

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 14-1344
CODE TITLE V, SOLID WASTE, TO REVISE	)	
CHAPTER 5.06, COMMUNITY	)	Introduced by Chief Operating Officer Martha
ENHANCEMENT PROGRAMS	)	Bennett in concurrence with Council
	)	President Tom Hughes

WHEREAS, the Metro Solid Waste Code is set forth in Title V of the Metro Code; and

WHEREAS, Metro Solid Waste Code Chapter 5.06 contains the requirements for Community Enhancement Programs; and

WHEREAS, under the current version of Chapter 5.06, a solid waste enhancement fee of \$.50 is collected on waste at three transfer stations in the region – Metro Central, Metro South, and Forest Grove; and

WHEREAS, the regional solid waste system has grown and changed significantly since 1990; and

WHEREAS, the Chief Operating Officer has identified the need to update Metro’s community enhancement program to include additional eligible facilities, provide a clear process for collecting and distributing the fee, increase the fee to account for inflation, and establish an enhancement program framework for the future; and

WHEREAS, to achieve the above-referenced objectives, it is necessary to revise Metro Code Chapter 5.06, Community Enhancement Programs, to repeal the language and replace it with updated language; and

WHEREAS, the Chief Operating Officer has developed administrative procedures to provide detail on the implementation of Metro Code Chapter 5.06 as revised; and

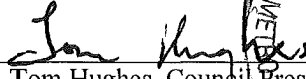
WHEREAS, the Chief Operating Officer had prepared a draft intergovernmental agreement to use where local governments administer the solid waste community enhancement program; now therefore,

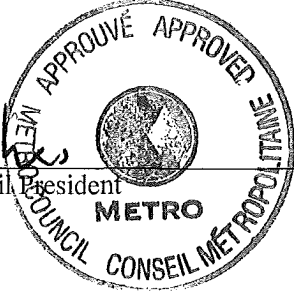
THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The language of Metro Code Chapter 5.06 “Community Enhancement Programs” is repealed and replaced with Metro Code Chapter 5.06 “Solid Waste Community Enhancement Program” as set forth in the attached Exhibit A; and
2. The Chief Operating Officer shall issue administrative procedures in a form substantially similar to Exhibit B; and

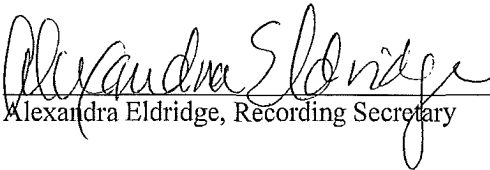
3. Where a local government administers a community enhancement program, the Chief Operating Officer shall enter into an intergovernmental agreement substantially similar to the agreement attached as Exhibit C.

ADOPTED by the Metro Council this 30 day of October 2014.

  
Tom Hughes, Council President



Attest:

  
Alexandra Eldridge, Recording Secretary

Approved as to Form:

  
Alison R. Kean, Metro Attorney

**CHAPTER 5.06**

**SOLID WASTE COMMUNITY ENHANCEMENT PROGRAM**

- 5.06.010 Policy and Purpose
- 5.06.020 Authority and Jurisdiction
- 5.06.030 Amount of Enhancement Fee
- 5.06.040 Enhancement Fee Requirements and Exemptions for Solid Waste Facilities
- 5.06.050 Establishment and Administration of a Solid Waste Community Enhancement Program
- 5.06.060 Solid Waste Community Enhancement Program Advisory Committee
- 5.06.070 Eligibility Criteria for Solid Waste Community Enhancement Projects
- 5.06.080 Goals for Solid Waste Community Enhancement Projects
- 5.06.090 Compliance and Dispute Resolution
- 5.06.100 Administrative Procedures

5.06.010 Policy and Purpose

It is the policy of Metro to establish and implement a solid waste community enhancement program at all eligible solid waste facilities in the Metro region. The purpose of the program is to rehabilitate and enhance the area around the facility from which the fees are collected.

5.06.020 Authority and Jurisdiction

Metro's solid waste authority, including the authority to collect an enhancement fee and establish and implement a solid waste community enhancement program, is established under the Oregon Constitution, ORS Chapters 268 and 459, and the Metro Charter.

5.06.030 Amount of Enhancement Fee

Solid waste facilities subject to this chapter shall collect an amount not exceeding \$1.00 on each ton of putrescible solid waste delivered to the facility and remit the funds to Metro for use as a solid waste community enhancement fee. Eligible solid waste facilities may also collect an amount not exceeding \$1.00 on each ton of non-putrescible waste delivered to the facility when the Metro Chief Operating Officer and facility owner determines it is in the public interest. Metro will set the rate of the enhancement fee under Metro Code Section 5.02.020.

5.06.040 Enhancement Fee Requirements and Exemptions for Solid Waste Facilities

- a) Solid waste facilities that operate all or in part as disposal sites, transfer stations, reload facilities, compost facilities, and energy recovery facilities, as defined by Chapter 5.00, shall collect and remit an enhancement fee under this Chapter.
- b) Where only a portion of a solid waste facility's operations qualify for collection of a fee under subsection (a), the facility shall collect and remit an enhancement fee only on the solid waste it accepts as an eligible facility.
- c) Notwithstanding section (a) above, yard debris reload and yard debris composting facilities are not subject to the requirements of this Chapter.

5.06.050 Establishment of a Solid Waste Community Enhancement Program

- a) Upon approval of a license or franchise application, the Metro Chief Operating Officer will inform a solid waste facility of the requirement to collect a solid waste community enhancement fee. The Metro Chief Operating Officer will require collection of the fee in the facility license or franchise.
- b) The Metro Chief Operating Officer will inform the local government where the facility is located that a solid waste community enhancement fee will be collected by the facility and remitted to Metro.

- c) The solid waste community enhancement program will be administered by (1) Metro directly or through a contract; or (2) the local government where the facility is located, so long as Metro and the local government agree on the terms of an intergovernmental agreement.
- d) The Metro Councilor for the district where the facility is located shall be eligible to participate in the solid waste community enhancement program, including without limitation participation as a co-chair and voting member of the community enhancement committee, regardless of whether Metro or the local government, through an intergovernmental agreement, administers the program.
- e) The Metro Chief Operating Officer will establish a timeline for implementation of a solid waste community enhancement program.
- f) The funds collected and remitted to Metro shall be used for solid waste community enhancement projects chosen by a community enhancement committee and may include administrative costs in an amount set by the Metro Chief Operating Officer.

5.06.060 Solid Waste Community Enhancement Program Advisory Committee

A solid waste community enhancement program established under this section shall have a solid waste community enhancement committee. The committee is responsible for implementation of the program, including without limitation:

- a) Establishment of the enhancement area boundary.
- b) Creation of committee bylaws.
- c) Development of a process for soliciting and selecting solid waste community enhancement projects.
- d) Compliance with the eligibility criteria set forth in Section 5.06.070 and the goals set forth in Section 5.06.080 and creation of additional criteria and goals where needed.
- e) Annually review enhancement program revenue estimates provided by Metro staff and propose how these funds will be allocated for the upcoming fiscal year or funding cycle.
- f) Presentation of an annual report to the Metro Council on all projects approved for funding.
- g) Maintenance of complete and accurate records related to the administration of the program, submitted to Metro annually.

5.06.070 Eligibility Criteria for Solid Waste Community Enhancement Projects

A solid waste community enhancement project must meet the following criteria to be eligible for funding. A solid waste community enhancement committee may apply more restrictive eligibility criteria:

- a) The project must be located in the solid waste community enhancement area boundary as specified by the solid waste community enhancement committee or the project must benefit individuals or programs located inside the solid waste community enhancement area boundary.
- b) The project applicant must be
  - (1) A non-profit organization, including without limitation a neighborhood association or charitable organization with 501(c)(3) status under the Internal Revenue Service; or
  - (2) A school or institution of higher learning; or
  - (3) A local government, local government advisory committee, department or special district provided that they include documented support from the local government executive officer.
- c) The project must not be used to replace any other readily available source of federal, state, local or regional funds.
- d) The project must not promote or inhibit religion.
- e) The project must not discriminate based on race, ethnicity, age, gender, or sexual orientation.
- f) If the project is located on private land, the project application must establish a clear public benefit and must document landowner permission.

5.06.080 Goals for Solid Waste Community Enhancement Projects

Projects shall meet one or more of the following goals and solid waste community enhancement committees shall give priority to projects that best meet with goals. A solid waste community enhancement committee may adopt additional funding goals. The project will:

- a) Improve the appearance or environmental quality of the community.
- b) Reduce the amount or toxicity of waste.
- c) Increase reuse and recycling opportunities.
- d) Result in rehabilitation or upgrade of real or personal property owned or operated by a nonprofit organization having 501(c)(3) status under the Internal Revenue Code.
- e) Result in the preservation or enhancement of wildlife, riparian zones, wetlands, forest lands and marine areas, and/or improve the public awareness and the opportunities to enjoy them.
- f) Result in improvement to, or an increase in, recreational areas and programs.
- g) Result in improvement in safety.
- h) Benefit youth, seniors, low income persons or underserved populations.

5.06.090 Compliance and Dispute Resolution

The Metro Chief Operating Office is responsible for ensuring compliance with this Chapter.

5.06.100 Administrative Procedures

- a) The Metro Chief Operating Office may issue administrative procedures to implement this chapter.
- b) The Metro Chief Operating Officer shall issue or substantially amend the administrative procedures for this chapter only after providing public notice and the opportunity to comment on the proposed language.
- c) The Metro Chief Operating Officer may hold a public hearing on any proposed new administrative procedures or on any proposed amendment to any administrative procedure if the Metro Chief Operating Officer determines that there is sufficient public interest.



**SOLID WASTE  
ADMINISTRATIVE PROCEDURES**

**Published:**

**Administration of Metro Code Chapter 5.06  
Solid Waste Community Enhancement Program**

**Contents**

<b>Policy and Legal Authority.....</b>	<b>Section 1</b>
<b>Application and Purpose.....</b>	<b>Section 2</b>
<b>Program Exempt and Program Eligible Facility Types.....</b>	<b>Section 3</b>
<b>Establishing a Solid Waste Community Enhancement Program.....</b>	<b>Section 4</b>
<b>Establishing a Solid Waste Community Enhancement Committee.....</b>	<b>Section 5</b>
<b>Eligibility Criteria and Goals.....</b>	<b>Section 6</b>
<b>Dispute Resolution.....</b>	<b>Section 7</b>





## **Policy and Legal Authority**

### **1.1 Policy and Legal Authority.**

- 1.1.1 Metro's solid waste planning and implementing authority is established under the Metro Charter, the Constitution of the State of Oregon, and ORS Chapters 268 and 459.
- 1.1.2 Metro's solid waste community enhancement program is established based on state law (ORS 459.280 and 459.284).
- 1.1.3 All solid waste administrative procedure shall be subject to the authority of all other applicable laws, regulations or requirements in addition to those contained in this administrative procedure and performance standard.
- 1.1.4 Administrative procedures are adopted, as necessary, to implement the provisions of Metro Code Chapter 5.06 Solid Waste Community Enhancement Program.
- 1.1.5 The purpose of these administrative procedures is to protect and preserve the health, safety and welfare of the Metro residents; to protect and preserve the local environment, to implement cooperatively a solid waste community enhancement fee program; and to reduce the volume and toxicity of waste disposed through source reduction, reuse, recycling, and composting.
- 1.1.6 These administrative procedures and performance standards are issued by the Metro Chief Operating Officer ("Metro COO") pursuant to Metro Code Section 5.06.100.



## **Application and Purpose of Chapter 5.06**

### 2.1 Application of Chapter 5.06

- 2.1.1 Chapter 5.06 shall apply to all eligible solid waste facilities within Metro's jurisdictional boundary that are licensed or franchised by Metro pursuant to Metro Code Chapter 5.01.
- 2.1.2 Metro Code Chapter 5.06 shall apply to all eligible solid waste facilities within Metro's jurisdictional boundaries that are owned by Metro.

### 2.2 Purpose

- 2.2.1 Metro has long recognized that certain solid waste facilities may present economic, environmental, health or other impacts on local host communities.
- 2.2.2 Metro's solid waste community enhancement program provides funds that are used for community enhancement grant projects located in the vicinity of each eligible solid waste facility. Funds are to be used for the rehabilitation and enhancement of the area in and around the facility from which the fees are collected, as determined by each solid waste community enhancement committee established in accordance with Metro Code Chapter 5.06.



## **Program Exempt and Program Eligible Facilities**

### **3.1 Exempt Facility Types and Ineligible Solid Waste Activities**

3.1.1 The following types of facilities are not subject to Metro Code Chapter 5.06.

3.1.1.1 Reuse or recycling facilities that (A) exclusively receive non-putrescible source-separated recyclable materials and (B) reuse or recycle such materials, or transfer, transport or deliver such materials to a person or facility that will reuse or recycle them.

3.1.1.2 Material recovery facilities that (A) exclusively receive non-putrescible solid waste and conduct material recovery on such waste, and may also (B) receive non-putrescible source-separated recyclable materials and reuse or recycle such materials or transfer, transport or deliver such materials to a person or facility that will reuse or recycle them.

3.1.2 The following types of solid waste activities are not subject to Metro Code Chapter 5.06.

3.1.2.1 Yard debris reloading.

3.1.2.2 Yard debris composting.

3.1.2.1 Material recovery on non-putrescible waste, except as provided in Section 3.3.

3.1.2.2 Recycling or reuse of non-putrescible materials.

### **3.2 Program Eligibility by Facility Type and Solid Waste Activity**

3.2.1 Eligible facility types include, but are not limited to, the following:

3.2.1.1 Disposal sites.

3.2.1.2 Transfer stations.

3.2.1.3 Reload facilities.

3.2.1.4 Energy recovery facilities.

3.2.1.5 Compost facilities.

3.2.2 Eligible solid waste activities include, but are not limited to, the following:

3.2.2.1 Processing, reloading or transfer of putrescible waste (includes food waste and yard debris mixed with food waste).

3.2.2.2 Composting or any other processing of putrescible waste (includes food waste and yard debris mixed with food waste).

3.2.2.1 Energy recovery (including anaerobic digestion of putrescible waste to include food waste and yard debris mixed with food waste).

3.2.2.2 Disposal (includes landfilling and incineration).

3.3 Special conditions related to non-putrescible waste activities at an eligible facility

3.3.1 Non-putrescible waste that is subject to material recovery and delivered to a transfer station or other eligible solid waste facility shall be subject to Metro Code Chapter 5.06 when a facility owner/operator and the Metro COO determines it to be in the public interest.

3.3.2 For the purpose of this section the public interest shall include, but is not limited to: A) the historical program relationship established between a facility and host local government or community (e.g. Metro Central Transfer Station and Metro South Transfer Station), or B) such conditions necessary to operate a new facility, or at an existing facility conducting a new solid waste activity that is subject to Metro Code Chapter 5.06 and Metro Code Chapter 5.01.



---

---

## **Establishing a Solid Waste Community Enhancement Program**

The purpose of this section is to establish a general process for Metro and a host local government to implement and administer a solid waste community enhancement program at an eligible solid waste facility.

### **4.1 New Facilities Without a Solid Waste Community Enhancement Program**

#### **4.1.1. Notification to a host local government.**

Upon receipt of a complete Metro license or franchise application for a new eligible solid waste facility that is subject to this chapter, or a new eligible solid waste activity at an existing facility, the Metro COO shall notify the host local government that it qualifies for the solid waste community enhancement program.

#### **4.1.2 Coordination with Metro and the host local government.**

- 4.1.2.1** As part of Metro's license and franchise review or renewal process, the Metro COO will notify the local government hosting an eligible solid waste facility that a solid waste community enhancement program shall be established.
- 4.1.2.2** The Metro COO shall provide the host local government with an opportunity to enter into an intergovernmental agreement to administer the program. As provided in Section 5.1, Metro and the local government may consider other approaches to administer the program if an intergovernmental agreement cannot be established.
- 4.1.2.3** A host local government shall not be excluded or limited from participating in Metro's solid waste community enhancement program for an eligible solid waste facility, nor shall Metro be limited in implementing a solid waste community enhancement program when a host local government adopts: (1) a tax or charge that imposes a fee on haulers of commercial solid waste or other users of the facility; (2) any tax duly adopted by the local government which is generally applicable for all persons doing business in boundaries of the local government; or (3) any franchise fee collected by the local government from haulers collecting solid waste within the boundaries of the local government,
- 4.1.2.4** Metro shall not establish a solid waste community enhancement program at a solid waste facility if the respective host local government has implemented and is actively administering a solid waste community enhancement program

for that solid waste facility under separate authority of ORS 459.284 and 459.290.

- 4.1.2.5 Prior to establishing a solid waste community enhancement program at an eligible solid waste facility, the Metro COO shall inform the Metro Council President and the Metro Councilor whose district hosts the solid waste facility of the decision to establish a solid waste community enhancement program and provide the Metro Councilor with the opportunity to chair, co-chair, or otherwise participate in the solid waste community enhancement committee at the option of the Metro Councilor.

#### 4.2 Programs Established Prior to January 1, 2014

Solid waste community enhancement programs that were established prior to January 1, 2014 and are administered through an intergovernmental agreement with a host local government shall be updated and reissued with an effective date of July 1, 2015 to provide consistency with all applicable provisions in Metro Code Chapter 5.06 and these administrative procedures.

#### 4.3 Existing Eligible Facility Without a Solid Waste Community Enhancement Program

The Metro COO shall notify a host local government of an existing eligible solid waste facility within its jurisdictional boundaries regarding a timeframe and process for the implementation and administration of a solid waste community enhancement program in accordance with this chapter.

#### 4.4 Funding

- 4.4.1 Except as provided in Section 3.3, solid waste facilities subject to Metro Code Chapter 5.06 shall collect an amount not exceeding \$1.00 on each ton of putrescible solid waste delivered to the facility and remit the funds to Metro for use as a solid waste community enhancement fee.
- 4.4.2 Metro may periodically adjust the solid waste community enhancement fee based on the Consumer Price Index (CPI) up to the maximum amount set forth in ORS 459.284.
- 4.4.3 On a quarterly basis, Metro will remit the solid waste community enhancement funds to each host local government with a solid waste community enhancement program established by intergovernmental agreement with Metro in accordance with Metro Code Chapter 5.06.
- 4.4.4 Projects funded from a solid waste community enhancement fund will be made with the positive vote of a majority of the solid waste community enhancement committee created to administer such a program. Frequency of funding projects is also to be determined by the committee.



**METRO**

**SOLID WASTE  
ADMINISTRATIVE PROCEDURES**

**AP NO. 5.06  
Section 5**

---

---

**Establishing a Solid Waste Community Enhancement Committee**

5.1 Establishing a Solid Waste Community Enhancement Committee

- 5.1.1 For the purpose of establishing a solid waste community enhancement committee, the Metro COO shall coordinate with the host local government and the Metro Councilor whose district hosts the eligible solid waste facility.
- 5.1.2 Metro may designate a solid waste community enhancement committee in accordance with Metro Code Chapter 2.19.
- 5.1.3 The Metro COO may enter into an intergovernmental agreement to designate the host local government as the solid waste community enhancement committee. Such a committee shall consist of at least five members and may include the Metro Councilor whose district hosts the solid waste facility (with the option to serve as co-chair to the committee), and three citizen representatives appointed by the mayor, city manager, or county administrator. In lieu of appointment of such a committee, the local government may designate itself and the Metro Council member representing the district that hosts the solid waste facility (with the option to serve as co-chair to the committee) to perform the function of such committee. The term for such intergovernmental agreements should be established to coincide with the term set forth in the subject facility's Metro license or franchise.
- 5.1.4 The Metro COO may enter into an agreement with a recognized non-profit community organization including, but not limited to, a neighborhood district coalition, neighborhood association, committee for citizen involvement or other similar community-based group having a legally constituted active board of directors. The designated solid waste community enhancement committee shall consist of at least five members, and may include the board of directors, the Metro Councilor whose district hosts the solid waste facility, and any number of citizen representatives appointed by the Metro Councilor whose district hosts the solid waste facility.
- 5.1.5 The Metro COO shall establish the terms and conditions of the agreements for the establishment and administration of a solid waste community enhancement committee as provided in Metro Code Chapter 5.06.

5.2 Administration

- 5.2.1 The administration and distribution of funds from a solid waste community enhancement program shall be subject to the approval of a solid waste community enhancement committee.

- 5.2.2 Each solid waste community enhancement committee or host local government shall promote, advertise, solicit and accept requests for proposals or projects to be funded from the solid waste community enhancement fund within its solid waste community enhancement program area boundary.
- 5.2.3 Either Metro or the host local government shall prepare and publish an annual budget for the solid waste community enhancement account. Each budget shall be subject to review and comment by the solid waste community enhancement committee and shall, at a minimum, identify the proposed allocation of grant funding and administrative costs for the upcoming fiscal year, except that a solid waste community enhancement committee may propose that there be no expenditure of funds during a fiscal year for up to a maximum of three consecutive fiscal years, or longer if approved by the Metro COO or the community enhancement committee.
- 5.2.4 Either Metro or the host local government shall segregate solid waste community enhancement funds by establishing a separate set of accounts for the revenues and expenditures of the solid waste community enhancement program to ensure that only committee-authorized plans, projects, and programs receive funding. Funds not expended during a budget year shall be carried forward to each subsequent year.
- 5.2.5 Each solid waste community enhancement committee or host local government shall publish and follow the project funding criteria in Section 6.1 and goals in Section 6.2 for selecting projects or programs to fund during the fiscal year. A solid waste community enhancement committee may request that Metro modify or change the criteria. A community enhancement committee may publish and follow more restrictive program funding criteria, and may adopt and publish additional goals and/or guidelines.
- 5.2.6 Each solid waste community enhancement committee or host local government shall, provide an annual written report to the Metro COO regarding all expenditures from the enhancement fund and shall itemize all enhancement fund expenditures including the amount of funds expended on each project under its jurisdiction including the funding balance by October 1 of each year.
- 5.2.7 Each solid waste community enhancement committee, upon request by the Metro COO, shall provide an oral presentation to the Metro Council at a time such presentation can be scheduled at a Metro Council meeting.
- 5.2.8 If administrative costs incurred by Metro or the host local government to administer the solid waste community enhancement program are reimbursed from the solid waste community enhancement funds as provided in Section 5.3. The annual report required in Section 5.2.6 shall include an accounting of the funds expended for program administration.
- 5.2.9 Each solid waste community enhancement committee will provide an open public process for project/program review and approval.



### 5.3 Administrative Cost Reimbursement

- 5.3.1 A solid waste community enhancement fund may be used to help defray the direct costs incurred to administer a solid waste community enhancement program by Metro or a host local government (e.g., staff time and materials necessary to set up and administer a solid waste community enhancement program).
- 5.3.2 No more than twenty percent (20%), and not more than \$50,000 of a solid waste community enhancement fund that is collected during a program funding cycle may be used to pay for costs directly associated with administering a solid waste community enhancement program. Administrative costs in excess of these amounts shall not be borne by the solid waste community enhancement fund.

### 5.4 Recordkeeping and Audits

- 5.4.1 Each solid waste community enhancement committee or host local government shall maintain complete and accurate records related to the administration of the program and funds expended under its jurisdiction. The committee shall make these records available to Metro for inspection, auditing, and copying.
- 5.4.2 Metro may require, at Metro's expense, that a solid waste community enhancement committee submit to an independent audit conducted by an auditor chosen by Metro. The audit shall address only those matters reasonably related to the solid waste community enhancement program fund and its administration.



METRO

**SOLID WASTE  
ADMINISTRATIVE PROCEDURE**

**AP NO. 5.06  
Section 6**

---

---

**Eligibility Criteria and Goals**

6.1 Eligibility Criteria for Funding Solid Waste Community Enhancement Projects

- 6.1.2 To qualify for funding, a proposed solid waste community enhancement project shall meet the following funding criteria. A designated solid waste community enhancement committee may adopt and publish more restrictive eligibility criteria.
- 6.1.2.1 Be within the solid waste community enhancement area boundaries specified by the designated solid waste community enhancement committee or benefit individuals or programs located inside the community enhancement area boundary.
  - 6.1.2.2 Be from non-profit organizations including, but not limited to, neighborhood associations or charitable organizations with 501(c)(3) status under the Internal Revenue Service, or
  - 6.1.2.3 Be from a school, or institution of higher learning, or
  - 6.1.2.4 Be from a local government, local government advisory committee, department or special district provided that they include documented support from the local government executive officer, and, as a guideline, the requested funding not exceed 15% of an annual solid waste community enhancement program budget or funding cycle, or more as otherwise provided in an intergovernmental agreement between Metro and a host local government.
  - 6.1.2.5 Not replace another readily available source of federal, state, regional or local funds.
  - 6.1.2.6 All applicants must go through the official application, review and approval process established by the solid waste community enhancement committee.
  - 6.1.2.7 Not promote or inhibit religion.
  - 6.1.2.8 Not fund organizations, projects or programs that discriminate based upon race, ethnicity, age, gender or sexual orientation.
  - 6.1.2.9 Be able show a clear public benefit if projects are on private land.

6.1.2.10 Have written landowner permission at the time of application.

## 6.2 Goals for Funding Solid Waste Community Enhancement Projects

- 6.2.1 Projects shall meet one or more of the following goals. Priority will be given to projects that best meet the goals and which offer benefits to the areas and populations most directly impacted by the solid waste facility. A designated solid waste community enhancement committee may adopt and publish additional funding goals. The order of the following listing does not imply ranking or weighting. Projects should:
- 6.2.1.1 Result in an improvement to the appearance or environmental quality of the area/neighborhood within the enhancement area boundaries.
  - 6.2.1.2 Result in the reduction in the amount or toxicity of waste, or increase reuse and recycling opportunities within the enhancement area boundaries.
  - 6.2.1.3 Result in rehabilitation, upgrading or direct increase in the real or personal property owned or operated by a nonprofit organization having 501(c)(3) status under the Internal Revenue Code within the enhancement area boundaries.
  - 6.2.1.4 Result in the preservation or enhancement of wildlife, riparian zones, wetlands, forest lands and marine areas within the enhancement area boundaries, and/or improve the public awareness and the opportunities to enjoy them.
  - 6.2.1.5 Result in improvement to, or an increase in, recreational areas and programs within the enhancement area boundaries.
  - 6.2.1.6 Result in improvement in the safety of the area within the enhancement area boundaries.
  - 6.2.1.7 Result in projects that benefit youth, seniors, low income persons or underserved populations within the enhancement area boundaries.



**METRO**

**SOLID WASTE  
ADMINISTRATIVE PROCEDURE**

**AP NO. 5.06  
Section 7**

---

---

**Dispute Resolution**

- 7.1 The Metro COO shall, in good faith, attempt to negotiate resolutions to all disputes arising out of the implementation and administration of Metro Code Chapter 5.06 and these administrative procedures. Disputes arising out of or relating to the implementation or administration of Metro Code Chapter 5.06 or these administrative procedures shall be resolved as follows:
- 7.1.1 The Metro COO will review the matter or dispute to determine if there is sufficient reason or cause to take action.
  - 7.1.2 When warranted, the Metro COO will notify the host local government and the solid waste community enhancement committee, the Council President and the corresponding councilor whose district hosts the solid waste facility in writing of the dispute or alleged breach. The notice shall describe the nature of the dispute or alleged breach. The notice shall prescribe a resolution process and include a date by which the host local government or solid waste community enhancement committee must respond to the Metro COO's notice.
  - 7.1.3 Within the period specified by the Metro COO, the host local government or solid waste community enhancement committee shall respond to the notice provided by the Metro COO regarding the dispute. Such response may include information that proves that the dispute or alleged breach has been resolved, or that diligent efforts to correct the dispute or alleged violation is being made and is likely to succeed in a reasonable period of time.
  - 7.1.4 If the Metro COO determines that the dispute or alleged violation has not or cannot be resolved within the manner prescribed and in a reasonable period of time, the Metro COO may take further action, including the modification or termination of an intergovernmental agreement to ensure that the dispute or breach is resolved within a reasonable period of time.

M:\rem\regaff\confidential\metzlerb\Community Enhancement Fees 2014\Administrative Procedures\5.06 Administrative Procedures DRAFT version 3 20140812.docx



600 NE Grand Ave.  
Portland, OR 97232-2736  
(503) 797-1700

# Intergovernmental Agreement

METRO CONTRACT NO. \_\_\_\_\_

## DRAFT INTERGOVERNMENTAL AGREEMENT TEMPLATE

THIS AGREEMENT, entered into under the provisions of ORS Chapter 190, is between Metro, a Metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, located at 600 NE Grand Avenue, Portland, Oregon 97232-2736, and the (*insert name of City or County*) an Oregon municipal corporation, whose address is (*insert address of City or County*).

### Section 1: Purpose

The purpose of this Agreement is to implement the provisions of Metro Code Chapter 5.06 related to the establishment of a Solid Waste Community Enhancement Program (“program”) for (*name of facility*).

### Section 2: Term

This Agreement begins on July 1, 2015 and terminates on June 30, XXXX. The parties may agree to terminate this Agreement earlier. Metro may terminate this Agreement under Section 8. The parties may extend the term of the Agreement by written amendment.

### Section 3: Collection and Distribution of Community Enhancement Fee Funds

- A. Under the terms of Metro *License/Franchise No. XXX*, Metro requires (*insert name of facility*) (“facility”) to collect and remit to Metro a solid waste community enhancement fee of \$1.00 per ton for all putrescible solid waste, including yard debris mixed with food waste, received at the facility.
- B. Metro will send to *City/County* the solid waste community enhancement fee funds (“funds”) collected in A above on January 1, April 1, July 1, and September 1 of each year this Agreement is in effect.
- C. At the request of *City/County*, Metro will provide quarterly reports of activity at the facility, including data on (1) the gross weight of solid waste received in vehicles that are weighed as they enter the facility; (2) the number of other vehicles assessed fees on an estimated volume basis; and (3) the tonnage of solid waste transferred from the facility.
- D. At the request of *City/County*, Metro will assist with the establishment and implementation of the program.

# Intergovernmental Agreement

---

## Section 4: City/County Obligations

- A. City/County shall establish and implement a program that complies with Metro Code Chapter 5.06 (Exhibit A), and Metro Administrative Procedures (Exhibit B). Exhibits A and B are incorporated into this Agreement and are binding on City/County.
- B. City/County shall establish a solid waste community enhancement program advisory committee (“committee”) that complies with Exhibit A and Exhibit B. City/County shall ensure that the committee fulfills its duties, including without limitation establishment of a solid waste community enhancement area boundary and compliance with Exhibits A and B. The committee membership shall include the mayor or chief executive officer of the City/County, three citizens of City/County appointed by the Mayor, and the Metro Councilor whose district includes City/County. City/County may include additional members at its discretion. OR The City/County and the Metro Councilor whose district includes City/County shall perform the functions of the committee.
- C. City/County shall create a separate program account for deposit of the funds collected under Section 3. City/County shall ensure that only projects chosen by the committee receive these funds. City/County shall carry forward any funds not expended during a budget year to the following year. City/County shall not use the funds for general government purposes.
- D. City/County shall promote the program within the solid waste community enhancement program boundary area. City/County shall publish information about the program, including without limitation funding criteria, goals, application process, and timeline, on its website and in the local newspaper.
- E. City/County shall require the committee to provide an open public process for project review and selection.
- F. City/County shall require the committee to prepare an annual budget. The budget shall identify the expected distribution of funds for projects during a fiscal year. The committee may propose that there be no distribution of funds during a fiscal year, for a maximum of three consecutive years.
- G. City/County shall ensure funding decisions are made by a majority vote of the committee.
- H. City/County shall provide all necessary support to administer the program. City/County may charge the fund no more than 20% of the annual budget, not to exceed \$50,000, for

# Intergovernmental Agreement

---

the direct costs of administering the program. Direct costs include staff time and materials.

- I. No later than October 1 of each year, **City/County** shall provide a written report to Metro on the program that includes revenues and expenditures of the program funds and the fund balance carried forward, if any. The report also shall include an accounting of any funds expended for program administration.
- J. **City/County** shall maintain complete and accurate records related to the administration of the program and all funds expended and carried forward, and shall make these records available to Metro for inspection, auditing and copying.

## Section 5: Notices

Legal notice provided under this Agreement shall be delivered personally or by certified mail to the following individuals:

**For City/County:**

Office of **City/County**: Counsel

**For Metro:**

Office of Metro Attorney  
Metro  
600 NE Grand Avenue  
Portland, OR 97232-2736

Management of this Agreement will be conducted by the following designated Project Managers:

**For City/County:**

**For Metro:**

Heather Nelson Kent  
Metro  
600 NE Grand Ave.  
Portland, OR 97232  
(503) 797-XXXX

**City/County** may change the above-designated Project Manager by written notice to Metro. Metro may change the above-designated Project Manager by written notice to **City/County**.

## Section 6: Indemnification

Subject to the limits of the Oregon Constitution and Oregon Tort Claims Act, **City/County** shall hold harmless Metro, its officers and employees from any claims or damages or property or injury to persons or for any penalties or fines, for **City/County**'s actions under this Agreement.

## Section 7: Dispute Resolution

The parties shall attempt to negotiate resolutions to all disputes arising out of this Agreement.

# Intergovernmental Agreement

---

## Section 8: Termination

During the term of this Agreement, each party retains the right to terminate the Agreement as of any anniversary date by written notice delivered to the other party no later than 60 days prior to the anniversary date. The parties may terminate this Agreement at any time for nonperformance of any material term thereof.

## Section 9: Insurance

**City/County** agrees to maintain insurance levels, or self-insurance in accordance with ORS 30.282, for the duration of this Agreement to levels necessary to protect against public body liability as specified in ORS 30.270. **City/County** also agrees to maintain for the duration of this Agreement, Workers' Compensation Insurance coverage for all its employees as a self-insured employer, as provided by ORS chapter 656, or disability coverage under its Disability, Retirement and Death Benefits Plan.

## Section 10: Integration and Amendment

This writing contains the entire Agreement between the parties, and may only be amended by written instrument, signed by both parties.

## Section 11: Severability

If any portion of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken.

## Section 12: Notice of Default

If a party determines that a default exists, that party shall give thirty days' written notice to the other party, which notice shall specify the nature of the default and shall give the other party an opportunity to cure the default before taking any further action.

**City/County**

Metro

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

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

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 14-1344, FOR THE PURPOSE OF AMENDING METRO CODE TITLE V, SOLID WASTE, TO REVISE CHAPTER 5.06, COMMUNITY ENHANCEMENT PROGRAMS

Date: October 1, 2014

Prepared by: Bill Metzler 503-797-1666

Adoption of Ordinance No. 14-1344 will update Metro's existing solid waste community enhancement program in Metro Code Chapter 5.06, which has not been comprehensively revised since its inception in 1988. Under the *existing* program, a fee (\$0.50 per ton) is collected on solid waste at Metro Central Transfer Station (Portland), Metro South Transfer Station (Oregon City) and the Forest Grove Transfer Station. The funds are used for community enhancement projects in the vicinity of these solid waste facilities. Effective July 1, 2015, the proposed code revisions will increase the fee to the state maximum of \$1 per ton, and extend the program to all solid waste facilities in the region that qualify under Metro's updated program.

#### BACKGROUND

The region's solid waste system relies on many different facilities to process, transfer, and recover more value from discarded items and reduce what we send to landfills. Metro has long recognized that certain solid waste facilities may present economic, environmental, health or other impacts on local host communities. For more than 25 years, Metro's solid waste community enhancement program has reinvested millions of dollars in communities that host these important facilities.

Metro's original community enhancement program was established based on state law adopted in 1987 (ORS 459.284). Metro's community enhancement policy was adopted as part of the Regional Solid Waste Management Plan (RSWMP) in 1988 and in Metro Code Chapter 5.06 in 1990. Since the late 1980s, Metro has collected \$0.50 per ton on solid waste delivered to Metro's two public transfer stations, the private Forest Grove Transfer Station (owned by Waste Management), and at other facilities until they were closed long ago (St. Johns Landfill and Riedel Composter). The funds have been used to provide grants for projects that are identified by local communities and meet funding guidelines. The \$0.50 fee has not increased since the program's inception, nor has the fee been applied to several new facilities that were established as the region's waste system evolved (with the exception of the proposed Columbia Biogas food waste digestion facility in Northeast Portland that the Metro Council authorized in 2010 but has not yet been built).

The code revision proposal brought forward by this ordinance is the culmination of work directed by the Metro Council and conducted by Metro solid waste and grants administration staff. The process involved many stakeholders that included the Solid Waste Alternatives Advisory Committee, solid waste facility owners, local government solid waste staff, elected officials that host solid waste facilities in their jurisdictions, and community organizations near certain solid waste facilities. An internal project team was assembled to help review Metro's existing solid waste community enhancement program (established in Metro Code Chapter 5.06), and provide recommendations to Metro Council on how the program can be improved to meet current and future needs of the evolving solid waste system. The proposed program updates include issuance of administrative procedures and an intergovernmental agreement template to help guide program implementation (see Exhibits B and C to Ordinance No. 14-1344).

This project supports Metro's efforts in working toward the region's [six desired outcomes](#), specifically that future generations enjoy **clean air, water and healthy ecosystems**, that people live, work and play in **vibrant communities**, and that **equity** exists relative to the benefits and burdens of growth and change to the region's communities.

## Legal Authority

Metro's existing policy related to its solid waste community enhancement program, although not explicitly stated in Metro Code, has been based on state law (ORS 459.280 and 459.284) which, in summary:

- Identifies the types of solid waste facilities that are *eligible and ineligible* from the program.
  - ✓ *Eligible* facilities include landfills, transfer stations, energy recovery and compost facilities.
  - ✓ *Ineligible* facilities are reuse, recycling and material recovery facilities.
- Specifies *not more than \$1.00 per ton* can be collected on the solid waste delivered to a facility.
- Requires the fees be used for the *rehabilitation and enhancement* of the area around the facility from where the fee is collected.
- Requires that an advisory committee ("community enhancement committee") be established to select plans and projects for funding.

While Metro has independent charter authority to develop its own program apart from the state law, staff recommended early on in the process that the program should continue to rely on state law as its legal basis going forward and state that intent explicitly in Metro Code.

## Existing Metro Policy

Metro's existing solid waste community enhancement policy was originally established in the Regional Solid Waste Management Plan (RSWMP) in 1988 (and all updates) and in Metro Code Chapter 5.06 in 1990.

### RSWMP Policy 11.0 - Host Community Enhancement (2008 update):

*Any community hosting a solid waste "disposal site" as defined by ORS 459.280 shall be entitled to a Metro-collected fee to be used for the purpose of community enhancement.*

### Metro Code 5.06.010 - Policy and Purpose (1990):

*It is the policy of Metro to apportion an enhancement fee of \$.50 per ton on solid waste delivered to each site within Metro and dedicate and use the monies obtained for enhancement of the area in and around the site from which the fees have been collected.*

## Metro's Existing Program

Solid waste community enhancement fees (\$0.50 per ton) are currently collected at each of the three active solid waste facilities listed below. Funds are used for annual community enhancement grant projects within the boundaries of the designated enhancement area of the host community. Metro's existing program has been administered in two ways: 1) directly by Metro through a Metro-administered community enhancement committee, or 2) directly by a local government through an intergovernmental agreement (IGA) between Metro and the host local government. Each program has a community enhancement committee that helps promote, solicit, select, and evaluate projects for funding<sup>1</sup>:

- 1) **Forest Grove Transfer Station** - administered through a Metro IGA by the city of Forest Grove.
- 2) **Metro Central Transfer Station** - administered through the Metro Central Enhancement Committee (a Metro-administered community enhancement committee).

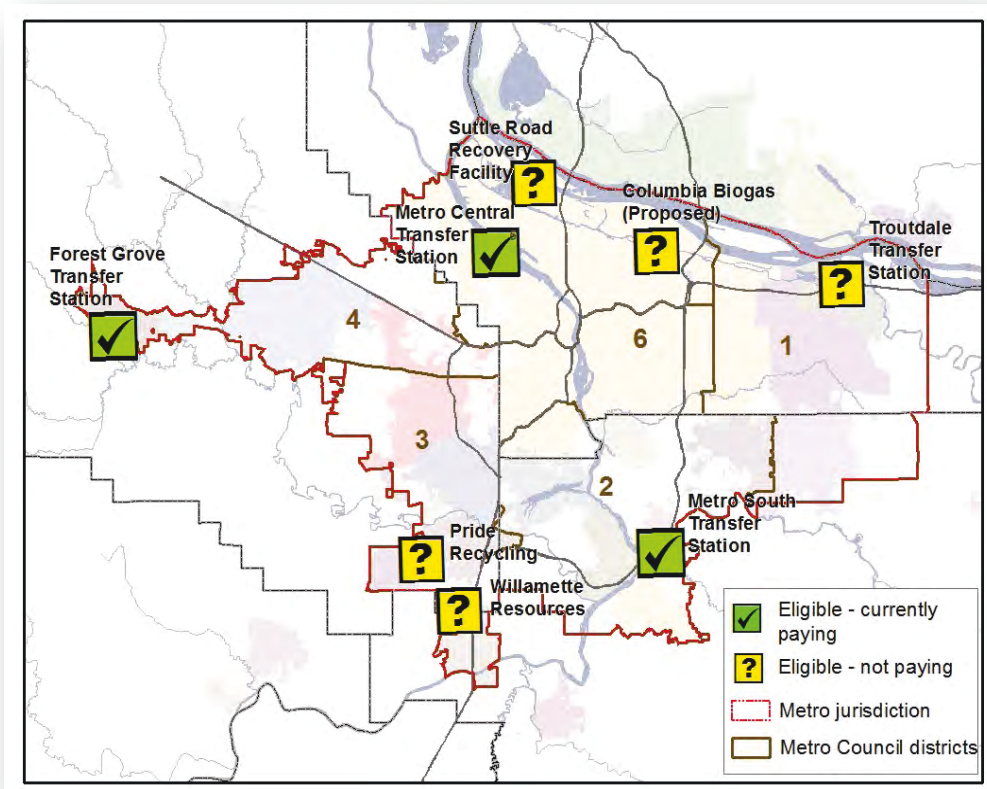
---

<sup>1</sup> The St. Johns Landfill has long been closed and the North Portland Rehabilitation and Enhancement Committee (a Metro committee) is in the process of spending down the balance of its fund balance. The final grant cycle is now in place.

3) **Metro South Transfer Station** - administered through a Metro IGA by the city of Oregon City.

The map below illustrates the location of the three transfer stations that are currently in the program and paying fees. The map includes the location of other “program eligible” solid waste facilities located in the Metro region that are not yet participating in the program.

Facilities Eligible for Metro’s Solid Waste Community Enhancement Program



As illustrated in the map, there are five other facilities eligible to be in the program, but do not yet have an enhancement program or are not yet paying fees: 1) Troutdale Transfer Station, 2) Pride Recycling, 3) Willamette Resources, Inc., 4) Suttle Road Recovery Facility, and 5) Columbia Biogas (not built).

### Summary of Existing Program Concerns

The solid waste system has grown and changed since 1990. New facilities have been added to the landscape and certain existing facilities have undertaken new solid waste activities that now make certain facilities eligible under state law. However, under the current program, Metro Code Chapter 5.06 does not provide sufficient guidance about how new programs should be initiated or whether Metro or the host local government should coordinate the enhancement program. Moreover, Chapter 5.06 does not specify what types of facilities should be brought into the program or how that should be done given the changing nature of how facilities operate. In addition, the Code does not provide a process or basis for adjusting the \$0.50 per ton fee. One of the fundamental concerns with Metro’s existing program is that it does not provide a clear framework for decision-making and program administration.

## **Key Provisions for Updating Metro’s Solid Waste Community Enhancement Program**

The following are the key program recommendations for modifying the program. These are based on direction received from Metro Council and discussions with stakeholders.

The key elements of the updated program propose to:

### **1. Be based on existing state law.**

- Update the community enhancement program (Metro Code Chapter 5.06) based on state law (ORS 459.284). Future program changes will be guided by the state statutory framework.

### **2. Specify more clearly which type of solid waste facilities and wastes are eligible and ineligible for the program.**

- Eligible facilities include landfills, transfer stations, energy recovery, reloading and composting facilities.
- Ineligible facilities under state law include reuse, recycling and material recovery facilities.
- Yard debris-only reload and yard debris-only composting facilities, although eligible under state law, are not recommended for inclusion at this time pending further evaluation.

State law considers reuse, recycling and material recovery *facilities* to be exempt from the community enhancement program. In 1987, state law did not specifically address modern facilities where multiple activities and waste streams are managed within a single solid waste facility, including a facility that may process dry waste for recovery and transfer wet waste. As a matter of policy, collection of community enhancement fees at solid waste facilities should continue to be guided by the eligible and ineligible criteria established in state law. The type of waste delivered to the facility should generally be used to determine when the fee is collected. For example, fees would generally be collected on putrescible “wet” waste, but not on non-putrescible “dry” waste since dry waste is always required to undergo material recovery in the Metro region. However, the proposal provides for specific exceptions to the wastes covered (see discussion in #3 below).

Although under state law, yard debris reloads and yard debris composting facilities are eligible for the solid waste community enhancement program, staff recommends that these facilities be excluded at this time pending further evaluation. Historically, Metro has not imposed community enhancement fees, or any other fees, on yard debris facilities (e.g. reloading and composting). To do so would represent a major policy shift and expansion of the program creating administrative challenges and problems for already struggling facilities. In addition, there would likely be significant concerns with a new host fee imposed on a large number of established yard debris facilities – there are 13 such facilities currently operating in the Metro region.

### **3. Implement the program at all eligible facilities in the region.**

- An enhancement fee will be collected at all eligible solid waste facilities.
- Enhancement fees will be collected, at minimum, on each ton of putrescible waste delivered to a facility (including commercial food waste or residential food waste mixed with yard debris).
- An enhancement program will be set up for each eligible facility. A community enhancement committee will be established to determine the enhancement boundary, and to select plans, programs and projects for the enhancement area.

Stakeholder feedback from communities and industry indicated a strong concern about the negative and unintended consequences of collecting a fee at one eligible facility but not at another. While the overall impact of the fee is minimal (about \$0.75 per year for a typical residential ratepayer), it could send unintentional price signals that could create an unlevel playing field among facilities or between host local governments. Therefore, as a regional program, it is recommended that it be implemented at all qualifying facilities to help ensure that equity exists relative to the benefits and burdens of growth and change to the region's communities and solid waste system.

Certain stakeholders also indicated that enhancement fees should continue to be collected on all wet and dry solid waste at certain facilities where a difference in the waste streams may be difficult to discern from an impact perspective or where fees have been collected historically on all waste (e.g., Metro Central Transfer Station and Metro South Transfer Station). This primarily applies to the publicly-owned facilities but may be applied at other private operations if it is determined to be in the public interest by the Metro Chief Operating Officer and the facility owner.

#### **4. Increase the enhancement fee from \$0.50 to \$1.00 per ton.**

- Increase the fees currently collected from \$0.50 to \$1.00 per ton (maximum allowed under current state law) by July 1, 2015 (Metro South Transfer Station, Metro Central Transfer Station and Forest Grove Transfer Station).
- Begin collecting fees of \$1.00 per ton at other eligible facilities on July 1, 2015 (e.g. Pride Recycling in Sherwood, Troutdale Transfer Station, Willamette Resources, Inc. in Wilsonville, and Suttle Road Recovery in Portland).
- Establish a process for making future periodic fee adjustments based on inflation if the state statutory limit is ever increased.

The enhancement fee has not been increased since the program was established 26 years ago. Based on inflation since that time, \$0.50 has the same buying power as \$0.98 in 2014 (Consumer Price Index U.S. Bureau of Labor and Statistics). Implementing a community enhancement fee of \$1.00 per ton at all eligible facilities in the region will likely result in about \$0.75 per year increase to residential ratepayers (or around \$0.06 per month at the curb) in increased disposal charges. This is based on an estimated residential disposal of 1,500 pounds per year, which is equivalent to 0.75 tons (for comparison, the city of Portland residential disposal rate is around 1,350 pounds per year). Residential ratepayers whose waste is currently delivered to a facility that collects the existing \$0.50 per ton amount could see an increase of around half that amount – \$0.03 per month or \$0.36 per year. The impact on commercial and business rates would be highly variable since it would be based on the type of business, and the type and amount of waste that a business disposes each year.

#### **5. Provide options for program implementation and Metro coordination with the host local government.**

- Establish a process to implement and administer programs at eligible facilities. Options include:
  - *Metro-administered committee.*
  - *Local government-administered committee.* Host local government to establish or serve as the community enhancement committee and administer the program via an agreement (IGA) with Metro. The host Metro councilor may be involved as the community enhancement committee co-chair or committee participant at the councilor's discretion.
  - *Metro may contract directly with a non-profit or neighborhood organization.* This approach could be used when a local or a Metro-administered community committee is not practical. The

community enhancement committee could be made up of a neighborhood association's (or a non-profit organization's) board of directors and the host Metro councilor may be involved as the community enhancement committee co-chair or committee participant at the councilor's discretion.

Historically, there were two ways for Metro to initiate a new community enhancement program: 1) the Metro Council would take action to list the solid waste facility explicitly *by name* in Metro Code Chapter 5.06, or 2) Metro entered into an IGA with the host local government to administer the program (the facility name was not listed in Chapter 5.06). Further, enhancement program provisions were set forth in a facility franchise. The last facility to have been included in Metro's program, Columbia Biogas (not yet built) in 2010, was initiated by the facility and local host community and the fee collection requirements were included as conditions in the solid waste facility franchise issued by the Metro Council.

The proposed program improvements will provide greater clarity for decision-makers, facility owners, and local communities and assure collaboration with host local governments. A process is recommended to ensure notification and collaboration with the host local government and the Metro Councilor (whose district includes the facility) when a new program is expected to be established at an eligible facility. The process will provide guidelines for when and how to initiate and administer a new program.

As provided in state law, the distribution of funds collected through the community enhancement program will be subject to the approval of an advisory committee (the community enhancement committee) that will be established for that purpose. Depending on who is administering the program, either Metro or the host local government (through an IGA), will create a separate community enhancement account for revenues and expenditures for its enhancement program to ensure that only committee-authorized projects receive funding. In addition, each community enhancement committee (or its staff) will provide an annual report to Metro regarding all expenditures from the enhancement fund including the amount of funds expended on each project from the fund, including the fund balance.

This proposal also envisions an implementation option where Metro could contract directly with a neighborhood group, non-profit or local environmental group to serve as the community enhancement committee and administer the program (with support from the host local government). The Metro Councilor whose district includes the facility would still have the option to be involved in the program administration. This option would be available when it would not be cost effective or practical for Metro or a local government to directly administer the program. Such an option retains an additional level of flexibility for future program implementation and administration.

#### **6. Allow administrative cost reimbursement from the fund.**

- The funds may be used to reimburse actual government administrative costs necessary to run a community enhancement committee and process up to 20% based on the amount of the annual program funding cycle (but no more than \$50,000 for any community enhancement committee).
- Administrative costs in excess of the cap shall not be borne by the enhancement fund.
- Administrative costs include staff time and materials necessary to set up, promote and administer a community enhancement program.

Under the existing program, there is conflicting guidance about whether or not administrative costs can be reimbursed from the program fund. These proposed provisions will make it clear that actual administrative costs incurred, up to a set amount, can be reimbursed from the program fund.

## **7. Allow local governments to sponsor projects from the fund.**

- Funding criteria will allow use of program funds for local government projects and other publicly sponsored projects on a case-by-case basis.
- As a guideline, the total amount available to one or more local government projects should generally not exceed 15% of the funds in a funding cycle. However, the proposal does allow access to a larger percentage of the funds for worthy local government sponsored projects as established in an IGA with Metro.
- Local government-sponsored projects will be treated like all other applicants with the same application and review procedures set forth by the community enhancement committee.
- The direct transfer and use of enhancement fees to a local government general fund will not be allowed.
- Program funds cannot be used to replace other readily available federal, state, regional or local funds.

These provisions establish funding eligibility criteria to allow use of program funds for worthy local government and other public projects or programs. However, in order to maintain compliance with state law, the transfer and use of enhancement fees to a local government general fund for directly funding general government activities will not be allowed. To help ensure that the fund is available to others in the community, the total amount available to a local government will be set at a percentage target of the funds available in a funding cycle – recommended guideline of 15% in each funding cycle. All program applicants that seek funding, including a local government applicant, must go through the application, review and approval process set forth by the community enhancement committee. Local government sponsored projects or programs will be treated the same as all other program applicants. However, it is recommended that the program be flexible enough should there be one or more worthy public sponsored project that the local funding limit guideline could be exceeded during a cycle – as determined by the community enhancement committee.

## **8. Establish general program funding eligibility criteria.**

- Broad regional funding criteria applicable to all program applicants are recommended, based largely on time-tested criteria used in existing programs. Provide flexibility to meet the needs of different host communities.
- Allows local adoption of more narrow criteria to meet needs of the host community.  
Examples of funding criteria (see proposed Section 5.06.070 for specific list of criteria):
  - Be within the boundary specified by the community enhancement committee.
  - Non-profits, neighborhood associations, charitable organization, schools are all eligible.
  - Local government access to funds for sponsored projects.
  - All applications must go through the community enhancement committee review process.

Metro councilors suggested that program funding eligibility criteria be established. The proposed criteria are derived from the time-tested provisions from Metro’s existing community enhancement program (Metro Central Enhancement Committee) and incorporated provisions from other participating local government community enhancement programs (Metro South Transfer Station/Oregon City and the city of Forest Grove). These eligibility criteria are proposed as a clear and objective checklist to determine whether a potential project or applicant should be considered by a community enhancement committee. The program is intended to be flexible enough that the needs of a local community can be accommodated within the framework of Metro Code Chapter 5.06 and state

law. Local governments may wish to include other (more restrictive) funding criteria consistent with their individual approach to projects. For example, a local government may wish to include a matching requirement (either financial or sweat equity) for certain projects, focus funds on a particular impact or project area, or to provide project funding to only non-profit groups.

#### **9. Establish general program funding goals.**

- Based on existing time-tested program funding goals used by the Metro Central Enhancement Committee.
- A committee may adopt additional goals to meet needs of the host community.

Examples of funding goals (see proposed Section 5.06.080 for specific list of criteria):

- Result in improvement to appearance or environmental quality of area.
- Benefit populations most directly impacted by facility, including underserved populations.
- Broad coverage of projects e.g. reduce toxicity, increase reuse/recycling, rehabilitation of property, enhance wildlife, riparian or wetlands, or improved recreational opportunities.

Metro councilors indicated a need to include some general funding direction so that enhancement funds did not get used for projects that may be inconsistent with the intent of state law or Metro's enhancement program. The proposed funding goals are largely based on the time-tested provisions used by the Metro Central Enhancement Committee. The funding goals have been a useful guide for all three of the existing community enhancement committees (Metro Central, Oregon City and Forest Grove) in reviewing and selecting projects and should serve other community enhancement committees equally well into the future.

#### **10. Provide a dispute resolution process.**

- In case of a dispute, Metro's Chief Operating Officer will review and notify the host local government, the community enhancement committee and the host councilor about the nature of the dispute, and will set a process and timeframe in which to resolve the dispute.

While disputes are not anticipated, reality indicates that they may happen from time-to-time. Therefore, this proposed provision makes it clear that the responsibility is embedded in Metro's Chief Operating Officer to determine when a dispute arises to a level that needs to be formally resolved.

#### **Stakeholder Engagement**

The stakeholder engagement process included written communication and discussions with Metro's Solid Waste Alternatives Advisory Committee and Metro Policy Advisory Committee, potentially affected city managers and elected officials with program eligible solid waste facilities in their jurisdictions (e.g., Oregon City, Forest Grove, Troutdale, Sherwood, Wilsonville and Portland), solid waste facility owners, and potentially impacted neighborhood associations (Cully Association of Neighbors and St. Johns Neighborhood Association). Nearly all of the stakeholders indicated that they were either generally supportive or very supportive of the program. Metro received letters of support from the cities of Wilsonville and Oregon City, and the Cully Association of Neighbors. Two owner/operators of transfer stations, Willamette Industries, Inc. (located in Wilsonville) and Pride Recycling (located in Sherwood) have verbally expressed their objection to collecting this program fee at their solid waste facilities.



**Program Implementation Summary**

Adoption of Ordinance No. 14-1344 will result in a comprehensive update that will substantially improve and modernize Metro Code Chapter 5.06 – Solid Waste Community Enhancement Program. These code revisions will include the broad policy directives within a flexible framework for administering the program over time. Additional program improvements will be achieved through the following companion instruments:

- **Administrative Procedures**. Administrative procedures are issued by the COO and are routinely used to help implement and administer various chapters of Metro Code Title V. Administrative procedures describe the more detailed program elements and provide the necessary clarity that guide how the program will be implemented and administered. The administrative procedures work hand-in-hand with the changes in Chapter 5.06. Administrative Procedures are attached as Exhibit B to Ordinance No. 14-1344.
- **Intergovernmental Agreement Template**. This template specifies the key provisions that would be included in an IGA between Metro and a host local government, when a host local government wishes to implement an enhancement program in their community. The template is applicable to new IGAs as well as for updating existing IGAs. The IGA template will be helpful to both Metro staff and our local government partners participating in the program. An IGA template is attached as Exhibit C to Ordinance No. 14-1344.

Once Metro Council adopts this proposal, a solid waste community enhancement program will be implemented for all existing eligible solid waste facilities. Effective July 1, 2015, the proposal recommends an increase to the fee at existing facilities to the state maximum of \$1 per ton, and expand the program to include four other eligible solid waste facilities located in the cities of Troutdale, Sherwood, Wilsonville, and Portland (see Table 1 below). Table 1 indicates the amount currently collected and the amount expected to be collected once the program is effective.

**Table 1 – Solid Waste Community Enhancement Program**

<b>Solid Waste Facility</b>	<b>Community</b>	<b>Currently Collected (FY 2014-15 estimated)</b>	<b>To Be Collected (FY 2015-16 estimated)</b>
Metro South	Oregon City	\$133,000	\$266,000
Metro Central	Portland	\$130,000	\$260,000
Forest Grove Transfer Station	Forest Grove	\$ 54,000	\$108,000
Willamette Resources, Inc.	Wilsonville	\$ 0	\$ 70,000
Pride Recycling	Sherwood	\$ 0	\$ 70,000
Troutdale Transfer Station	Troutdale	\$ 0	\$ 70,000
Recology Suttle Road Recovery	Portland	\$ 0	\$ 12,000

Prior to July 1, 2015, Metro staff will work with each of these communities to determine if an IGA could be established to implement and administer the program by the host local government. If so, the Metro councilor whose district hosts the solid waste facility will also have the opportunity to participate in the community enhancement committee.

The cities of Wilsonville, Troutdale and Sherwood have all expressed interest in an IGA with Metro to administer the program. However, the city of Portland, while supportive of the proposed program changes, has indicated that it is unlikely to directly enter into an IGA with Metro to implement the program. Therefore a program for the Suttle Road Recovery facility could be administered either: 1) directly by

Metro, 2) by Metro through a contract with the neighborhood association where the facility is located (St. Johns Neighborhood Association), or 3) through an IGA between Metro and the city of Portland's Office of Neighborhood Involvement (ONI).

## **ANALYSIS/INFORMATION**

- 1. Known Opposition.** Staff is aware of two solid waste facility owner/operators (Willamette Industries, Inc. and Pride Recycling) that have verbally expressed concerns about collecting a community enhancement fee at their transfer stations.
- 2. Legal Antecedents.** Oregon Revised Statutes 459.280 and 459.284, the Metro Charter, the Regional Solid Waste Management Plan, and Metro Code Chapter 5.06.
- 3. Anticipated Effects.** The existing Metro Code Chapter 5.06-Community Enhancement Programs will be repealed and replaced with the proposed amended Metro Code Chapter 5.06-Solid Waste Community Enhancement Program. In addition, Metro's Chief Operating Officer will issue administrative procedures that help implement Chapter 5.06, and Metro will enter into new IGAs or revise existing IGAs with local governments that host eligible solid waste facilities.
- 4. Budget Impacts.** The overall impact of the existing solid waste community enhancement program has already been factored into Metro's current FY 2014-2015 budget and has been for many years. The impact of the updated solid waste community enhancement program will be fully factored into the budget and rates for FY 2015-16 and will result in a total increased collection of about \$539,000 in new revenue. It is expected that approximately 75% of the additional revenue will be allocated to community enhancement programs administered by local governments through an IGA with Metro. About 25% of the additional revenue will be allocated to the existing Metro Central Enhancement Committee for funding its community enhancement projects. There will continue to be partial funding for personnel services associated with the existing North Portland Enhancement Committee (limited duration), the existing Metro Central Enhancement Committee and any new Metro-administered community enhancement committees that may be established. Community enhancement program funds can be used to help defray some of the administrative costs incurred by either Metro or the participating host local government, thereby minimizing budget impacts.

## **RECOMMENDED ACTION**

The Chief Operating Officer recommends adoption of Ordinance No. 14-1344 for the Purpose of Amending Title V, Solid Waste, to Revise Chapter 5.06, Community Enhancement Programs.

BM:bjj  
M:\rem\regaff\confidential\metzlerb\Community Enhancement Fees 2014\Staff Report\Staff Report to Ordinance No 14-1344 CEP Final.docx