otherwise authorized in writing by the BES project manager.

**14. Termination.**

- a. The parties may agree to an immediate termination of this IGA or at a time certain upon mutual written consent.
- b. Either party may terminate this IGA effective not less than 10 days from written notice or at such other date as may be established by both parties under any of the following conditions:
  - 1) If funding is not obtained and continued at levels sufficient to allow for purchase of the specified services. When possible, and when agreed upon, the IGA may be modified to accommodate a reduction in funds.
  - 2) If federal or state regulations or guidelines are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this IGA, or are no longer eligible for the funding proposed for payments authorized by this IGA.
- c. Either party may terminate this IGA in the event of a breach by the other party. Prior to such termination, however, the party seeking termination shall give the other party written notice of the party's intent to terminate. If the party has not cured the breach within 10 days or a longer period as granted in the cure notice, the party seeking compliance may terminate this IGA.

**15. Funds Available and Authorized, Improvements Authorized.**

BES certifies that at the time the IGA is executed that sufficient funds are available and authorized for expenditure to finance costs of this IGA within BES' current appropriation and limitation. No Metro funds are available and authorized for expenditure to finance costs of this IGA. Metro understands and agrees that payment of amounts under this IGA attributable to work performed after the last date of the current budget period is contingent on BES receiving appropriations, limitations, or other expenditure authority. BES agrees to obtain written authorization of the Portland City Commissioner with authority over Portland Parks and Recreation to construct stormwater improvement projects within the Oregon Zoo/World Forestry Center/Children's Museum 2/Washington Park parking lot, and submit said writing to Metro.

**16. Captions.**

The captions or headings in this IGA are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this IGA.

**17. Choice of Venue.**

Oregon law shall govern this IGA and all rights, obligations and disputes arising out of the IGA. Venue for all disputes and litigation shall be in Multnomah County, Oregon.

**18. Severability/Survival.**

If any of the provisions contained in this IGA are held unconstitutional or unenforceable, the enforceability of the remaining provisions shall not be impaired. All provisions concerning the limitation of liability, indemnity and conflicts of interest shall survive the termination of this IGA for any cause.

**19. Ownership of Work Product.**

All work products relating to documentation of the project, including reports, research data in hard copy or electronic form that result from this IGA, are the exclusive property of BES. However, METRO reserves the right to retain copies of such items for its records.

**20. Access to Records.**

Both parties and their duly authorized representatives shall have access to the books, documents, papers, and records which are directly pertinent to the specific IGA for the purpose of making audit, examination, excerpts, and transcript.

**21. Compliance with Applicable Law.**

Both parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the Work under this IGA. Without limiting the generality of the foregoing, parties expressly agrees to comply with: (i) Title VI of Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Both party's performance under this IGA is conditioned upon either parties compliance with the provisions of ORS 279.312, 279.314, 279.316, 279.320, and 279.555, which are incorporated by reference herein.

**22. No Third Party Beneficiary.**

BES and METRO are the only parties to this IGA and as such, are the only parties entitled to enforce its terms. Nothing contained in this IGA gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.

**23. Indemnification.**

Within the limits of the Oregon Tort Claims Act, codified at ORS 30.260 through 30.300, each party agrees to indemnify and defend the other and its officers, employees, agents and representatives from and against all claims, demands, penalties and causes of action of any kind or character relating to or arising from this IGA, including the cost of defense, attorney fees arising in favor of any person on account of personal injury, death or damage to property and arising out of or resulting from the negligent or other legally culpable acts or omissions of the indemnitor, its employees, agents, subcontractors or representatives.

**24. Merger Clause.**

This IGA constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this IGA shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this IGA.

**25. BES Accounting Data.**

Vendor Number \_\_\_\_\_ GL Fund Number \_\_\_\_\_ Account \_\_\_\_\_  
Center Code 145-30-008 Account 529000 Amount \$5,000  
PTS:     \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
          Proj.    Org.    TW    CC

Executed in triplicate by the duly authorized representatives of the parties.

**CITY OF PORTLAND**

**METRO**

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

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

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Bureau Director

\_\_\_\_\_  
Daniel B. Cooper  
Metro Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
City Auditor

Date: \_\_\_\_\_

Approved as to form:

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

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

Date: \_\_\_\_\_

**Exhibit A to BES/Metro IGA**

**SCOPE OF WORK**

The METRO project managers shall be responsible for:

**1. Selection of a project implementation contractor or consultant or team:**

- a. Developing a consultant / contractor scope of work to complete the stormwater work; and
- b. Issuing a request for proposal to complete the stormwater project specific work ; and.
- c. Convening a proposal review and contract hiring committee that will include the BES project manager or designee; and
- d. Awarding a contract to the winning contractor or consultant team; and
- e. Coordinating BES and PLOC review on 30% and 80% designs for all facilities: and
- f. Coordinating with the contractor to obtain applicable City permits.
- g. Administering the day-to-day oversight of the contractor, including construction management.

**2. Deliverables:**

- a. Development of a joint scope of work; and
- b. 30% and 80% facility design reviews; and
- c. Planting plans for all facilities; and
- d. Photo documentation of before, during and after construction; and
- e. Electronic copies of all facility signage and educational materials developed for facilities; and
- f. Mid-term and end of contract reports (see detail below); and
- g. Submittal of site specific O & M plan.

**3. Preparation of a mid project and end of project report detailing the following items:**

- a. Costs of various project phases including bidding, design, and construction; and
- b. Details on plant survivability; and
- c. In-kind or volunteer contributions made toward project implementation; and
- d. Copies of all positive press or public informational items as collected by Zoo staff including any comment by the public regarding the facilities; and
- e. Description of any unexpected or unavoidable issues that were raised during project implementation – including how the issue was resolved.

**Oregon Zoo Specific**

4. Installation of all Zoo facility plant materials using volunteer or staff resources. This labor will be seen as an in-kind contribution by METRO.

**BUDGET**

Oregon Zoo	\$200,000 total from Project #
Parking Lot	
Crossroads (Tentative)	
Samburu Crossing (Tentative)	
Ranger Station (Tentative)	
Elephant Rainbarrels /Chains (Tentative)	



## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3517, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PORTLAND PROVIDING FOR FUNDING AND CONSTRUCTION OF STORMWATER IMPROVEMENTS AT THE OREGON ZOO

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Date: December 2, 2004

Prepared by: Tony Vecchio

### BACKGROUND

Zoo staff is working together with City of Portland, Bureau of Environmental Services ("BES") to identify innovative storm water handling projects to be constructed at the Zoo. These projects are being funded by the Environmental Protection Agency with pass-through funds to BES. There is \$200,000 in grant funds available for this project. The project will be funded entirely by the grant. The funding period ends June 30, 2004.

A study of potential projects was completed by GreenWorks, a contractor for BES. Based on that study, five projects were identified and agreed to be priorities by BES and the Zoo. The recommended projects are all in public areas where educational messages regarding storm water can be easily communicated via simple interpretives, a requirement of the grant.

The projects selected include installation of bioswales in a portion of the Washington Park Parking Lot, installation of a storm water treatment facility near the concert lawn, disconnecting downspouts on the viewing kiosks adjacent to the elephant front yard, and if funds are available, projects in the Kongo Ranger Station and Sankuru Trader areas of the zoo will be explored.

### ANALYSIS/INFORMATION

1. **Known Opposition.** None
2. **Legal Antecedents.** Metro Code Section 2.04.026(a)(2); U.S. Environmental Protection Agency Federal Innovative Wet Weather Grant requirements.
3. **Anticipated Effects.** The anticipated effect is a reduction in storm water runoff at the Oregon Zoo through the completion of innovative storm water handling projects.
4. **Budget Impacts.** The innovative storm water handling projects will be funded by the Environmental Protection Agency ("EPA") as pass through funds to the BES. This action will increase grant revenue in the Zoo Operating Fund by \$200,000, with a corresponding increase to capital outlay. There will be no impact on the Zoo's fund balance as no Metro funds will be made available or authorized for expenditure to finance costs of this Intergovernmental Agreement ("IGA"). The IGA provides that the Zoo will provide perpetual maintenance for the storm water handling facilities constructed with EPA grant funds.

### RECOMMENDED ACTION

The Chief Operating Officer, in concurrence with the Council President, recommends adoption of this Ordinance.

Agenda Item Number 8.1

**Resolution No. 04-3511, For the Purpose of Amending Contract No. 923895 With Ducks Unlimited for the Water Control Structure at Smith and Bybee Lakes Wildlife Area.**

*Contract Review Board*

Metro Council Meeting  
Thursday, December 2, 2004  
Metro Council Chamber

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AMENDING	)	RESOLUTION NO. 04- 3511
CONTRACT NO. 923895 WITH DUCKS	)	
UNLIMITED FOR THE WATER CONTROL	)	Introduced by Chief Operating Officer
STRUCTURE AT SMITH AND BYBEE LAKES	)	Michael J. Jordan, with the concurrence of
WILDLIFE AREA	)	Council President David Bragdon

WHEREAS, Metro manages Smith and Bybee Lakes Wildlife Area; and

WHEREAS, Metro installed a new water control structure to implement environmental objectives for the wildlife area; and

WHEREAS, Metro wishes to make the final refinements to the new water control structure built in 2003; and

WHEREAS, Metro wishes to complete the project in a continuing partnership with Ducks Unlimited; and

WHEREAS, an amendment to Ducks Unlimited's contract requires Council Approval; and

WHEREAS, this Resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Metro Council for its approval; now therefore

BE IT RESOLVED that the Metro Contract Review Board authorizes the Chief Operating Officer to amend Contract No. 923895 in the amount of \$30,000.

ADOPTED by the Metro Contract Review Board this \_\_\_\_\_ day of December, 2004.

---

David Bragdon, Council President

Approved as to Form:

---

Daniel B. Cooper, Metro Attorney

## **STAFF REPORT**

### **IN CONSIDERATION OF RESOLUTION NO. 04-3511, FOR THE PURPOSE OF AMENDING CONTRACT NO. 923895 WITH DUCKS UNLIMITED FOR THE WATER CONTROL STRUCTURE AT SMITH AND BYBEE LAKES WILDLIFE AREA**

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Date: November 15, 2004

Prepared by: David Biedermann  
Elaine Stewart

#### **BACKGROUND**

Smith and Bybee Lakes and their associated sloughs and wetlands are remnants of an extensive river bottomland area located near the confluence of the Willamette and Columbia rivers. The Natural Resources Management Plan for Smith and Bybee Lakes, adopted by Councils of Metro and City of Portland in 1991, established nearly 2,000 acres as a wildlife area to be managed primarily for wildlife habitat protection and enhancement while providing passive recreational opportunities.

The current project, in partnership with Ducks Unlimited, implements the recommendations of several studies that advised returning the impounded lakes to a more dynamic wetland system in order to restore native plant communities, to optimize Smith-Bybee's habitat value for fish and wildlife, and to improve water quality. Two advisory committees to Metro, the Smith and Bybee Lakes Management Committee and the Wetlands Technical Advisory Committee, recommended installing a new water control structure to accomplish this.

Ducks Unlimited is a non-profit organization dedicated to wetland restoration and enhancement with extensive experience designing and building such structures. Ducks Unlimited raised funds for the project, performed design and engineering work, and hired and managed the construction work.

The new structure is 95 percent complete and Metro began operating it in December 2003. It allows capture and impoundment of water during winter and spring to provide open water habitat for wintering and migrating waterfowl and to control reed canarygrass, an invasive plant. In addition, a fish ladder has been installed to allow juvenile salmon to utilize the wetlands as rearing habitat during winter and spring. The structure allows drawdown of the wetlands during the summer. By late summer, Bybee Lake receives daily tidal exchange from the Columbia/Willamette system (Smith Lake, separated by a meandering channel from the structure, does not fluctuate with the tides). This hydrology promotes the re-establishment of native wetland plants.

Most of the project has been completed, however, two items remain: reinforcement for the fishway and trash racks for the full structure. The trash racks will deflect fast-moving woody debris that can damage the structure or become lodged in the reverse tidegates, allowing water to flow back out when it should be retained. The fishway reinforcement will prevent water from escaping through joints in the structure and impeding fish passage.

Metro is seeking grant funds to cover the cost of completing the water control structure. Approximately 25 percent of the cost for the final two items has been secured, and another grant for the remaining 75

percent is pending. Resolution No. 04-3511 will enable Metro to amend its contract with Ducks Unlimited to complete the trash racks and fishway reinforcement.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

There is no known opposition to this contract amendment.

### **2. Legal Antecedents**

The Metro Council passed Resolution No. 01-3125 (“For the Purpose of Authorizing the Executive Officer to Replace the Dam at Smith and Bybee Lakes with a Water Control Structure”), adopted November 29, 2001. Per Metro Code 2.04.026 (b), prior to adoption of the annual budget, the Chief Operating Officer shall submit a list of proposed contracts over \$50,000 to be entered into during the next fiscal year. The Council designated Contract 923895 in the annual budget ordinance as a contract with a significant impact on Metro.

### **3. Anticipated Effects**

Approval of Resolution No. 04-3511 will allow the Regional Parks and Greenspaces Department to amend its contract with Ducks Unlimited to construct the final two components for building the water control structure. Ducks Unlimited will proceed with hiring and managing its contractors to fabricate the trash racks, and to install the trash racks and fishway reinforcement by mid-December 2004.

### **4. Budget Impacts**

The total cost spent on the water control structure to date is \$576,131; with this amendment, the total will be \$606,131. Ducks Unlimited obtained grants to cover nearly all of the structure’s cost. The remaining two tasks are anticipated to cost approximately \$30,000. Metro and Ducks Unlimited are seeking grant funds to pay for the final features. If sufficient grant funding is not received, Metro will make up the shortfall from the Smith and Bybee Lakes Fund.

## **RECOMMENDED ACTION**

The Chief Operating Officer, in concurrence with the Council President, recommends adoption of Resolution 04-3511.



ATTORNEYS SERVING PRIVATELY HELD BUSINESSES AND THEIR OWNERS

120204c-01

# MOTSCHENBACHER & BLATTNER LLP

117 SW TAYLOR STREET, SUITE 200, PORTLAND, OR 97204-3029 TELEPHONE 503-417-0500 FAX 503-417-0501

Anthony J. Motschenbacher  
Admitted in Oregon and Washington  
Direct: 503-417-0506  
tony@portlaw.com  
www.portlaw.com

December 2, 2004

## HAND DELIVERED

METRO Council  
Metro Regional Center  
600 N.E. Grand Avenue  
Portland, OR 97232-2736

Re: Columbia Environmental, LLC's Response to Staff Report  
in Consideration of Ordinance No. 04-1063

Dear Sirs and Madams:

This office represents Columbia Environmental, LLC ("Columbia") with regard to its corporate affairs.

The purpose of this letter is to address and oppose many of the findings and conclusions contained in the 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 (the "Staff Report"). The Staff Report contains multiple factual and analytical errors. The correction of such errors shows that, on balance, the proposed facility will provide a net benefit to the regional solid waste system, and therefore the application must be approved.

The Staff Report bases its denial recommendation on five alleged bases: (i) that the solid waste system has excess capacity; (ii) that the proposed facility does not meet the "accessibility" standard because there are other facilities within 25 minute drive times; (iii) that the additional material recovery of the proposed facility would be negligible (allegedly 0-3200 additional tons); (iv) that the proposed facility would not increase competition because it would add to the vertical integration of the market; and (v) that the cost of waste services would actually increase, based on a generalized elevation of tip fees. As will be discussed below, four out of the five bases are largely or entirely inaccurate or without basis.

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1. Accessibility

The Staff Report acknowledges that the Regional Solid Waste Management Plan (“RSWMP”) policy states that new transfer stations are appropriate when the delivery of efficient disposal services is negatively affected by either capacity or accessibility. *See* Staff Report, p. 8.

With regard to the latter, the Staff Report’s arguments regarding the “accessibility” factor are misplaced for multiple reasons. Preliminarily, in the most general sense, the approval of Columbia’s application would only enhance the accessibility of disposal services, thus advancing the policy of the RSWMP.

More specifically, the Staff Report’s analysis is wholly based on its analysis of “underserved areas” and its reliance on the Metro travel model. As to “underserved areas,” the Staff Report arbitrarily defines them as those areas that do not have a transfer facility within a 25-minute drive. The Metro Code simply does not contain any such standard or definition of an “underserved area.” The Staff Report asserts that the 25-minute drive time is the “working standard.” It bases this statement on the Staff Report to Ordinance No. 00-865, adopted by the Metro Council on June 15, 2000. *See* Staff Report, p. 9. However, the Staff Report relating to Ordinance No. 00-865 does not present 25 minutes as a “working standard” at all. In fact, the reference to 25 minutes in that document appears only as an example of an unduly long travel time, and that report advocates shorter travel times. *See* Staff Report to Ordinance No. 00-865, p. 8. As such, it is disingenuous and irresponsible for the present Staff Report to misrepresent 25 minutes as the defining guideline for “underserved areas.” Therefore, the Staff Report’s main argument concerning “accessibility” is both factually and legally groundless.

Additionally, the Staff Report’s use of Metro’s travel model is inherently flawed for three reasons. First, the model is significantly dated and was not developed to analyze waste-handling issues at all. The Metro travel model merely shows midday auto travel times for the year 2000, and was developed for transportation planning purposes. *See* Staff Report, p. 9. In contrast, the present application relates to a facility for heavy duty hauling trucks traveling in 2005 and later. In light of the explosive growth in the area, and the dissimilarity in vehicles, the travel times set forth in the model woefully understate the actual travel times that the hauling trucks will experience. Indeed, the Staff Report to Ordinance No. 00-865 expressly recognizes this fact, and states that “[b]ased on projections, travel times for the [eastern portions of Multnomah and Washington counties] will increase as the region grows, and ultimately will increase the cost to ratepayers.” *See* Staff Report to Ordinance No. 00-865, p. 7.

December 2, 2004

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Second, the Staff Report flatly misuses the travel model to assert inaccurate travel times. Using the model, the Staff Report only contemplates the one-way distance from specific locations to the nearest existing transfer station. Unless haulers intend to abandon their trucks at the stations, they must make a return trip, and the Staff Report utterly fails to account for “back to yard” miles. As such, the actual effective distances and travel times set forth in the Staff Report should be doubled (and then adjusted to account for the passage of five years and the use of cumbersome vehicles).

Finally, the Staff Report’s use of the Metro travel model is overly simplistic and misleading because it is based on the false idea that proximity is the primary determinant of transfer station choice. This is not true, as haulers choose transfer facilities based on other factors, such as ownership and price. *See, e.g.,* Metro Transfer Station Policy Study, by Cascadia Consulting, October, 2002.

For the above reasons, it is evident that the Staff Report misrepresents the Staff Report to Ordinance No. 00-865 and misuses and misstates a dated transportation “model.” As such, the Staff Report’s conclusion that the proposed facility does not advance the “accessibility” factor under the RSWMP is completely untenable. In the interest of truth and fairness, the Staff Report’s conclusions should be analyzed and rejected. As stated in Columbia’s application, the proposed facility strongly supports the RSWMP’s accessibility policy.

## 2. Material Recovery

The Staff Report accurately sets forth the RSWMP policy on material recovery—that new transfer stations shall perform material recovery subject to facility recovery rate standards. *See* Staff Report, p. 11. Taken on its face, the Staff Report also acknowledges that Columbia’s proposed facility would meet such standards. Therefore, the “material recovery” factor clearly supports approval of Columbia’s application.

However, it must be pointed out that the Staff Report inaccurately asserts that the additional material recovery of the proposed facility would be negligible (0-3200 additional tons). It bases such numbers on the premise that certain material would be recovered at other facilities if not at the proposed facility, and that the material that the applicant projects will be recovered does not represent “additional” tons recovered. This is simply untrue. The recovery amounts detailed in Columbia’s application refer to tons that would otherwise likely be landfilled. In other words, it already takes into account the materials that would be recovered if the proposed facility did not exist. As such, it is clear that the proposed facility would significantly advance the RSWMP’s recovery goals.

It should also be noted that the Staff Report conveniently avoids addressing the important fact that Columbia has a strong economic incentive to recover recyclable materials from the waste stream. Columbia does not own a landfill to which the waste will be transferred, and therefore has more of an incentive to conduct material recovery to bring revenue into the facility.



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Such economic incentive is exactly the sort of market solution that supports the RSWMP's goal to increase material recovery. The existing hauling structure is designed to feed the landfill, yet the proposed facility is a strong move toward increased waste recovery.

For the above reasons, the "material recovery" factor strongly supports approval of Columbia's application.

### 3. Competition

The Staff Report acknowledges that the RSWMP policy is to encourage competition. However, the Staff Report attempts to sidestep the essential economic fact that approval of the facility could only enhance competition. The Staff Report does concede that competition typically leads to "either lower prices for the consumer, as a result of market entry, or innovation in service or products." *See* Staff Report p. 14. However, the Staff Report then immediately dismisses the classical economic rules of competition, based wholly on its defective assertions that: (i) the proposed facility would increase rates to the consumer, based on a general elevation of tip fees; and (ii) the proposed facility would constitute improper vertical integration.

With regard to the latter, the Staff Report turns proper vertical integration analysis on its head. The purpose of avoiding undue vertical integration is to avoid situations where certain market participants have sufficient control over all aspects of a market that they have an unfair advantage over other market participants. The Staff Report conveniently ignores the glaring fact that certain large, multinational companies currently enjoy full vertical integration over all three levels of the waste recovery market. As a result, independent haulers are currently at a significant competitive disadvantage against the complete vertical integration of the major companies. Indeed, the proposed facility is an attempt to protect the independent haulers' ability to compete against the fully integrated major companies. It is truly ironic that the Staff Report uses the concept of "partial vertical integration" to argue that the proposed facility would somehow harm competition. Rejection of Columbia's application only preserves the full, unchallenged vertical integration of the major companies. It is absurd to suggest that such a result furthers the policy of the RSWMP.

Finally, it should also be noted that existing transfer stations use profit to drive up the rates for independent haulers, which can drive them out of the marketplace. It is common knowledge that other haulers receive significantly more favorable rates. The approval of the proposed facility serves to level the playing field between haulers, allowing independent haulers to remain competitive and advancing the purposes of the RSWMP.

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4. Cost

The Staff Report places great emphasis on its assertion that if the proposed facility is approved, “the citizens of the region will likely pay about \$1.3 million more annually for solid waste and recycling services . . .” *See* Staff Report, p. 15. The Staff Report bases this assertion on two grounds: (i) that the acknowledged \$1.27 million savings claimed by Columbia would not be passed through to consumers; and (ii) that approval of the facility would result in a generalized increase in the tip fees at public and private facilities. Both of these grounds are legally and factually untenable.

As to the first issue, the Staff Report utterly ignores the fact that savings on residential routes are passed through to ratepayers as a matter of law. Indeed, Metro Staff admits that any residential transportation savings realized by Columbia’s franchised haulers will be considered by the cities of Portland and Gresham in their annual rate-setting processes. *See* Memorandum to Metro Council dated November 18, 2004, p. 1. Therefore, the consumer should realize cost savings from the proposed facility.

As to the latter, the Staff Report assumes that local transfer stations will always follow Metro price signals, and will raise their tip fees along with the supposed increase in Metro tip fees. The Staff Report, however, provides no support for such assumption. Such support is necessary because the Staff Report’s assumption is directly contradicted by the marketplace, which currently faces both higher and lower rates at local transfer stations without apparent connection with Metro’s tip fees. *See* Memorandum to Metro Council dated November 18, 2004, p. 2.

Conclusion

Based on the above points, it is evident that the Staff Report is not an objective, fair assessment as to whether the proposed facility, on balance, provides a net benefit to the regional solid waste system. Instead, it appears to be an attempt to justify the unfair denial of Columbia’s application. Clear benefits that would be conferred by the proposed facility in the areas of accessibility, material recovery, fair competition and consumer cost are conspicuously ignored. Instead, the Staff Report presents factually and legally defective arguments to reach its conclusion that the proposed facility would be a detriment to the waste system.

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The factors to be considered under the Metro Code are not criteria for approval. They are factors that if met, on balance, support the approval of the proposed facility. Columbia respectfully requests that the Metro Council determine the legal and factual truths underlying Columbia's application. We are confident that once such determinations are made, it will be clear that the proposed facility satisfies, on balance, the applicable factors and will provide a net benefit to the regional solid waste system. Columbia remains committed to serving the interests of the community while furthering the true goals of the RSWMP.

Very truly yours,

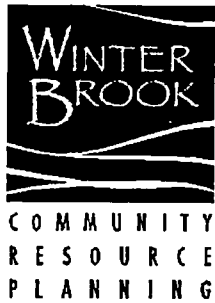
MOTSCHENBACHER & BLATTNER LLP



Anthony J. Motschenbacher

AJM:CB:klb

cc: Columbia Environmental, LLC  
Mr. Mike Hoglund (hoglundm@metr.dst.or.us)



# MEMORANDUM

To: Metro Councilors  
 Mike Hoglund, Metro Solid Waste and Recycling Director

From: Ben Schonberger

Date: December 2, 2004

Re: **Columbia Environmental application**

Metro staff issued a staff report addressing the Columbia Environmental application for a new transfer station on November 2, 2004. At a meeting with Metro staff on November 15 to discuss the report, the applicant provided Metro with a one-page preliminary list of factual, logical, or analytical problems that it had identified. Metro responded to the applicant on November 18 with a memo addressing the problems identified by the applicant. This document serves as an overall response to both the staff report and follow-up memo, and clarifies outstanding issues raised by Metro staff. Winterbrook Planning represents the applicant, Columbia Environmental.

The applicant strongly disagrees with both the analysis used by staff and the conclusion reached. The report contains faulty reasoning in rejecting the applicant's claim that the proposal benefits the citizens of the region. In fact, the proposed facility will create a net regional benefit by: increasing competition, bolstering locally-owned business, holding down garbage rates, reducing truck travel with its attendant traffic and pollution impacts, and increasing recovery and recycling.

The staff report not only misjudges the proposal, it utterly disregards most of the supporting analysis and argument put forward by the applicant. For this reason, it is important to restate some of the key arguments in support of the application.

## MAIN POINTS OF COLUMBIA ENVIRONMENTAL APPLICATION

### Levels playing field

Columbia Environmental's proposal is a way for a coalition of small, locally-based haulers to fight back against a wave of consolidation in the waste industry. Following national trends, the Portland metro region has experienced dramatic consolidation. In the current business and regulatory climate, independent, locally-based waste haulers are at risk of extinction. Large, vertically-integrated multi-national companies have developed a predatory pricing strategy that weakens smaller waste haulers. Long-term, this lack of competition in waste disposal will take tons away from Metro transfer stations and drive up prices for all citizens of the region.

The staff report completely ignores current ownership patterns in the region. The actions taken by Columbia Environmental are a survival response to an existing landscape in the waste industry. Staff criticizes this effort by local haulers to integrate the bottom two rungs of the waste ladder—hauling and transfer—without acknowledging the dominant power of other companies and their direct connections to landfills. Independent haulers are currently at a competitive disadvantage of \$10 to \$15 per ton. Approval of the application would restore a measure of balance to a regulatory environment that is currently skewed in favor of large, multi-national, vertically-integrated companies.

### **Increases recovery**

Columbia Environmental has an economic incentive for recovery and recycling that directly parallels Metro's regional goals for 62 percent recovery. Recovery and recycling is a profit center for the company, whereas delivering waste to the landfill is an undesirable cost. In addition, new mechanical technologies will be deployed in the transfer station that will increase recovery rates. Columbia Environmental's overall targets for recovery of 30 to 35 percent are conservative, given existing technology. Furthermore, the adjacent recycling processing facility will make this process even more efficient, as well as reducing transportation time and costs.

Conversely, the economics of waste disposal in a vertically-integrated company encourages landfilling. Because landfills generate the greatest profit of any step in the disposal process, it is widely acknowledged that the disposal systems in these organizations are structured to "feed the landfill." Columbia Environmental has no direct connection to a landfill. The staff report glosses over this economic fact. Significantly increased recovery will be a clear benefit of the new facility.

### **Reduces Travel**

The Columbia Environmental application analyzed in detail the estimated savings from reduced truck travel by affiliated haulers. Based on information provided by the haulers, this analysis concluded that the presence of the new facility would result in a reduction of 3,800 hours per year of truck travel. Less truck travel results in reduced congestion on public streets, lower levels of noise and air pollution, and an estimated \$0.5 million in savings to the haulers. Because local jurisdictions set residential rates based on hauler costs, a significant portion of this savings will be passed through directly to the ratepayer. This is a clear net benefit to the citizens of the region.

In response, staff acknowledged no regional benefit whatsoever for the identified transportation savings. The report questions the accuracy of the applicant's projections, and portrays any potential savings by haulers as a way for them to profit at the expense of non-affiliated haulers. In fact, these savings must, by law, be passed through to ratepayers. Moreover, the report grants no public benefit for the other factors that were not quantified, but are still significant: less roadway congestion, fewer regional vehicle miles traveled, and less noise and air pollution.

## **OTHER PROBLEMS WITH STAFF REPORT**

### **Financial Benefits**

Based on a combination of lower dry waste tip fees and transportation savings, the Columbia Environmental application estimated a savings of \$1.3 million for the citizens of the region. Users of the facility will realize these savings, and some of the savings may also be realized by residential ratepayers, who could experience lower rates as determined by local rate setters.

The staff report criticizes the application's lack of an outright promise to lower rates for ratepayers. (Staff equates "citizens of the region" with ratepayers, even though Metro code does not narrowly define it this way.) As outlined above, Columbia Environmental has no direct control over rates. By law, savings on residential routes are passed through to residential customers as a consequence of the rate-setting process. Haulers are not permitted to take these savings as profit. Some portion of these savings will go to ratepayers, but the applicant is wary of making promises it cannot keep about lower rates. Historically, efficiencies in the waste collection system have been more likely expressed as downward pressure on prices rather than actual reductions. This was clearly communicated in the application.

### **Metro Losses**

The analysis contained in the staff report explains that the new facility will reduce the number of tons delivered to Metro's facilities. This is not in dispute. However, Metro staff then concludes that they will be forced to raise rates to make up for the reduced tonnages. As a tertiary consequence, the report states, other transfer stations will follow Metro's price signals, and the cascade of higher tip fees will result in a loss of \$1.2 to \$1.4 million for ratepayers.

The zero-sum argument in the staff report—waste delivered to privately-owned transfer stations create a net loss for the citizens of the region—is not specific to Columbia Environmental. Because of Metro's cost-based approach, the introduction of any non-Metro facility, or any increase in tons allowed to existing non-Metro facilities, causes the same chain of events. That chain is: fewer tons are delivered to Metro, per-ton costs increase, Metro responds by increase in rates, other transfer stations follow with parallel price increases.

If this economic scenario is the primary reason for denying the application, Metro has effectively declared a ban on all new facilities and all requests for increased tonnages from existing facilities. In this view, the greatest benefit to the citizens of the region would be to increase Metro's market share and receipts at the expense of other transfer stations, a policy that the Council has explicitly not pursued. This would be directly contradict Metro Ordinance 00-865, which revised the RSWMP to allow for the consideration of new, privately-owned transfer stations.

Furthermore, the last step of the scenario described above presumes that Metro is a “market maker” and that other privately-owned transfer stations always follow its price signals. The November 18 staff memo shows a table of wet waste tip fees that purports to show how other transfer stations follow Metro’s pricing lead. Actually, the data presented demonstrate that there are substantial differences. The two-year change in price from Metro was 7.7%, while the corresponding changes of the other participants ranged from 4.0% at Troutdale to 10.4% at Pride.

In fact, non-Metro transfer stations set prices based on a variety of factors, not exclusively what Metro charges. One key factor is local competition. The Columbia Environmental proposal will increase the competitive landscape, hold down price increases, and thereby benefit the citizens of the region.

### **Accessibility**

In its discussion of accessibility, the staff report disputed the applicant’s estimates of travel savings and claimed that the project has not shown that it is in an “underserved area.” According to the report, this is because Columbia Environmental is 6 miles from a local transfer station in Troutdale. In fact, based on the only adopted official map—which is based on regional transfer stations—the facility is in an under-served area. The applicant specifically requested a definition of “under-served area” from staff in September 2003, and received confirmation that the definition referred only to regional transfer stations. The original application cited the Metro map and clearly explained the accessibility issue.

The 25-minute travel time to any transfer station “working standard” cited by staff is not a Metro code provision. The map on page 3 of the staff report is not based on any other Metro document. In the November 18 memo, staff claims that it has not used its own travel model to evaluate the application, but it uses this travel time map and the 25-minute working standard as grounds for recommending denial.

The concept of geographically-based service areas does not match reality. Haulers choose where to take their loads based on a mix of factors, including price, ownership affiliations, and proximity. This idea was discussed in the original application and is based on a Council-adopted study on the issue (“Metro Transfer Station Policy Study,” Cascadia Consulting, *et al*, October 2002). This study, the most detailed and thorough analysis to date, concluded that 42% of all waste loads were delivered to transfer stations based factors *other than* physical proximity. If nearly half of the region’s waste travels outside its “service area” for transfer, it does not make sense to use proximity as a primary consideration. The staff report completely ignored this argument by the applicant.

The application also noted that Metro has allowed Pride and WRI, which are 4.4 miles from each other, to operate transfer stations in the southwest corner of the region. This distance is closer than Columbia Environmental would be to Troutdale. Both of these facilities operate successfully.

## **CONCLUSION**

In conclusion, Columbia Environmental strongly believes that its application for a new transfer station satisfies all the relevant criteria for approval. Contrary to staff's analysis, the proposal increases accessibility for haulers, helps to balance an uneven competitive playing field, increases regional recovery rates, and provides tangible benefits to citizens of the region.





**BulkHandling**  
SYSTEMS, INC.

120204e03

November 29, 2004

Mr. Jay McCuiston  
Oregon Recycling Systems  
14041A NE Sandy Blvd.  
Portland, OR 97230  
Re: Recovery rates

Dear Jay:

In response to your question about recovery rates for material recovery facilities we can provide the following general guidelines based on feedback from about 20 MRF customers located in the US and Canada.

- For wood rich loads like C&D material recovery rates of 45-60% are typical.
- For general residential type loads recovery rates of 15-20% are typical.

Recovery rates do vary widely from day to day, but overall we would expect to see overall recovery rates in the 35 – 40% range if the plant is operated efficiently.

Please let me know if you have any additional questions.

Sincerely,

**Bulk Handling Systems**

Eric Winkler

120204c-04

# Tri-County Council

1739 NW 156<sup>th</sup> Avenue Beaverton, Oregon 97006  
(503) 690-3143 (Tel/Fax) [davidw@orra.net](mailto:davidw@orra.net)

Via Facsimile: 503-797-1793

December 2, 2004

Council President David Bragdon  
Metro  
600 NE Grand Avenue  
Portland, Oregon 97232-2736

Re: Ordinance 04-1063, Columbia Environmental Transfer Station Application

Dear President Bragdon:

I was asked only yesterday by the applicant to comment on this ordinance. I cannot attend the Council meeting today as I had already scheduled a full day of appointments. However, I did receive a copy of the November 2, 2004 staff report and reviewed it last night. I have comments that I would ask be conveyed to Council Members and considered during your deliberations at today's Council session.

After reading the report and its conclusions, I am disturbed by apparent omissions in the staff analysis on a couple of key issues. I cannot imagine that staff overlooked these issues and circumstances as they were significant to the original discussion surrounding the approval of new transfer stations and the concern about reducing vehicle miles traveled. These issues are capacity, access, service areas and tonnage caps.

Throughout the staff report, reference is made to the issues of transfer station capacity and access. Staff concludes that there is "more than adequate capacity to accept, manage and transfer all of the region's waste" and that the location of the proposed facility is not under-served because of it's proximity to the Troutdale Transfer Station (page 5). While it may be true that the Troutdale facility has unused capacity, no mention is made in the report that there is limited access to that facility's capacity due to the 65,000 ton cap. It is unfair and incorrect to note that there is adequate transfer capacity in the area and then fail to acknowledge that there is no access. I believe this issue of capacity vs. access must be addressed in the analysis of the Columbia Environmental application.

Further, I was present during the lengthy discussions regarding whether or not there was a need for additional local transfer stations. At that time, Metro indicated that there was an area in East Multnomah County that generated 130,000 tons of waste that could go

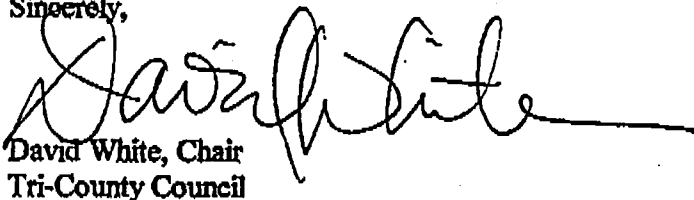
Council President David Bragdon  
December 2, 2004  
Page 2

directly to facilities in that area thereby reducing vehicle miles traveled. The area was divided into two service areas and Waste Management/Recycle America received approval to accept 65,000 tons (1/2 of the available tons) at their facility. The company asked for the entire 130,000 tons and the request was rejected. Reasons given were a concern that another facility might be developed that would be better located within the second service area and that once the tons were allocated to Waste Management, even temporarily, it would be difficult to take them back. So, at the time (only a few years ago) Metro's policy and stated position was that the second service area still had 65,000 tons available and that a facility might be developed in that service area. That facility is now a reality in the application of Columbia Environmental.

I question why the report does not mention this historical perspective, even in passing. There is no explanation of Metro's thinking at the time and if/why Metro's position has changed. Again, I cannot believe this was overlooked...although it might have been easier to make the recommendation of denial if it was avoided. I believe the ignoring of an established policy and the apparent later changing of that policy must also be addressed in the analysis the Columbia Environmental application.

Thank you for consideration. I apologize for not being able to present these thoughts in person and I will look forward to the Council discussion of my inquiry.

Sincerely,



David White, Chair  
Tri-County Council

Cc: Metro Council Members  
Bryan Engleson, Columbia Environmental



**Columbia Environmental L.L.C.**

Waste and Recovery Station

# Agenda

1. Columbia Environmental Tenants

2. Purpose and Proposed Site

3. Operations

4. Cost Analysis

# Columbia Environmental

Tenants

Oregon  
Recycling  
Systems

Strategic  
Materials

Pacific  
Power  
Vac. L.L.C.

Processes, sorts, and markets residential and commercial source separated recycling

Sorting and beneficiation of glass for Owens Brockway, Gallo of Sonoma, Owens Corning, and transportation and marketing of other glass such as window.

Recovery of special wastes such as grease traps, parking lot drains, organics, and other inert materials

# Oregon Recycling Systems

Processing,  
sorting, and  
marketing  
source  
separated  
recycling



# Strategic Materials

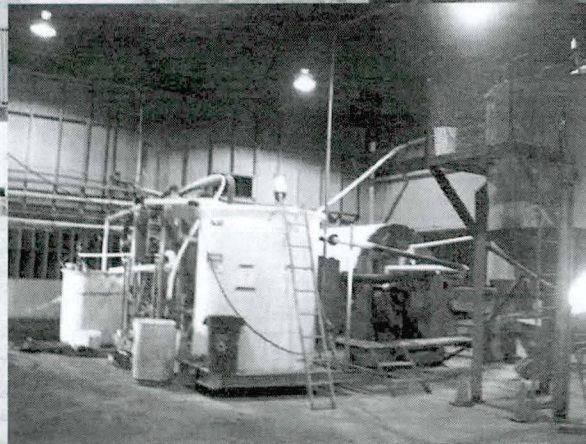
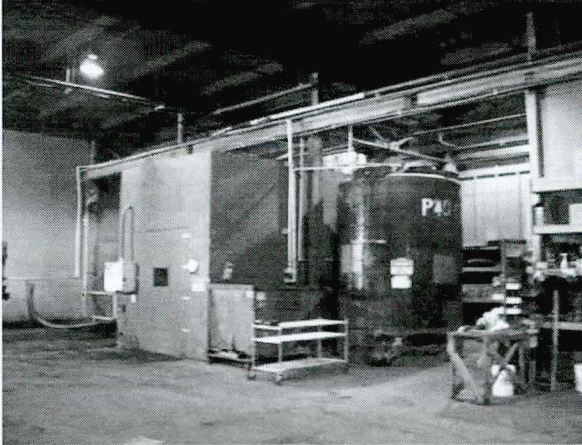
Processing,  
Decasing,  
Shipping of  
Glass for  
Bottles &  
Fiberglass



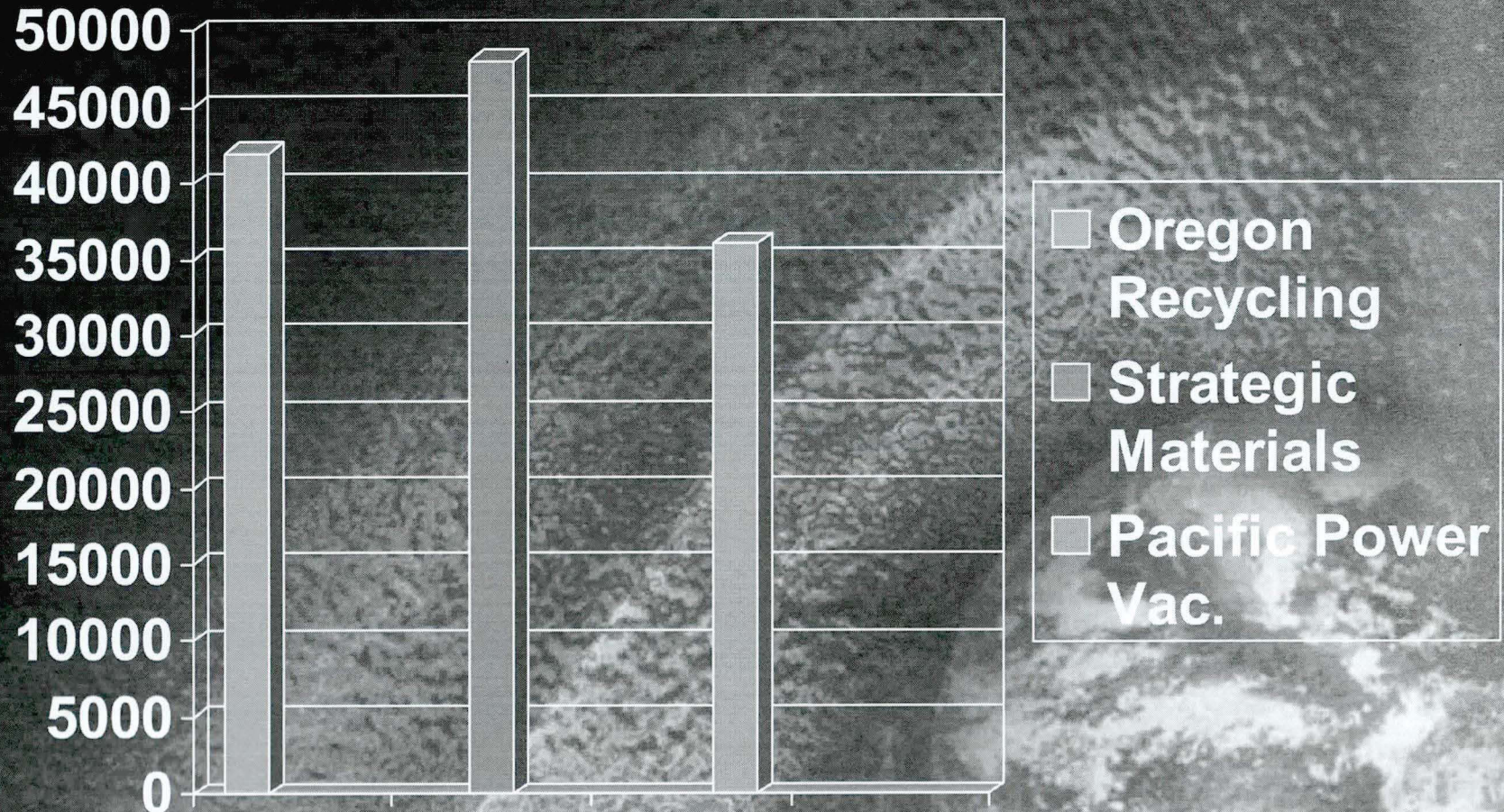


# Pacific Power Vac. L.L.C.

Recovery of  
Oils, Waters,  
Grease  
Sludge



# Tons Per Year Recovered



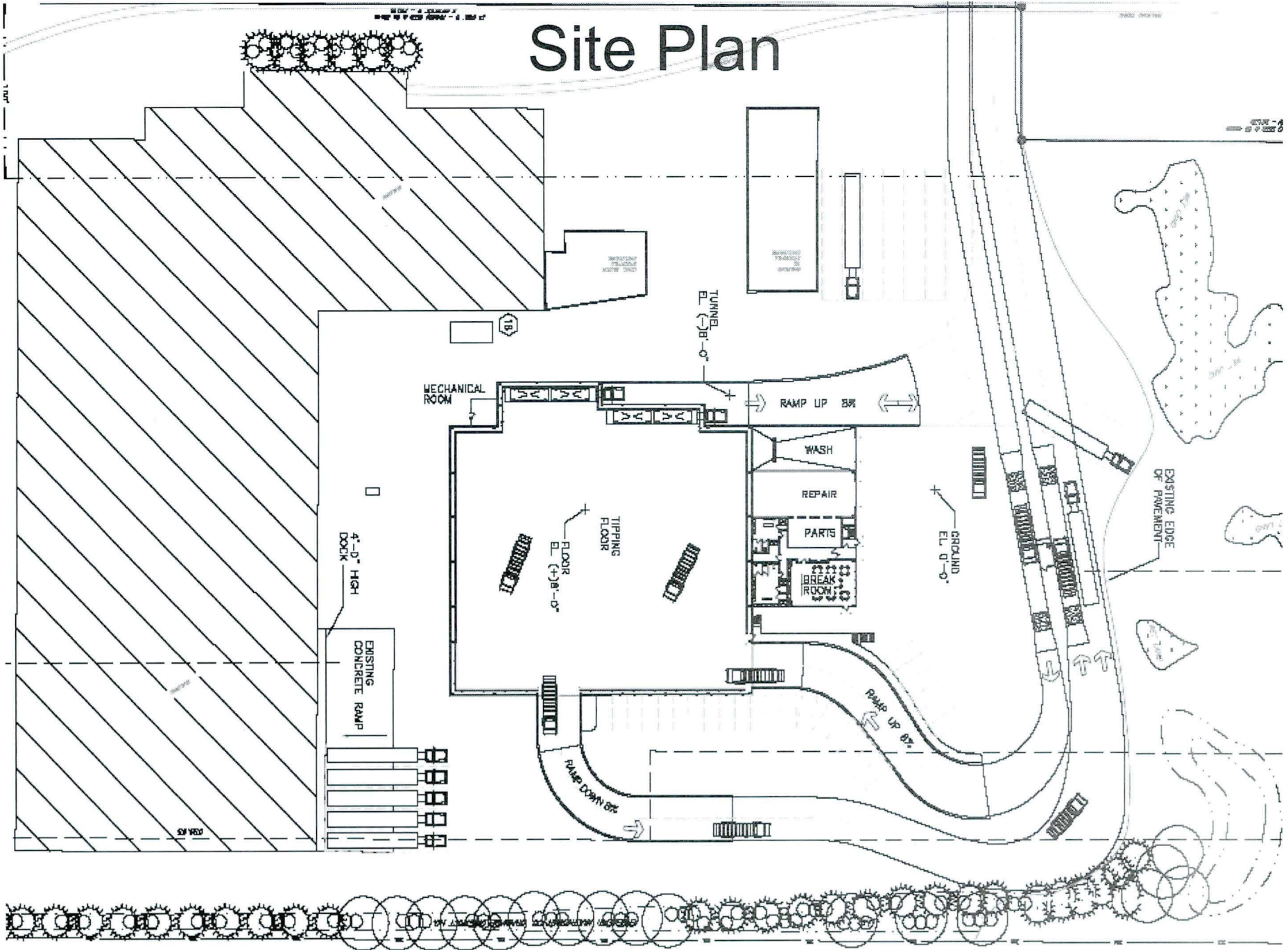
# Columbia Environmental Purpose

- Columbia Environmental will accept mixed solid and dry wastes for sorting and transfer. Recyclable materials will be pulled from the waste stream and transferred for onsite recycling, or to an appropriate off-site vendor. Wastes and waste residues will be transferred to an approved disposal site.
- Columbia Environmental will handle an estimated 55,000 tons of wet waste and 32,000 tons of dry waste per year.

# Columbia Environmental: Benefits of a Local Company

- The owners of Columbia Environmental are made up of 40 independent haulers whose roots are in the Portland Metro Region
- All employees and owners live the effects of the Metro Solid Waste System.
- Governed by Metro realities and not some parent company whose goals may differ with those of local jurisdictions.

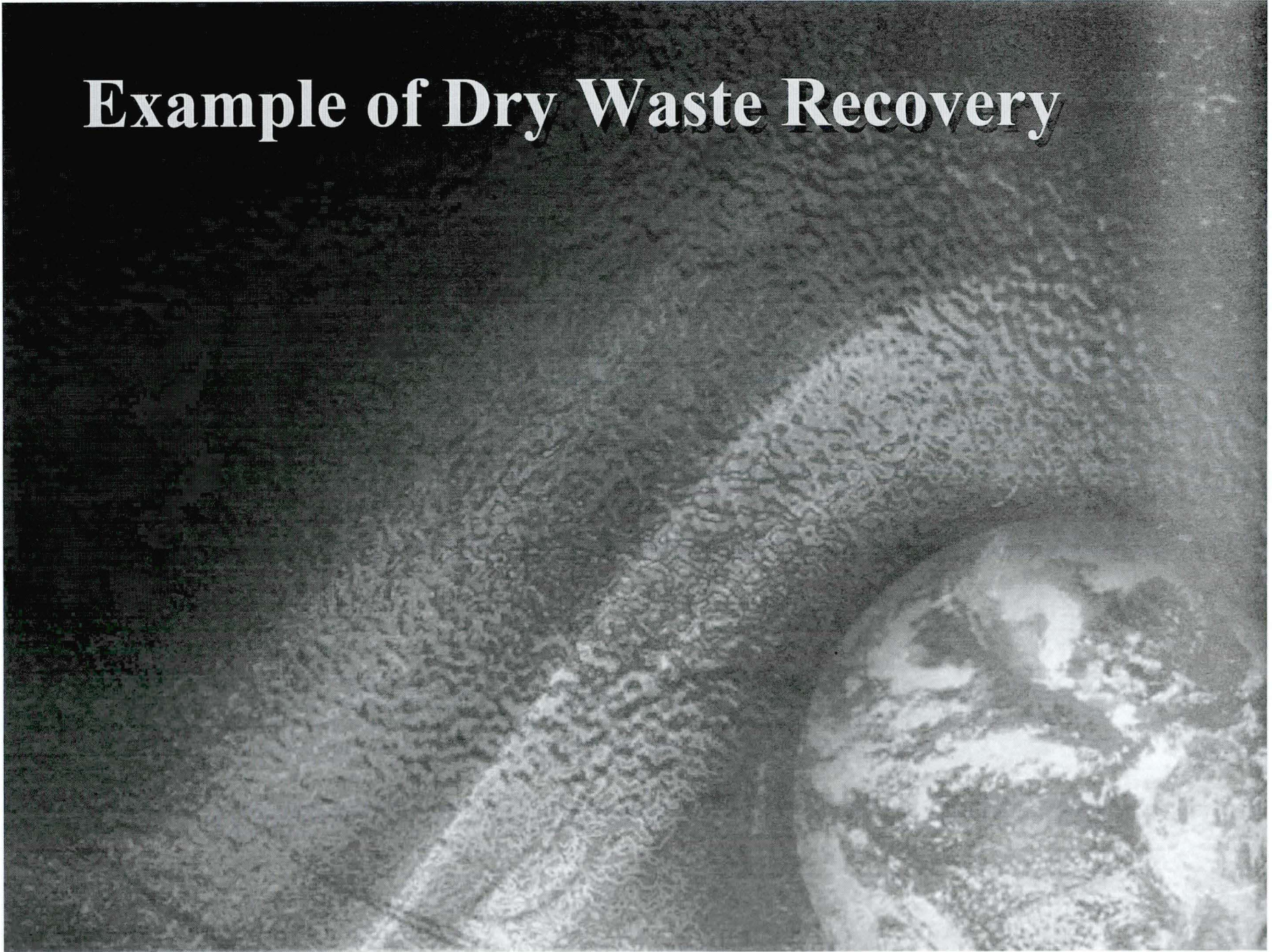
# Site Plan



# Site Operations: Dry Waste



# Example of Dry Waste Recovery

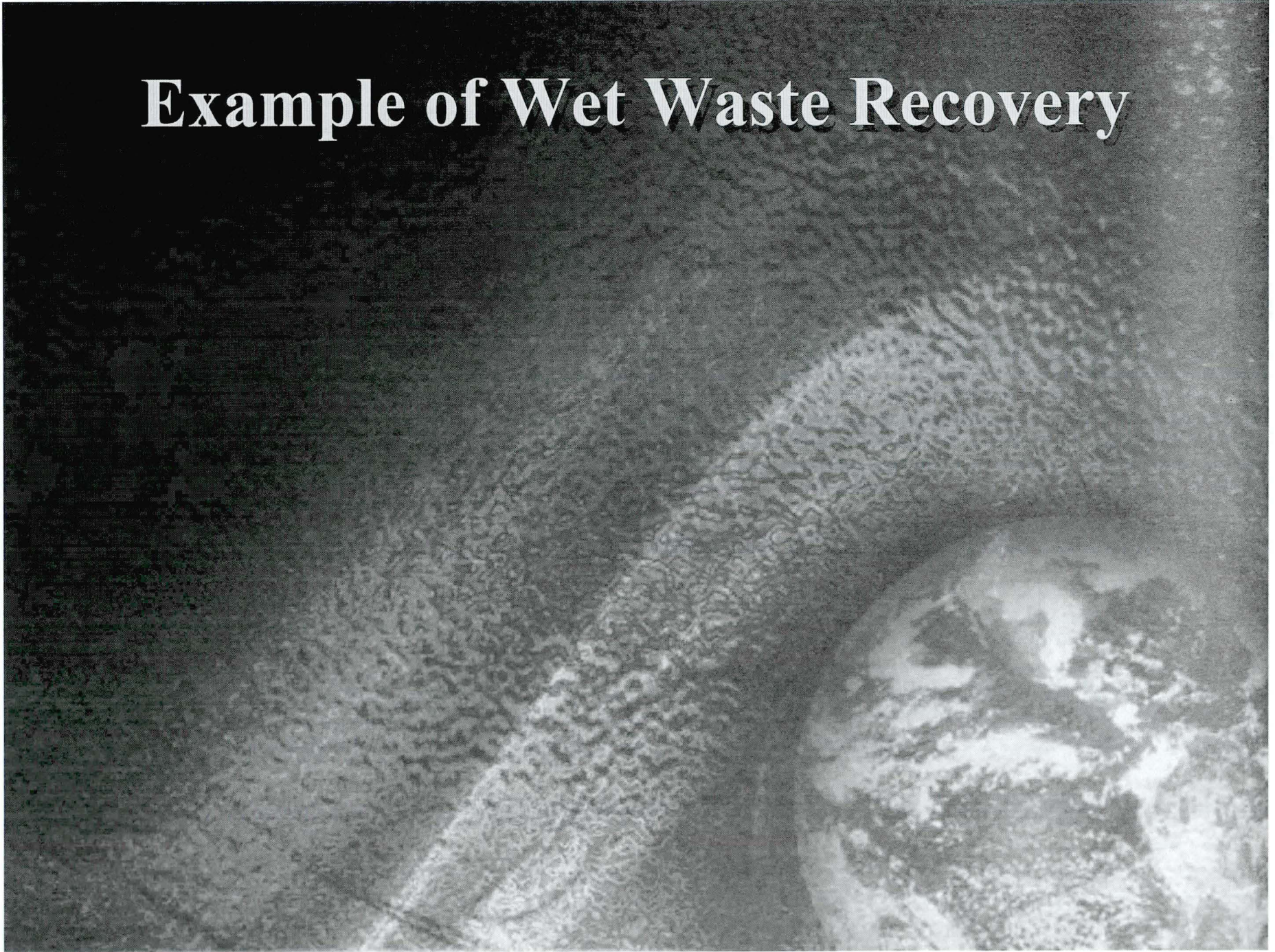


# Site Operations: Wet Waste





# Example of Wet Waste Recovery



# Cost Analysis: Hauler Savings

\$1,274,000 for haulers disposing of 92,230 tons of waste.

## Savings Areas

- Nearby Routes
- Lower Dry Waste Fees
- Closer Truck Storage Yards

## Potential Savings

- Possible reduction in the number of vehicles and or crews to service customers

# Cost Analysis: Customer Savings

Reduction in residential and commercial franchised rates for the cities of Portland and Gresham.

- Constrain increases in average collection cost
- Constrain franchise rate increases
- Constrain competitive fees to Portland Commercial Customers

# Cost Analysis: Metro Fiscal Impact

	Total	%	Savings	Per Customer
Res. Savings	\$1,274,000	42%	\$535,000	13.7 cents/month
Cost (Metro Staff)	605,000	42%	<u>254,100</u>	6.5 cents/month
	<b>Net Savings</b>		<b>\$280,900</b>	<b>7.2 cents/month</b>

	Total	%	Savings
Commercial Franchised	\$1,274,000	6%	\$76,440
Cost (Metro Staff)	605,000	6%	<u>36,300</u>
	<b>Net Savings</b>		<b>\$40,140</b>

# Cost Analysis: System Savings

## High Recovery Rates

- Estimated minimum of 32% of materials delivered to the facility
- Approximately 20,000 fewer tons to landfill

## Regional Recovery

- Savings on reloading, shipping, and handling costs for recovered materials will be reflected in the low-market fees charged by the new facility. This will help stabilize finances and long-term recovery for the region.

# Metro Region Recovery

	\$ Saved	Tons Recovered			Cost (Savings)
		<u>Old</u>	<u>New</u>	<u>Diff</u>	Per Ton
Columbia Environmental	\$1,274,000	9,000	29,000	20,000	<\$64>
Metro Staff	<u>605,000</u>	<u>8,000</u>	<u>11,000</u>	<u>3,000</u>	<u>\$425</u>
	\$ 669,000	1,000	18,000	17,000	<\$39>

# Questions & Discussion

