



600 NE Grand Ave.
Portland, OR 97232-2736

Council meeting agenda

Thursday, October 20, 2016

2:00 PM

Metro Regional Center, Council Chamber

1. Call to Order and Roll Call

2. Citizen Communication

3. Presentations

- 3.1 Special Presentation: Washington Park Transportation Management Plan [16-0036](#)

Presenter(s): Heather McCarey, Explore Washington Park

4. Consent Agenda

- 4.1 Resolution No. 16-4726, For the Purpose of Confirming the Appointment of Members to the Oregon Zoo Bond Citizens' Oversight Committee [RES 16-4726](#)

Attachments: [Resolution No. 16-4726](#)
[Exhibit A to Resolution No. 16-4726](#)
[Staff Report](#)

- 4.2 Resolution No. 16-4750, For the Purpose of Confirming the Appointment of Terry Goldman to the Metro Audit Committee [16-4750](#)

Attachments: [Resolution No. 16-4750](#)
[Exhibit A to Resolution No. 16-4750](#)
[Staff Report](#)

- 4.3 Consideration of Council Meeting Minutes for October 13, 2016 [16-0102](#)

5. Resolutions

- 5.1 Resolution No. 16-4749, For the Purpose of Awarding a Grant to Rediscover the Falls in Support of the Willamette Falls Legacy Project **RES 16-4749**

Presenter(s): Kathleen Brennan-Hunter, Metro

Attachments: Resolution No. 16-4749
Exhibit A to Resolution No. 16-4749
Staff Report

- 5.2 Resolution No. 16-4751, For the Purpose of Creating a Community Advisory Committee for the Proposed Southwest Corridor Light Rail Project [RES 16-4751](#)

Presenter(s): Chris Ford, Metro

Attachments: [Resolution No. 16-4751](#)
[Exhibit A to Resolution No. 16-4751](#)
[Staff Report](#)

6. Ordinances (First Reading and Public Hearing)

- 6.1 Ordinance No. 16-1381, For the Purpose of Approving a Franchise Term Extension, Allocating Tonnage, and Authorizing the Chief Operating Officer to Issue an Amended Franchise for Forest Grove Transfer Station and Declaring an Emergency [ORD 16-1381](#)

Presenter(s): Roy Brower

Attachments: [Ordinance No. 16-1381](#)
[Exhibit A to Ordinance No. 16-1381](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)

- 6.1.1 Public Hearing on Ordinance No. 16-1381

- 6.2 Ordinance No. 16-1382, For the Purpose of Approving a Franchise Term Extension, Allocating Tonnage, and Authorizing the Chief Operating Officer to Issue an Amended Franchise for Troutdale Transfer Station and Declaring an Emergency [ORD 16-1382](#)

Presenter(s): Roy Brower, Metro
Attachments: [Ordinance No. 16-1382](#)
[Exhibit A to Ordinance No. 16-1382](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)

- 6.2.1 Public Hearing on Ordinance No. 16-1382

- 6.3 Ordinance No. 16-1383, For the Purpose of Approving a Franchise Term Extension, Allocating Tonnage, and Authorizing the Chief Operating Officer to Issue an Amended Franchise for Willamette Resources, Inc. and Declaring an Emergency [ORD 16-1383](#)

Presenter(s): Roy Brower, Metro
Attachments: [Ordinance No. 16-1383](#)
[Exhibit A to Ordinance No. 16-1383](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)

- 6.3.1 Public Hearing on Ordinance No. 16-1383

- 6.4 Ordinance No. 16-1384, For the Purpose of Approving a Franchise Term Extension, Allocating Tonnage, and Authorizing the Chief Operating Officer to Issue an Amended Franchise for Pride Recycling Company and Declaring an Emergency [ORD 16-1384](#)

Presenter(s): Roy Brower, Metro
Attachments: [Ordinance No. 16-1384](#)
[Exhibit A to Ordinance No. 16-1384](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)

6.4.1 Public Hearing on Ordinance No. 16-1384

7. Ordinances (Second Reading)

7.1 Ordinance No. 16-1385, For the Purpose of Annexing to the Metro District Boundary Approximately 1.62 Acres Located South of SW Scholls Ferry Road and West of SW Roy Rodgers Road in the River Terrace Area of Tigard

[ORD 16-1385](#)

Presenter(s): Tim O'Brien, Metro

Attachments: [Ordinance No. 16-1385](#)
[Exhibit A to Ordinance No. 16-1385](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)

8. Chief Operating Officer Communication

9. Councilor Communication

10. Adjourn

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ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬដើម្បីទទួលបានការបណ្តឹងរើសអើងសូមចូលទស្សនាគេហទំព័រ www.oregonmetro.gov/civilrights។

បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1890 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ ថ្ងៃធ្វើការ មុនថ្ងៃប្រជុំដើម្បីអាចឲ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក ។

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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 the Metro Council Office at 503-797-1540. Public hearings are held on all ordinances second read. Documents for the record must be submitted to the Regional Engagement and Legislative Coordinator to be included in the meeting record. Documents can be submitted by e-mail, fax or mail or in person to the Regional Engagement and Legislative Coordinator. For additional information about testifying before the Metro Council please go to the Metro web site www.oregonmetro.gov and click on public comment opportunities.

Agenda Item No. 3.1

**WASHINGTON PARK TRANSPORTATION MANAGEMENT
PLAN**

Presentations

Metro Council Meeting
Thursday, October 13, 2016
Metro Regional Center, Council Chamber

Agenda Item No. 4.1

Resolution No. 16-4726, For the Purpose of Confirming the
Appointment of Members to the Oregon Zoo Bond Citizens'
Oversight Committee

Consent Agenda

Metro Council Meeting
Thursday, October 13, 2016
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE) RESOLUTION NO. 16-4726
APPOINTMENT OF MEMBERS TO THE)
OREGON ZOO BOND CITIZENS' OVERSIGHT) Introduced by Council President Tom Hughes
COMMITTEE)

WHEREAS, Metro Code Chapter 2.19 establishes the Oregon Zoo Bond Citizens' Oversight Committee whose members are to be appointed by the Metro Council President subject to confirmation by the Metro Council;

WHEREAS, the Metro Council President has appointed five members of the Oregon Zoo Bond Citizens' Oversight Committee as set forth in Exhibit "A" attached hereto;

WHEREAS, the Metro Council desires to confirm the appointments; now therefore,

BE IT RESOLVED that the Metro Council confirms the appointments to the Oregon Zoo Bond Citizens' Oversight Committee as set forth in Exhibit "A" attached hereto.

ADOPTED by the Metro Council this 20th day of October 2016.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

Biographies of Oregon Zoo Bond Citizens' Oversight Committee Members

Exhibit A to Resolution No. 16-4726

Oregon Zoo Bond Citizens' Oversight Committee

Committee Member Appointments

The following five persons shall serve a two-year term starting October 20, 2016:

Daniel Aja	Banfield Pet Hospital
Heidi Goertzen	Ferguson Wellman Capital Management
Jill Mellen	Research Biologist
Katherine Porras	Meyer Memorial Trust
Christine Taylor	Miller Nash Graham & Dunn

Biographies (in alphabetical last name order)

Daniel Aja

Daniel Aja is the senior vice president and chief medical officer at Banfield Pet Hospital, where he leads internal and external medicine initiatives at the world's largest veterinary practice. Prior to joining Banfield in 2014, Dr. Aja served as director of U.S. professional and veterinary affairs at Hill's Pet Nutrition. Previously, he owned and directed the Cherry Bend Animal Hospital in Traverse City, Michigan. Dr. Aja earned his veterinary medical degree from the college of Veterinary Medicine at Michigan State University, and has more than 32 years of experience, credibility and commitment to delivering the highest quality of veterinary medicine. He is a past president of the American Animal Hospital Association and served on the Michigan State Board of Veterinary Medicine. He is also the founding board member of Partners for Healthy Pets, a committee of the American Veterinary Medical Foundation created to ensure pets receive the preventative health care they deserve.

Heidi Goertzen

Heidi Goertzen is the chief compliance officer for Ferguson Wellman Capital Management, overseeing the company's regulatory and compliance matters. Prior to joining the firm, she worked for RVK, Inc. as an investment analyst for several years before serving as investment associate for seven years. She earned a B.S. in finance from Linfield College and holds a MBA with a concentration in finance from the University of Portland's Pamplin School of Business.

Jill Mellen

Jill Mellen is a research biologist whose areas of expertise include animals, animal welfare and enhancing guest experiences in informal learning settings such as zoos and aquariums. Dr. Mellen has worked in the zoo and aquarium field for more than three decades. Most recently she was the Education and Science Director at Disney's Animal Kingdom, where she researched a range of topics from elephant welfare to inspiring children to conservation action. Within the Association and Zoos and Aquariums, Dr. Mellen has held many leadership positions. Her current projects include coordinating studies on marine animal welfare. Early in her career, Dr. Mellen worked at the Oregon Zoo, and has moved back to Portland after her retirement from the Disney Company.

Biographies of Oregon Zoo Bond Citizens' Oversight Committee Members

Katherine Porras

Katherine A. Porras is an investment associate at Meyer Memorial Trust, responsible for monitoring and analyzing the foundation's investments, while researching environmental, social and governance factors on portfolio holdings to inform the alignment of the investment strategy to the organization's mission. Ms. Porras has experience working in finance, legal services, and performing arts. She earned an MBA with a focus in finance from Willamette University's Atkinson Graduate School of Management. She looks forward to contributing to the zoo, its staff and the Oregonian community at large.

Christine Taylor

Christi Taylor is an attorney with Miller Nash Graham & Dunn's business practice team and focuses on construction and general business law. She also has a particularly strong interest in energy law. In her construction practice, she assists clients through the process of building complex projects, including drafting and negotiating contracts for construction. In her general business practice, she assists clients with entity formation, contract drafting and review, corporate governance, and sales and acquisitions. Before transitioning to Miller Nash's business team, she spent three years practicing with the firm's commercial litigation group and focused on disputes involving construction claims and defects, corporate governance and insurance recovery. Ms. Taylor is also a huge polar bear fan!

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 16-4726, FOR THE PURPOSE OF
CONFIRMING THE APPOINTMENT OF MEMBERS TO THE OREGON ZOO BOND
CITIZENS' OVERSIGHT COMMITTEE

Date: Oct. 4, 2016

Prepared by: Heidi Rahn, 503-220-5709

BACKGROUND

Metro Code Chapter 2.19 establishes the Oregon Zoo Bond Citizens' Oversight Committee ("Oversight Committee"). The terms for approximately half of the Oversight Committee members expire each calendar year. To maintain Oversight Committee membership, Resolution No. 16-4726 appoints five new members.

ANALYSIS/INFORMATION

1. **Known Opposition** None known
2. **Legal Antecedents** Metro Code Chapter 2.19
3. **Anticipated Effects** Appoint five new members.
4. **Budget Impacts** None

RECOMMENDED ACTION

Adoption of Resolution No. 16-4726.

Agenda Item No. 4.2

Resolution No. 16-4750, For the Purpose of Confirming the Appointment of Terry Goldman to the Metro Audit Committee

Consent Agenda

Metro Council Meeting
Thursday, October 13, 2016
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE) RESOLUTION NO. 16-4750
APPOINTMENT OF TERRY GOLDMAN TO)
THE METRO AUDIT COMMITTEE) Introduced by Council President Tom Hughes

WHEREAS, Metro Code Chapter 2.19.250 establishes the Metro Audit Committee; and

WHEREAS, the Committee enhances the external audit function by monitoring the external auditor’s services and activities to ensure that independence is maintained between the external auditor and management; and

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

WHEREAS, Terry Goldman is the MERC Commissioner selected to serve a one-year term on the Audit Committee; and

WHEREAS, the Council President desires to confirm the appointment; now therefore,

BE IT RESOLVED that the Metro Council confirms the appointment of Terry Goldman to the Metro Audit Committee as set forth in Exhibit “A” attached hereto for the Committee position and terms set forth therein.

ADOPTED by the Metro Council this 20th day of October 2016.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 16-4750, FOR THE PURPOSE OF
CONFIRMING THE APPOINTMENT OF TERRY GOLDMAN TO THE METRO AUDIT
COMMITTEE

Date: October 20, 2016

Prepared by: Brian Evans
Metro Auditor
503-797-1891

BACKGROUND

The Metro Audit Committee assists the Metro Council in reviewing accounting processes and reporting practices as they relate to Metro's Comprehensive Annual Financial Report. The Committee provides independent review and oversight of the government's financial reporting processes, internal controls and independent auditors.

The new member listed in Exhibit A serves in a voting capacity.

ANALYSIS/INFORMATION

1. **Known Opposition:** None

2. **Legal Antecedents:**

Metro Code Chapter 2.19, "Metro Advisory Committees," provides generally applicable rules for the creation of committees providing advice to the Metro Council and appointment of members to such committees.

Metro Ordinance 10-1233 for the Purpose of Establishing an Audit Committee and Amending Metro Code Section 2.15.080 External Audits and Adding a New Metro Code Section 2.19.250 Audit Committee.

3. **Anticipated Effects:** By approving Resolution No. 16-4750, the Metro Council will confirm the appointment of Terry Goldman to the Audit Committee.

4. **Budget Impacts:** None

RECOMMENDED ACTION

The Council President recommends adoption of Resolution No. 16-4750

Agenda Item No. 4.3

Consideration of Council Meeting Minutes for October 13, 2016

Consent Agenda

Metro Council Meeting
Thursday, October 13, 2016
Metro Regional Center, Council Chamber

Agenda Item No. 5.1

Resolution No. 16-4749, For the Purpose of Awarding a Grant
to Rediscover the Falls in Support of the Willamette Falls
Legacy Project

Resolutions

Metro Council Meeting
Thursday, October 13, 2016
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AWARDING A GRANT)
TO REDISCOVER THE FALLS IN SUPPORT OF)
THE WILLAMETTE FALLS LEGACY PROJECT)

RESOLUTION NO. 16-4749

Introduced by Chief Operating Officer Martha
Bennett in concurrence with Council
President Tom Hughes

WHEREAS, Metro, the State of Oregon, Clackamas County and the City of Oregon City (the public partners) have been working together since the bankruptcy liquidation of the Blue Heron Paper Company in 2011, in order to investigate the former paper mill site’s potential and future;

WHEREAS, the success of the Willamette Falls Legacy Project will require significant public and private support;

WHEREAS, a nonprofit “friends” group, known as Rediscover the Falls has been formed to support the Legacy Project;

WHEREAS, Rediscover the Falls seated a board this Spring from a pool of candidates of 88 people;

WHEREAS, Rediscover the Falls adopted the mission statement “Through purposeful action, we engage and educate the public, collaborate with partners, and build sponsorship and enduring commitment to the public interest in the Willamette Falls Legacy Project”;

WHEREAS, in Spring 2016, the four partners approved an Intergovernmental Agreement with a two-year budget, which includes seed funding for a nonprofit “friends” group; \$50,000 from Metro and \$50,000 from Oregon City.

WHEREAS, this grant agreement allows the public partners to help launch this thriving volunteer support group for the Willamette Falls Legacy Project, and to begin to establish the terms of the ongoing working relationship between RTF and the Public Partners;

WHEREAS, grants are exempt from the state procurement code;

WHEREAS, the Metro code requires grants to be awarded under a competitive procurement process or otherwise with Metro Council approval;

WHEREAS, a competitive process is not appropriate because RTF is the only organization situated to support the Willamette Falls Legacy Project;

BE IT RESOLVED that the Metro Council hereby approves the proposed grant agreement with Rediscover the Falls and the City of Oregon City, substantially in the form attached as Exhibit A to this Resolution 16-4749, with such changes as may be approved by the Office of Metro Attorney, commits to the budget, and the terms and conditions set forth in the agreement.

ADOPTED by the Metro Council this 20th day of October 2016.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

**METRO - OREGON CITY - REDISCOVER THE FALLS
INTERIM AGREEMENT**

This Interim Agreement (“Agreement”), effective _____, 2016, is by and between Metro, a municipal corporation (“Metro”), The City of Oregon City, a municipal corporation (“Oregon City”), and Rediscover the Falls (“RTF”), an Oregon non-profit public benefit corporation. Metro and Oregon City are collectively referred to in this document as the “Public Partners.” Metro, Oregon City, and RTF are each a “Party,” and collectively referred to in this document as the “Parties.”

RECITALS

A. Since February 2011, commencing with the Chapter 7 bankruptcy liquidation of the Blue Heron Paper Company mill, located at 419/427 Main Street, Oregon City, Oregon (the “Project Site”), the Public Partners have been cooperating to determine the future of the Project Site.

B. The Project Site has the potential to serve as a gateway to Willamette Falls on the Willamette River, which falls are directly adjacent to the Project Site, and to make a positive impact on the future of Oregon City and the surrounding region.

C. Guided by the four core values of healthy habitat, public access to Willamette Falls, historic and cultural interpretation, and economic development (the “Four Core Values”), the Public Partners, in collaboration with the State of Oregon and Clackamas County, have commenced work to design public open space and a pedestrian parkway on the Project Site that will provide unobstructed views of the Willamette River and Willamette Falls (the “Riverwalk”), and they have started to address the infrastructure and economic development needs of the entire Project Site. These work efforts are known collectively as the “Willamette Falls Legacy Project.”

D. The Parties acknowledge that the success of the Willamette Falls Legacy Project will require significant public and private support. The Parties desire to enter into this Agreement in order to for the Public Partners to help launch RTF as a thriving volunteer support group for the Willamette Falls Legacy Project, and for the Parties to begin to establish the terms of the ongoing working relationship between RTF and the Public Partners.

AGREEMENT

In consideration of the foregoing, and the mutual and reciprocal covenants, obligations and benefits established herein, and other good and valuable consideration hereby acknowledged, the Parties agree as follows:

1. **Term of Agreement.** This Agreement shall become effective when signed by all Parties (the “Effective Date”) and shall terminate on June 30, 2017, unless extended by written amendment signed by the Parties. This Agreement is intended to be an interim agreement to govern the relationship of the Parties during negotiation of a future long term agreement, as described below.

2. **Future Long Term Agreement.** During the term of this Agreement, the Parties shall negotiate a potential future agreement among the Parties that would commence following the term of this Interim Agreement. As of the Effective Date, the future agreement is anticipated to address: (a) fundraising and distribution of funds raised among the Parties; (b) outreach and communications; (c) any future funding by the Public Partners; (d) use of websites, trademarks, and other media; and (e) RTF’s mission and governance in relation to the Willamette Falls Legacy Project and the Public Partners. Each Party may elect to enter into any future long term agreement in their sole and absolute discretion.

3. **Responsibilities of RTF.**

3.1 Corporate and Tax-Exempt Status. RTF shall use reasonable efforts to obtain recognition from the Internal Revenue Service of its tax exempt status under Section 501(c)(3) of the Internal Revenue Code, and once obtained, to maintain such status. RTF shall maintain articles of incorporation establishing that the sole purpose of RTF is to support and benefit the Willamette Falls Legacy Project. RTF shall promptly provide the Public Partners with written notice and an updated copy of its articles of incorporation and corporate bylaws any time they are amended, restated or otherwise changed.

3.2 Books and Records. RTF shall maintain all of its records relating specifically to this Agreement, such as accounting records and receipts for costs incurred, on a generally recognized accounting basis, on its own equipment, and allow the Public Partners the opportunity to inspect and/or copy such records at a convenient place during normal business hours.

3.3 Donor Database. RTF shall create a donor database which shall not be considered part of the books and records that the Public Partners may inspect pursuant to Section 3.2, above. The Public Partners shall provide RTF with its lists of interested parties that the Public Partners have collected at various public events prior to the Effective Date.

3.4 Strategic Plan. RTF shall create a strategic plan by the expiration of the term of this Agreement. The elements of the strategic plan shall be subject to the prior approval of each Party (the “Strategic Plan”).

3.5 Reporting. RTF shall prepare an annual report of its activities and accomplishments by the expiration of the term of this Agreement.

3.6 Board Meetings. RTF shall provide the Public Partners reasonable advance notice of its board meetings.

3.7 Funding Feasibility Study. RTF shall develop a funding plan to pay for a fundraising feasibility study that will set a course for RTF's fundraising efforts.

4. **Budget; Funding.** The budget agreed upon by the Parties that will allow RTF to fulfill its responsibilities described above and elsewhere in this Agreement is attached as Exhibit A to this Agreement (the "Interim Budget"). Any amendments or deviations from the Interim Budget by RTF shall require the prior written approval of the Public Partners.

4.1 Metro shall pay RTF Thirty-Five Thousand Dollars (\$35,000), in accordance with and in consideration for the work and services set forth in the Interim Budget.

4.2 Oregon City shall pay RTF Fifty Thousand Dollars (\$50,000), in accordance with and in consideration for the work and service set forth the Interim Budget.

4.3 RTF shall provide the Public Partners monthly statements showing its income and expenses for the prior month. The form of this statement shall be agreed upon by the parties and is intended to be a simple format produced by RTF's accounting software. When requesting reimbursement for work completed, RTF shall invoice both Metro and Oregon City, including an itemized statement of the work performed or costs incurred, and for which reimbursement is sought. Payment to RTF for approved and completed work will be made within 30 days of approval of the invoice.

5. **Fundraising.**

5.1 Grant Funding. With the prior written approval of the Public Partners, RTF may apply to government entities or private foundations for grants that are available only to non-governmental entities, such as RTF. If RTF is successful in its applications and awarded any such grants, it shall use the funds in accordance with the terms of the grant.

5.2 Private Donations. If RTF receives any private donations, it shall report the amount of the donation to the Public Partners, and the Parties shall meet to agree upon the distribution of the donation as between the Willamette Falls Legacy Project and RTF. In any such distribution, at least five percent (5%) of the private donation shall be dedicated to tasks that develop RTF's organizational and fundraising capacity. The parties shall thereafter amend the Interim Budget to reflect the addition of the private donation to RTF's operating budget over the term of this Agreement and to set forth the work or costs for which the increased funds provided by the donation will be used.

6. **RTF Insurance.** RTF shall provide the Public Partners with a certificate of insurance complying with this Agreement within thirty (30) days after the Effective Date. Notice of any material change or policy cancellation shall be provided to the Public Partners thirty (30) days prior to any change. All policies shall name Metro and Oregon City, and their elected officials, officers, employees and agents, as additional insureds. RTF's coverage will be primary as respect to Metro and Oregon City.

6.1 The most recently approved ISO (Insurance Services Offices) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits of not less than \$1,000,000 per occurrence and \$1,000,000 in the aggregate, providing coverage against claims for bodily injury, death, personal injury, property damage, contractual liability, premises and products/completed operations. This insurance is required for RTF as an organization only if RTF hosts events. Coverage of RTF staff through independent contractors' coverage is otherwise acceptable to comply with this paragraph.

6.2 Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence, combined single limit for bodily injury and property damage including coverage for owned, non-owned, and hired vehicles, including loading and unloading operations. If coverage is written with an aggregate limit, the aggregate limit shall not be less than \$1,000,000. Coverage of RTF staff through independent contractors' coverage is acceptable to comply with this paragraph.

6.3 Nonprofit Directors and Officers Insurance to protect the directors, officers and board members (past, present, and future) of RTF.

7. Responsibilities of the Public Partners.

7.1 The Public Partners shall invite RTF to all Riverwalk and Willamette Falls Legacy Project public and VIP events.

7.2 The Public Partners shall keep RTF apprised of developments in the design of the Riverwalk and include RTF in the design process, including without limitation, providing a design update at every RTF board meeting. Oregon City and Metro shall each send at least one staff representative to all RTF board meetings.

7.3 The Public Partners shall provide the funds as set forth on the Interim Budget and endeavor to provide non-monetary support to RTF upon reasonable advance notice, including, without limitation, assistance with development of a funding plan and advice on potential grant funding sources.

8. Communications.

8.1 Project Communications. RTF acknowledges and agrees that the Public Partners lead the Willamette Falls Legacy Project's communications strategy. All public communications by RTF regarding the Riverwalk and the Willamette Falls Legacy Project will be subject to the prior approval of the Public Partners. The Public Partners shall provide RTF with the key project messages, and RTF agrees to adhere to these messages in its communications. RTF shall permit the Public Partners to review and approve any promotional materials prepared by RTF. For the term of this Agreement, Metro grants permission to RTF to use the name "Rediscover the Falls."

8.2 RTF Communications. The Public Partners shall provide RTF with the opportunity to review publicity and printed materials produced by the Public Partners regarding RTF, and to review and approve communications regarding RTF by the Public Partners.

9. **Termination**. This Agreement may be terminated by any Party for cause, subject to the requirements set forth in this section.

9.1 Termination for Cause. If any Party determines that a material breach of the terms of this Agreement has occurred, the aggrieved Party shall promptly provide written notice of such breach to the other parties, reasonably documenting said breach and demanding that the breach be cured. The breaching Party shall thereafter cure said breach within 10 days of receipt of said notice. If the breaching Party fails to so cure, or under circumstances where the breach cannot reasonably be cured within a 10-day period, fails to begin curing such violation within the 10-day period, or after 10 days has expired fails to continue diligently to cure the breach until finally cured, the aggrieved Party may, at its sole discretion, immediately terminate this Agreement. The exercise of this termination right shall not extinguish or prejudice the terminating Party's right to seek damages and enforcement of the terms of this Agreement in a court of competent jurisdiction with respect to any breach that has not been cured.

9.2 Dissolution. In the event RTF must dissolve, after payment or provision for payment of all RTF liabilities, the assets of RTF shall be distributed to Oregon City and Metro equally to be used for purpose of the Willamette Falls Legacy Project. Upon termination of this Agreement, if no long term Agreement is in place, RTF shall dissolve and cease fundraising for the Willamette Falls Legacy Project.

10. **Indemnification**.

10.1 RTF agrees to defend, indemnify and hold harmless Metro and Oregon City, their elected officials, officers, agents and employees, against all loss, damages, expenses, and liability, whether arising in tort, contract or by operation of any statute or common law, relating to or arising out of RTF's performance of, or failure to perform, this Agreement.

10.2 Metro shall defend, indemnify and hold harmless RTF and Oregon City and their officers, agents and employees, against all loss, damage, expenses, judgments, claims and liability, whether arising in tort, contract or by operation of any statute or common law, arising out of or in any way connected to Metro's performance of, or failure to perform, this Agreement, subject to the limitations and conditions of the Oregon Constitution and the Oregon Tort Claims Act, ORS Chapter 30.

10.3 Oregon City shall defend, indemnify and hold harmless RTF and Metro, and their officers, agents and employees, against all loss, damage, expenses, judgments, claims and liability, whether arising in tort, contract or by operation of any statute or common law, arising out of or in any way connected to Metro's performance of, or failure to perform, this Agreement, subject to the limitations and conditions of the Oregon Constitution and the Oregon Tort Claims Act, ORS Chapter 30.

10.4 The foregoing indemnification, defense, and hold harmless provisions are for the sole and exclusive benefit of the Parties, and their respective elected officials, officers, employees, and agents, and shall survive termination or expiration of this Agreement. They are not intended, nor shall they be construed, to confer any rights on or liabilities to any person or persons other than the Parties and their respective elected officials, officers, employees and agents.

11. **Miscellaneous Provisions.**

11.1 Authorization. The Parties have obtained all approvals required by law, bylaws, operating agreements, and pertinent corporate documents in order to enter into this Agreement. Approval of the Public Partners shall mean the approval of both Kathleen Brennan-Hunter, Director of Metro's Parks and Nature Department, and Tony Konkol, City Manager of the City of Oregon City. Metro or Oregon City may change its authorized representative at any time upon written notice to the other Parties.

11.2 No Joint Venture; Several Obligations. The Parties agree that, during the term hereof, each Party shall act in its individual capacity and not as agents, employees, partners, joint ventures or associates of one another, and that nothing in this Agreement, nor the Parties' acts or failures to act hereunder, shall constitute or be construed by the parties, or by any third person, to create an employment, partnership, joint venture, association or joint employer relationship between them. The Parties agree that, as independent and separate entities, each shall maintain a management structure independent of the other during the term hereof. The agreements of Metro and Oregon City under this Agreement are several (and not joint) in all respects.

11.3 Entire Agreement. This Agreement constitutes the entire agreement between the Parties on the matter addressed herein, and supersedes all prior or contemporaneous oral or written communications, agreements or representations relating to its subject matter. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by all Parties. The failure of a Party to enforce any provision of this Agreement shall not constitute a waiver by any Party of that or any other provision.

11.4 Notices. Notices will be deemed received upon personal service or upon deposit in the United States Mail, certified mail, postage prepaid, return receipt requested addressed as follows:

To RTF: Rediscover the Falls
 PO Box 2588
 Oregon City, OR 97045

To Metro: Metro
 Office of Metro Attorney
 600 NE Grand Avenue
 Portland, Oregon 97232-2736

Phone No. (503) 797-1534

To Oregon City: City of Oregon City
Office of the City Manager
PO Box 3040
Oregon City, OR 97045
Phone No. (503) 496-1582

The foregoing addresses may be changed by written notice, given in the same manner. Notice given in any manner other than the manner set forth above shall be effective when received by the Party for whom it is intended. Telephone numbers are for information only.

11.5 No Benefit to Third Parties. Metro, Oregon City and RTF are the only Parties to this Agreement and as such are the only Parties entitled to enforce its terms. Nothing in this Agreement 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.

11.6 Severability. If any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal or unenforceable, in whole or in part, or in any other respect, then such provision or provisions shall be deemed null and void and shall not affect the validity of the remainder of the Agreement, which shall remain operative and in full force and effect to the fullest extent permitted by law.

IN WITNESS WHEREOF, the Agencies have executed this AGREEMENT effective as of the date set forth above.

METRO

REDISCOVER THE FALLS

By: _____
Martha J. Bennett

By: _____
Name: _____

Title: Chief Operating Officer

Title: Board Chair

OREGON CITY

By: _____
Name:
Title:

EXHIBIT A

Interim Budget

In total, Metro and Oregon City have expressed willingness to each provide \$50,000 to Rediscover the Falls for staffing and other seed funding expenses.

- Prior to the effective date of this Agreement, Metro has paid \$15,000 of its \$50,000 to RTF and has \$35,000 remaining
- Oregon City has \$50,000 available

Sources and uses of funds

Project costs		Project funds		
Budget item	Cost	Metro Funds	Oregon City Funds	Total funds
Interim ED contract (spent)	\$10,000	\$10,000 ¹	\$0	\$10,000
Miscellaneous admin expenses already incurred (spent) ²	\$5,000	\$5,000	\$0	\$5,000
Staffing	\$50,000	\$18,000	\$32,000	\$50,000
Insurance and other	\$4,000	\$2,000	\$2,000	\$4,000
Technology and donor management	\$5,000	\$2,500	\$2,500	\$5,000
Match or seed for fundraising feasibility assessment	\$20,000	\$10,000	\$10,000	\$20,000
Printing and supplies	\$1,000		\$1,000	\$1,000
Contingency	\$5,000	\$2,500	\$2,500	\$5,000
Total	\$100,000	\$50,000	\$50,000	\$100,000

¹ Final \$1000 will be disbursed on September 15, 2016 once the interim ED contract is completed

² IRS filing costs, consultant work for board selection and refreshments for RTF meetings early on

Disbursement schedule

Date	Funding Amount	Uses for funds	Deliverables to be completed before disbursement (or prior to next disbursement as indicated by an *asterisk)	Metro funds	Oregon City funds
Execution of this contract (9/30/16)	\$25,000	Staffing	Staffing roles and responsibilities determined by contract execution more specific budget for \$85,000 submitted	\$10,000	\$15,000
Execution of this contract (9/30/16)	\$10,000	insurance technology and supplies	Directors and Operators insurance purchased by 10/30/16* Donor database and independent electronic records established by 11/30/16*	\$4,500	\$5,500
January 2017	\$25,000	Staffing	Completion of RTF strategic plan Commencement of conversations about process for long term agreement	\$8,000	\$17,000
March 2017 or when requested	\$20,000	Contribution to fundraising feasibility study	Funding plan for fundraising feasibility study completed Continued discussion on plans for longer term agreement with WFLP	\$10,000	\$10,000
Date TBD ³	\$5,000	Contingency	For reimbursement of unanticipated expenses incurred by RTF and approved by the Public Partners. If not requested by March 2017, funds will be added to staffing or feasibility study budget, upon request by RTF	\$2,500	\$2,500
Total	\$85,000			\$35,000	\$50,000

³ Can be requested by RTF at any point until June 30, 2017, but needs approval from Public Partners

Deliverables: Work

- 1) Continued work on long term agreement. This agreement is expected to cover, at a minimum:
 - a) future funding
 - b) fundraising
 - c) communications
 - d) mission in relation to the public project
- 2) RTF strategic plan, which is expected to include the following, as approved by the Parties:
 - a) Staffing models
 - b) Administrative overhead (i.e. office)
 - c) Funding plan
 - d) shared communications with WFLP
 - e) capacity building
- 3) Pursue funding for a fundraising feasibility study
- 4) RTF establishes a donor database and an independent electronic records
- 5) Budget for use of \$85,000 and annual budget for all funds including \$85,000

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 16- 4749, FOR THE PURPOSE OF AWARDING A GRANT TO REDISCOVER THE FALLS IN SUPPORT OF THE WILLAMETTE FALLS LEGACY PROJECT

Date: October 20, 2016

Prepared by: Kelly Reid (x1732)
Kathleen Brennan-Hunter (x1948)

BACKGROUND

Since February 2011, Metro has worked in partnership with Oregon City, Clackamas County, and the State of Oregon to envision a new future for Willamette Falls. Four core values reinforce the connection between efforts on the site and Metro's role as a regional convener; public access, healthy habitat, historic and cultural interpretation, and economic redevelopment.

The Metro Council has provided direction to staff regarding the project in the past, and this agreement is a follow up from that previous direction. Funds committed to this agreement were part of the budget approved within the Intergovernmental Agreement that the Metro Council approved on March 31, 2016. That two-year budget included seed funding for a nonprofit "friends" group from both Metro and Oregon City.

It is anticipated that the nonprofit group will assist in advocacy, outreach, and fundraising for the Willamette Falls Legacy Project; namely, for the riverwalk. The success of the Willamette Falls Legacy Project will require significant public and private support.

The nonprofit group, called Rediscover the Falls (RTF), seated a board this summer and established a mission and vision:

VISION: We advocate for the revitalization of the former mill site in Oregon City, for restoration and conservation of habitat, for historic and cultural interpretation, and for world-class public access to Willamette Falls.

MISSION: Through purposeful action, we engage and educate the public, collaborate with partners, and build sponsorship and enduring commitment to the public interest in the Willamette Falls Legacy Project.

Project staff and the RTF board have drafted an agreement that allows the public partners to help launch this thriving volunteer support group for the Willamette Falls Legacy Project, and to begin to establish the terms of the ongoing working relationship between RTF and the public partners

The agreement is a three-way contract among Metro, Rediscover the Falls and the City of Oregon City to grant funding for RTF to accomplish a defined set of tasks over the next nine months, some of which include:

1. Continuing progress on achieving tax exempt status from the IRS
2. Creation of a strategic plan
3. Commencement of a fundraising feasibility study
4. Creation of a donor database

Because a competitive process was not used for this grant contract, Council approval is required.

The proposed contract agreement is attached as Exhibit A to Resolution 16-4749.

ANALYSIS/INFORMATION

1. **Known Opposition** None known.

2. **Legal Antecedents**

Metro Council Resolution 16-4676, approved August March 31, 2016 for the purpose of approving the Willamette Falls Riverwalk Governance Intergovernmental Agreement with City of Oregon City, Clackamas County, and Oregon State Parks

3. **Anticipated Effects** The contract will allow Rediscover the Falls to continue working with project staff and begin fundraising for the riverwalk project.

4. **Budget Impacts** The grant contract includes \$35,000 from Metro.

RECOMMENDED ACTION

Staff recommends Council approve Resolution No. 16-4749.

Agenda Item No. 5.2

Resolution No. 16-4751, For the Purpose of Creating a
Community Advisory Committee for the Proposed Southwest
Corridor Light Rail Project

Resolutions

Metro Council Meeting
Thursday, October 13, 2016
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CREATING A) RESOLUTION NO. 16-4751
COMMUNITY ADVISORY COMMITTEE FOR)
THE PROPOSED SOUTHWEST CORRIDOR) Introduced by Councilor Craig Dirksen and
LIGHT RAIL PROJECT) Councilor Bob Stacey

WHEREAS, the Metro Council identified the Southwest Corridor, located between downtown Portland and Sherwood, as the region's top priority for consideration for a high capacity transit investment based on the 2009 Regional High Capacity Transit System Plan;

WHEREAS, in December 2011, the Southwest Corridor Plan Steering Committee, including representatives of the cities and counties in the corridor, as well as Metro, TriMet and ODOT, adopted a charter agreeing to use a collaborative and publicly inclusive approach to developing the Southwest Corridor Plan;

WHEREAS, the Southwest Corridor Plan process is intended to lead to the adoption of a locally preferred alternative under the National Environmental Policy Act of 1969 (NEPA) for a high capacity transit investment in the Southwest Corridor, and consideration of the Southwest Corridor Plan as an amendment to Metro's Regional Transportation Plan;

WHEREAS, in October 2013, the Metro Council endorsed the *Southwest Corridor Shared Investment Strategy* (Metro Council Resolution No. 13-4468A), directing staff to continue to seek input from the public and to work with project partners to involve stakeholders at key points in the process and on refinement and analysis of high capacity transit alternatives and local connections in the Southwest Corridor;

WHEREAS, in June 2014, the Steering Committee unanimously adopted for further study the *Southwest Corridor Transit Design Options*, a package of the most promising high capacity transit design alignment options and associated roadway, bicycle and pedestrian projects and potential station areas that support the Southwest Corridor Land Use Vision;

WHEREAS, in June 2014, the Metro Council adopted the *Southwest Corridor Transit Design Options*, directed staff to complete a focused refinement period of the *Southwest Corridor Transit Design Options*, and pending Steering Committee direction on the results of the focused refinement analysis and timing of the draft Environmental Impact Statement (DEIS), directed staff to study the *Southwest Corridor Transit Design Options* under the National Environmental Policy Act in collaboration with the Southwest Corridor Plan project partners and with the involvement of stakeholders and public;

WHEREAS, the Southwest Corridor project partners have committed to collaboratively fund the further study of the options set forth in *Southwest Corridor Transit Design Options* under NEPA, as demonstrated in the actions of their governing bodies;

WHEREAS, in December 2014, the Steering Committee directed staff to implement an 18-month workplan for the focused refinement of the *Southwest Corridor Transit Design Options* using a place-based approach to narrow alignment options and select a preferred transit mode and terminus;

WHEREAS, on June 13, 2016, the Steering Committee endorsed a *Southwest Corridor High Capacity Transit Proposed Range of Alternatives for Environmental Review* that describes the high

capacity transit mode, preferred terminus, and transit alignments, as well as associated roadway, bicycle and pedestrian projects to be considered under NEPA;

WHEREAS, a public scoping process for the forthcoming federal draft environmental impact study was held from September 2, 2016 to October 3, 2016, to solicit public and agency comments on the *Proposed Range of Alternatives for Environmental Review*, prior to commencing work on the DEIS;

WHEREAS, the Steering Committee is expected to make its final decisions on which transit alignments, station locations, associated connectivity projects and other project components should be evaluated in the DEIS in December 2016, with its recommendation of a locally preferred alternative to the Metro Council tentatively scheduled for early 2018;

WHEREAS, the Southwest Corridor Plan project partners seek the input of engaged and informed stakeholder representatives to aid in the selection of the locally preferred alternative, taking into account the anticipated adverse and beneficial impacts of the project alternatives disclosed in the DEIS;

WHEREAS, the Metro Council is supportive of inclusive engagement in its planning process and equitable development as an outcome of high capacity transit investments; now therefore

BE IT RESOLVED that, the Metro Council, in order to support the Southwest Corridor land use vision and address current and future transportation needs in the corridor, directs staff to work with the Steering Committee to create an advisory committee representative of the Southwest Corridor community whose purpose is to advise the Steering Committee and to assist with the identification of the locally preferred alternative as described in Exhibit A attached to this Resolution.

ADOPTED by the Metro Council this 20th day of October, 2016.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

Exhibit A to Resolution No. 16-4751

Southwest Corridor Light Rail Project Community Advisory Committee An Overview

Purpose. Metro is proposing the creation of an advisory committee, the Southwest Corridor Light Rail project Community Advisory Committee (CAC), comprised of community members who represent various stakeholders in the Southwest Corridor. The CAC purpose is to advise the Southwest Corridor Steering Committee in order to aid in the selection of the locally preferred alternative, taking into account the anticipated adverse and beneficial impacts of the project alternatives still under consideration.

Background. The Southwest Corridor Light Rail Project is a proposed 12-mile MAX light rail line serving SW Portland, Tigard, Tualatin and the surrounding communities. The proposed project also includes bicycle, pedestrian and roadway projects to improve access to light rail stations. The Light Rail Project is part of a broader Southwest Corridor Plan that identifies an array of investment strategies to help improve safety and quality of life and contribute to the success of local land use and development aspirations in the area.

In compliance with the National Environmental Policy Act, Metro, TriMet and the Federal Transit Agency (FTA) will prepare an Environmental Impact Statement (EIS) to identify the significant positive and negative impacts the project could have on the built and natural environment and to determine options to avoid, minimize or mitigate those impacts. The Draft EIS will assess the project alternatives remaining from over three years of analysis refinement and suggest ways to avoid, minimize or mitigate significant adverse impacts. The information disclosed in the Draft EIS, and public and agency comments on the Draft EIS, will inform the Southwest Corridor Steering Committee in its recommendation of an LPA.

Scope of work. Southwest Light Rail CAC purpose is to meaningfully involve stakeholder representatives in the selection of the locally preferred alternative. To do so, the CAC must:

- Work collaboratively to provide feedback and recommendations to project staff (from Metro, TriMet, the City of Portland, the City of Tigard, the City of Tualatin, the City of Sherwood, Washington County and ODOT) at key study milestones through the Draft EIS so that stakeholder voices are shared through the process
- Represent stakeholders in the Southwest Corridor
- Bring a broad perspective on the community and social issues in Southwest Corridor neighborhoods, business districts and communities

The CAC chair will attend Steering Committee meetings to share CAC discussion, feedback and advice.

Membership. The membership of the Southwest Light Rail CAC will be carefully selected by the Steering Committee to include stakeholders in the corridor, with representatives from residents, property owners, community-based organizations, businesses, educational institutions and advocacy groups. Members should have the ability to work collaboratively with people who don't

share their perspective and bring background knowledge in multiple areas of importance to the corridor.

Members will be identified through an open application process. Official appointments will be made by the Southwest Corridor Steering Committee.

The expected number of Southwest Light Rail CAC members will be between 12 and 18. It will be geographically balanced to include representation from communities along the light rail route. The group's membership will also support Metro's Diversity, Equity and Inclusion (DEI) program. Specifically, membership will aim to include individuals who represent the following interest and group categories:

- Neighbors (including renters and owners)
- Major employers
- Small businesses
- Property owners
- Educational institutions
- Students / Youth
- Cultural organizations and communities of color
- Community-based organizations
- Environmental interests
- Health-related interests
- Accessibility interests (seniors, people with disabilities)
- Bicycle and pedestrian interests
- Transit-related interests (including transit-dependent individuals)
- General countywide transportation interests

First-year timeline: There will be approximately 10 to 14 CAC meetings between December 2016 and March 2018.

1. Application process for member identification: November 2016
2. Steering Committee membership appointments: December 2016
3. Kickoff meeting: December 2016 / January 2017
4. Final meeting and LPA recommendation to Steering Committee: February / March 2018

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 16-4751, FOR THE PURPOSE OF CREATING A COMMUNITY ADVISORY COMMITTEE FOR THE PROPOSED SOUTHWEST CORRIDOR LIGHT RAIL PROJECT

Date: October 20, 2016

Prepared by: Chris Ford x1633

BACKGROUND

Evolution of the Southwest Corridor Plan and emergence of the Southwest Corridor Light Rail Project

The Southwest Corridor Plan is a comprehensive effort focused on supporting community-based development and placemaking that targets, coordinates and leverages public investments to make efficient use of public and private resources. The work has been guided by a Steering Committee comprised of representatives from the cities of Beaverton, Durham, King City, Portland, Sherwood, Tigard and Tualatin; Washington County; and TriMet, ODOT and Metro. Steering Committee members agreed to use a collaborative approach to develop the Southwest Corridor Plan and a Shared Implementation Strategy to align local, regional, and state policies and investments in the corridor. In August 2011, the Metro Council adopted Resolution 11-4278 that appointed the Southwest Corridor Steering Committee, and a charter defining how the partners will work together was adopted by the Steering Committee in December 2011.

In October 2013, the Metro Council adopted Resolution No. 13-4468A, endorsing the Southwest Corridor Shared Investment Strategy and directing staff to coordinate and collaborate with project partners on refinement and analysis of high capacity transit (HCT) alternatives and local connections in the Southwest Corridor, along with associated roadway, active transportation and parks/natural resource projects that support the land use vision for the corridor. This resolution also directed staff to work with project partners to involve stakeholders at key points in the process and seek input from the public.

In June 2014, the Metro Council adopted Resolution No. 14-4550, which included direction to staff to study the Southwest Corridor Transit Design Options under the National Environmental Policy Act in collaboration with the Southwest Corridor Plan project partners and with the involvement of stakeholders and public, pending Steering Committee direction on the results of the focused refinement analysis

The Southwest Corridor Light Rail Project has emerged as the preferred high capacity transit investment of the Southwest Corridor Shared Investment Strategy. The project is a proposed 12-mile MAX light rail line serving SW Portland, Tigard, Tualatin and the surrounding communities. The proposed project also includes bicycle, pedestrian and roadway projects to improve access to light rail stations. In compliance with the National Environmental Policy Act (NEPA), and at the direction of the Metro Council, an Environmental Impact Statement (EIS) will be prepared by Metro, TriMet and the Federal Transit Agency (FTA) to identify the significant positive and negative impacts the project could have on the built and natural environment and to determine options to avoid, minimize or mitigate those impacts. The Draft EIS will assess the project alternatives remaining from over three years of analysis refinement and suggest ways to avoid, minimize or mitigate significant adverse impacts. The information disclosed in the Draft EIS, and public and agency comments on the Draft EIS, will inform the Southwest Corridor Steering Committee in its recommendation of a Locally Preferred Alternative (LPA).

Public involvement in the SW Corridor planning process to date

Metro Council has directed staff to involve stakeholders at key points in the process and seek input from the public, as noted above. Project partners have also supported a high-level of public engagement in the Southwest Corridor Plan and Shared Investment Strategy. The proposed project entered an early scoping process under NEPA in September 2011, initiating a series of events to gather input on potential transit alternatives between downtown Portland and Sherwood and continuing with public outreach to help define the Shared Investment Strategy as adopted by Metro Council in October 2013.

During the focused refinement period, from December 2014 to May 2016, project staff undertook an 18-month work plan to further refine the HCT design options and complementary roadway, bicycle and pedestrians projects prior to completing a DEIS under NEPA. The focused refinement process was organized around a place-based approach, with public engagement targeted at gathering input and feedback on the primary decision areas of South Portland/Hillsdale, PCC Sylvania, and Tigard/Tualatin, including meetings with relevant neighborhood associations. The various public engagement strategies used during the focused refinement period are described below.

Tabling events

Project staff attended a number of tabling events at communities, local colleges and business centers, especially in the summer months to connect with residents at the area's farmers markets and community celebrations.

Transit rider intercept surveys

In Spring 2016, Metro public involvement staff worked with the Bicycle Transportation Alliance and TriMet to design a transit rider intercept survey to assess ridership habits, desired safety/access improvements at transit stops in the Southwest Corridor, high-priority destinations in the Southwest Corridor, and feelings about the potential negative impacts of a new light rail line. A total of 134 surveys were completed at four different transit stations in the corridor.

My Place Dialogues and Community Conversations

Project staff met with many formal and informal civic, business, resident and youth groups to connect with the public in key places in the corridor. These events focused on geographic, social and cultural issues to elevate the unique local benefits and impacts of the project and also set each community's choices in the context of corridor-wide project performance and decision-making.

Focused discussions at neighborhood and community meetings

Project staff met with several neighborhood and community groups to discuss specific aspects of the project in more detail.

Open houses

Semi-structured open houses provided opportunities for interested people to drop by to talk and ask questions of staff and decision makers.

Corridor-wide planning forums

Three structured planning forums geared toward large numbers of public stakeholders provided opportunities for the public to explore the project decisions in more detail.

ID Southwest

ID Southwest is an appointed committee of community leaders who can activate local dialogue that shapes transportation and land use investment in the corridor, and can make the most of public-private partnerships. The committee met three times during the refinement period for project updates and discussions of the Steering Committee decisions.

Online interactive map tool

In 2015 the project team launched an online map tool where users can click on various points throughout the corridor to learn more and provide feedback. Thousands of people have visited the map and shared input through survey questions and open-ended comment boxes throughout the map. In spring 2015 the map tool provided information on HCT alignment options and gathered feedback on HCT tunnels being considered. In fall 2015 staff updated the map to focus information and survey questions on HCT alignments in the Tigard and Tualatin areas and possible HCT terminus locations. In spring 2016 staff updated the map again to highlight a variety of bicycle, pedestrian and roadway projects that are crucial components of the Southwest Corridor Plan.

Online surveys

Seven online surveys were completed during the focused refinement period to gather specific feedback to support the Steering Committee decisions.

Technical information was publicly released at least 60 days in advance of Steering Committee recommendations and evaluation and recommendation reports were publicly released at least 30 days in advance, to provide ample time for the public to review the information before providing comments. Project staff summarized the input gathered from the public to inform the Steering Committee prior to each decision.

Public involvement during the environmental review phase

Project staff will adjust the planning process during preparation of the Draft EIS. Most notably, designs for the proposed project will generally not advance during the environmental study, with no design-related decisions anticipated until the LPA selection. There will be less need for place-based public input and feedback during environment review, but a greater volume and complexity of information about the project will be developed. To ensure effective public involvement and input to Steering Committee recommendations, a committed and well-informed group of stakeholders who understand highly technical information and can balance a myriad of trade-offs to identify the best option from the remaining project alternatives is needed.

The creation of a Community Advisory Committee at the start of the Light Rail's EIS process is an opportunity to continue the precedent and direction of involving stakeholders at key points in the planning process and seeking input from the public, while ensuring that this advice remains relevant in the face of increasingly complex and voluminous information.

Staff will continue many of the public engagement strategies employed during the focused refinement period in order to keep stakeholders and the general public informed and involved. One exception is ID Southwest, which was formed, "to make the most of public-private partnerships and help implement early opportunity projects in the corridor" including recommendations to the Steering Committee and the Metro Council regarding funding for specific Shared Investment Strategy projects. Per Exhibit C of Resolution No. 13-4468A, ID Southwest will not serve as a Citizens Advisory Committee, necessitating the creation of this separate body. The initial timeframe for ID Southwest's purpose has passed, with the advancement of the high capacity project into environmental review, and some of its members may serve on the Citizens Advisory Committee. As a result, staff recommends indefinite suspension of the ID Southwest group, thanking its members for their service and encouraging them to apply for Citizens Advisory Committee membership if they are interested and able.

Implications of Metro Council Resolution No. 16-4751

This resolution and many preceding ones have noted that, “the Southwest Corridor Plan process is intended to lead to the adoption of a locally preferred alternative under the National Environmental Policy Act of 1969 (NEPA) for a high capacity transit investment in the Southwest Corridor, and consideration of the Southwest Corridor Plan as an amendment to Metro’s Regional Transportation Plan.” If the Metro Council votes in favor of this resolution, it would create the proposed community advisory committee to aid the Steering Committee in its selection of an LPA.

Specific next steps include:

1. Metro and partner staff will create and distribute an application for CAC membership, to be released to the general public upon approval of the Steering Committee; and
2. Metro and partner staff will review the applications and recommend individuals to the Steering Committee for appointment, anticipated for December 2016.

ANALYSIS/INFORMATION

1. **Known Opposition** No known opposition exists.
2. **Legal Antecedents** The creation of the Southwest Corridor Light Rail project Community Advisory Committee would satisfy:
 - Aug. 4, 2011, Resolution No. 11-4278: For the Purpose of Creating and Appointing Members of the Southwest Corridor Plan Steering Committee
 - Nov. 17, 2011, Resolution No. 11-4306: For the Purpose of Appointing Additional Members to the Southwest Corridor Plan Steering Committee
 - Oct. 1, 2013, Resolution No. 13-4468A, For The Purpose of Adopting The Southwest Corridor Plan Shared Investment Strategy
 - Jun. 26, 2014, Resolution No. 14-4540: For the purpose of Adopting the Southwest Corridor high capacity transit alignment options, complementary multimodal projects and potential station locations for further study
3. **Anticipated Effects** Council creation of an advisory committee for the Southwest Corridor Light Rail project creates a new way to meaningfully engage community stakeholders in an important upcoming light rail project decision, the selection of the locally preferred alternative. An advisory committee encourages stakeholders with different perspectives to collaborate with each other, staff and the Southwest Corridor Steering Committee. Committee meetings would educate a diverse group of stakeholders about the complexities of the project and the different needs of communities in the corridor, and produce a knowledgeable group of individuals able to share information with others, expanding the reach of the project’s public engagement efforts. The advisory committee would add to the perspectives of the Steering Committee in identifying and selecting a locally preferred alternative, helping to weigh the significant impacts disclosed in the Draft Environmental Impact Statement along with the interests and concerns of the diverse population in the corridor, and those who wish better access to the resources within it.

The creation of an advisory group is supportive of inclusive engagement in Metro’s planning process and equitable development as an outcome of high capacity transit investments. An effort to recruit members from cultural organizations and communities of color actively supports Metro’s Diversity, Equity and Inclusion goals.

Budget Impacts Costs associated with convening and supporting the CAC are accounted for in the project’s scope of work and budget.

RECOMMENDED ACTION

Staff recommends that the Metro Council create an advisory committee comprised of community members who represent stakeholders in the Southwest Corridor to advise the Southwest Corridor Steering Committee in the selection of a Locally Preferred Alternative for the Southwest Corridor Light Rail project.

Agenda Item No. 6.1

Ordinance No. 16-1381, For the Purpose of Approving a Franchise Term Extension, Allocating Tonnage, and Authorizing the Chief Operating Officer to Issue an Amended Franchise for Forest Grove Transfer Station and Declaring an Emergency

Ordinances (first read)

Metro Council Meeting
Thursday, October 13, 2016
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING A	)	ORDINANCE NO. 16-1381
FRANCHISE TERM EXTENSION,)	
ALLOCATING TONNAGE, AND	)	Introduced by Chief Operating Officer Martha
AUTHORIZING THE CHIEF OPERATING	)	Bennett in concurrence with Council
OFFICER TO ISSUE AN AMENDED	)	President Tom Hughes
FRANCHISE FOR FOREST GROVE TRANSFER)	
STATION AND DECLARING AN EMERGENCY)	

WHEREAS, Metro Code Section 5.01.070(a)(2) states that a Metro Solid Waste Facility Franchise is required for any person owning or controlling a facility that operates a Transfer Station; and

WHEREAS, Waste Management of Oregon, Inc. operates the Forest Grove Transfer Station and holds Metro Solid Waste Facility Franchise Number F-004-08C, which will expire on December 31, 2016; and

WHEREAS, Metro Code Section 5.01.073(k) establishes a franchise term as not more than five years; and

WHEREAS, Metro remains engaged in the Solid Waste Roadmap process, which is a long term effort to determine the best approach to managing the region's solid waste and other discarded materials; and

WHEREAS, on July 21, 2016, the Metro Council adopted a transfer system configuration policy via Resolution No. 16-4716 to ensure that the regional transfer system provides maximum public benefit and that Metro maintain the current configuration of public and private transfer stations; and

WHEREAS, the transfer system configuration policy requires that Metro (1) allocate tonnage on a percentage basis to ensure flow to public stations; (2) develop by administrative rule a consistent process and framework for adjusting allocations in the future; (3) limit the amount of putrescible solid waste any one private company may transfer; and (4) ensure transfer station rate transparency; and

WHEREAS, the Chief Operating Officer recommends no change to the current franchise tonnage allocation amount, and that no future tonnage allocation adjustment occur until the Metro Council adopts an administrative rule outlining the allocation adjustment process; and

WHEREAS, the Chief Operating Officer further recommends amending the franchise to require a franchisee to provide 30-days notice when denying waste haulers access to a facility, to add provisions designed to increase transfer station rate transparency, and other housekeeping changes to improve readability and consistency; and

WHEREAS, the Chief Operating Officer recommends that the Metro Council extend the franchise for three additional years to December 31, 2019, in order to maintain continuity in the transfer station system while the Solid Waste Roadmap process continues; and

WHEREAS, the Metro Council finds that the proposed amendments are in the public interest; and

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

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The transfer station franchise amendments for Forest Grove Transfer Station are approved subject to the terms, conditions, and limitations contained in Exhibit A.
2. The Chief Operating Officer is authorized to issue to Waste Management of Oregon, Inc. an amended Solid Waste Facility Franchise for Forest Grove Transfer Station substantially similar to the one attached as Exhibit A.
3. That this Ordinance being necessary for the health, safety, and welfare of the Metro area by ensuring that transfer stations have ongoing Metro authorization to accept putrescible waste, an emergency is declared to exist pursuant to Metro Charter Section 38 (1), and this Ordinance will take effect on January 1, 2017.

ADOPTED by the Metro Council this ___ day of October 2016.

Attest:

Tom Hughes, Council President

Approved as to Form:

Nellie Papsdorf, Recording Secretary

Alison R. Kean, Metro Attorney

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



SOLID WASTE FACILITY FRANCHISE
No. F-004-08D

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

This franchise replaces and supersedes the provisions of Metro Solid Waste Facility Franchise No. F-004-08C. Metro grants this franchise to the franchisee named above. The franchisee is authorized to operate and maintain a solid waste facility and to accept the solid wastes and perform the activities authorized by and subject to the conditions stated in this franchise.

ISSUED BY METRO:

Paul Slyman, Property and Environmental Services Director

Date



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1.0	ISSUANCE	
1.1	Franchisee	Waste Management of Oregon, Inc. 7227 NE 55 th Avenue Portland, Oregon 97218 Tel. (503) 992-3015 Fax. (503) 357-4822
1.2	Corporate affiliation	Waste Management, Inc. 1001 Fannin, Suite 4000 Houston, Texas 77002
1.3	Contact	Kirk Duncan Phone: (503) 992-3015 Fax: (503) 357-4822 E-mail: kduncan2@wm.com
1.4	Franchise number	When referring to this franchise, please cite: Metro Solid Waste Facility Franchise No. F-004-08D.
1.5	Term	The franchise originally commenced on January 1, 2009, with a termination date of December 31, 2016. The franchise is now extended to terminate on December 31, 2019, unless amended, suspended, or revoked as provided in this franchise.
1.6	Renewal	The franchisee may apply for a franchise renewal as provided in Metro Code Chapter 5.01.
1.7	Facility name and mailing address	Forest Grove Transfer Station 1525 B Street Forest Grove, Oregon 97116 Tel. (503) 992-3015 Fax. (503) 357-4822
1.8	Operator	Waste Management of Oregon, Inc. 7227 NE 55 th Avenue Portland, Oregon 97218 Tel. (503) 992-3015 Fax. (503) 357-4822
1.9	Facility premises description	Tax Lot Identification No. 1S306BC09501, No. 1S306CB00500, and No. 1S306CB00600, City of Forest Grove, Washington County, State of Oregon



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

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



		and agents.
2.8	Waivers	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 11.0 and be in writing and signed by the COO.
2.9	Effect of waiver	Waiver of a term or condition of this franchise does not waive nor prejudice Metro’s right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.10	Choice of law	The franchise will be construed, applied, and enforced in accordance with the laws of the State of Oregon.
2.11	Enforceability	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise will not be affected.
2.12	Franchise not a waiver	This franchise does not relieve any owner, operator, or the franchisee from the obligation to obtain all required permits, franchises, or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.13	Franchise not limiting	This franchise does not limit the power of a federal, state, or local agency to enforce any provision of law relating to the facility.
2.14	Definitions	<ol style="list-style-type: none"> 1. “Mixed Non-Putrescible Waste” means a mixture of more than one type of non-putrescible waste, including commingled recyclables other than residential curbside recyclable material. This category includes construction and demolition waste but excludes Cleanup Materials Contaminated by Hazardous Substances, Source-Separated Recyclable Material, special waste, land clearing debris and yard debris. 2. Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.00.

3.0	AUTHORIZATIONS	
3.1	Purpose	This section of the franchise describes the wastes that the



		franchisee is authorized to accept at the facility and the waste-related activities the franchisee is authorized to perform at the facility.
3.2	General conditions on solid waste	The franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
3.3	General conditions on activities	The franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.
3.4	Acceptance and management of putrescible solid waste	<ol style="list-style-type: none">1. The franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 12.2. The franchisee also is authorized to accept putrescible waste for material recovery.2. The franchisee must receive, manage, store, reload, and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers. Public self-haul customers may tip waste outside, provided that such waste is tipped directly into watertight containers that are covered or tarped within 12 hours of receipt, or by the end of the business day, whichever is earlier.
3.5	Acceptance and management of mixed non-putrescible solid waste	<ol style="list-style-type: none">1. The franchisee is authorized to accept loads of mixed non-putrescible solid waste for reload and transfer to a facility authorized by Metro to perform material recovery.2. Except as provided below in Subsections (a) and (b), the franchisee must receive, sort, store, reload, and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides.<ol style="list-style-type: none">a. Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover prior to processing, within 12 hours of receipt, or by the end of the business day, whichever is earlier.b. Public self-haul customers may tip waste outside,



		<p>provided that such waste is tipped directly into watertight containers that are covered or tarped within 12 hours of receipt, or by the end of the business day, whichever is earlier.</p> <p>3. The franchisee must reload and remove all mixed non-putrescible waste from the site within 48 hours of receipt.</p>
3.6	Household hazardous waste collection	The franchisee must provide opportunities for Metro to hold household hazardous waste collection events on-site at regular intervals and must set aside a suitable area for that purpose.
3.7	Acceptance of source-separated recyclable materials	<ol style="list-style-type: none">1. The franchisee must provide an area for collecting source-separated recyclable materials without charge at the facility premises, or at another location more convenient to the population being served by the facility, on the days and at the times that the facility is normally open to the public for disposal of solid waste. For purposes of this section, "source-separated recyclable materials" will include newspaper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, aluminum, container glass, high grade office paper, tin cans, and any other material that is added by the COO based on a change to Oregon Administrative Rules Section 340-090-0070 subsequent to the effective date of this franchise.2. The franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.
3.8	Acceptance of yard debris	The franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.9	Acceptance of source-separated food waste	The franchisee is authorized to accept source-separated food waste that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The franchisee may accept source-separated food waste only for reloading to authorized facilities for composting or other



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

4.0	LIMITATIONS AND PROHIBITIONS	
4.1	Purpose	This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility.
4.2	Tonnage allocation	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept putrescible waste generated inside the Metro region as follows: <ol style="list-style-type: none"> a) For calendar year 2017, beginning on January 1 and



		<p>ending December 31, 2017, the franchisee is authorized to accept up to 125,000 tons of putrescible waste generated inside the Metro region;</p> <p>b) In October 2017, the COO will allocate tonnage for calendar year 2018 and amend Section 4.2 of this franchise as described in the staff report to Ordinance No. 16-1381; and</p> <p>c) In October 2018, the COO will allocate tonnage for calendar year 2019 and amend Section 4.2 of this franchise as described in the staff report to Ordinance No. 16-1381.</p> <p>2. Metro bases its tonnage allocations on its <i>Solid Waste Forecast</i>. Although Metro makes every effort to include accurate and reliable information in its forecast, Metro may adjust tonnage allocations based on tonnage trends and actual solid waste generation.</p>
4.3	Waste hauler access	<p>It is in the public’s best interest that transfer stations located inside the Metro region maintain adequate capacity to accommodate solid waste generated within the region and provide adequate access to waste haulers that collect solid waste within the geographic proximity of the facility. Therefore:</p> <p>a) The franchisee must not accept solid waste generated outside the Metro region if to do so would limit the franchisee from accepting any putrescible or non-putrescible waste generated inside the Metro region;</p> <p>b) The franchisee should not accept solid waste collected outside of the geographic proximity of the facility if to do so would deny access to waste haulers that collect solid waste within the geographic proximity of the facility;</p> <p>c) The franchisee must not deny access to any unaffiliated waste hauler without due cause or written notice 30-days in advance; and</p> <p>d) The COO may require the franchisee to provide a written explanation of its rationale if the facility denies access or refuses service to a waste hauler.</p>
4.4	Prohibited waste	<p>The franchisee must not knowingly receive, process, reload, or dispose of any solid waste not authorized by this franchise. The franchisee must not knowingly accept or retain any material</p>



		amounts of the following types of waste: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; regulated hazardous waste; or any waste prohibited by the DEQ.
4.5	Prohibition on mixing	<ol style="list-style-type: none">1. The franchisee must not mix or commingle any source-separated recyclable materials, source-separated yard debris or wood wastes brought to the facility with any unprocessed solid wastes or solid wastes destined for disposal.2. The franchisee must not mix or commingle putrescible solid waste with non-putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.3. The franchisee must not mix or commingle non-putrescible solid waste with putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.
4.6	Prohibition of size reduction on non-putrescible waste	The franchisee must not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, or processing residual consolidation or loading operations, and such size reduction is described in an operating plan and approved in writing by the COO.
4.7	No disposal of recyclable materials	The franchisee must not transfer source-separated recyclable materials to a disposal site, including without limitation landfills and incineration facilities.
4.8	Composting prohibited	The franchisee must not keep yard debris on site long enough for more than negligible biological decomposition to begin.
4.9	Limits not exclusive	This franchise will not be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.



5.0	OPERATING CONDITIONS	
5.1	Purpose and general performance goals	<p>This section of the franchise describes criteria and standards for the operation of the facility. The franchisee must operate in a manner that meets the following general performance goals:</p> <ul style="list-style-type: none">a) Environment. The franchisee must design and operate the facility to avoid undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste, asbestos and other prohibited wastes.b) Health and safety. The franchisee must design and operate the facility to avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.c) Nuisances. The franchisee must design and operate the facility to avoid nuisance conditions including, but not limited to, litter, dust, odors, and noise.
5.2	Qualified operator	<ol style="list-style-type: none">1. Except as described in an operating plan and approved in writing by the COO, the franchisee must, during all hours of operation, provide an operating staff employed by the facility and qualified and competent to carry out the functions required by this franchise and to otherwise comply with Metro Code Chapter 5.01.2. Facility personnel, as relevant to their job duties and responsibilities, must be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan.3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.
5.3	Fire prevention	<p>The franchisee must provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from processing and storage areas.</p>
5.4	Adequate vehicle accommodation	<p>The franchisee must:</p>



		<ul style="list-style-type: none">a) Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. The franchisee must maintain access roads to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather.b) Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles must not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances.c) Post signs to inform customers not to queue on public roadways.d) Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site tarping and untarping of loads.
5.5	Managing prohibited wastes	<ul style="list-style-type: none">1. The franchisee must reject prohibited waste upon discovery and must properly manage and dispose of prohibited waste when unknowingly received.2. The franchisee must implement a load-checking program to prevent accepting prohibited waste. This program must include at a minimum:<ul style="list-style-type: none">a) Visual inspection. As each load is tipped, a qualified operator must visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise.b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas must be covered and enclosed to prevent leaking and contamination.c) Record maintenance. The franchisee must maintain records of the training of personnel in the recognition, proper handling, and disposition of prohibited waste and make those records available for review by Metro.3. Upon discovery, the franchisee must remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the franchisee unknowingly receives must be removed from the site and transported to an appropriate destination within 90 days of receipt, unless



		required to be removed earlier by the DEQ or local government.
5.6	Storage and exterior stockpiles	<p>The franchisee must:</p> <ul style="list-style-type: none">a) Manage, contain, and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards;b) Maintain storage areas in an orderly manner and keep the areas free of litter;c) Position exterior stockpiles within footprints identified on the facility site plan or operating plan; andd) Not stockpile recovered or source-separated materials for longer than 180 days (6 months).
5.7	Dust, airborne debris and litter	<p>The franchisee must operate the facility in a manner that minimizes and mitigates the generation of dust, airborne debris and litter, and must prevent its migration beyond property boundaries. The franchisee must:</p> <ul style="list-style-type: none">a) Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit;b) Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit;c) Maintain and operate all access roads and receiving, processing, storage, and reload areas in such a manner as to minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site;d) Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation;e) Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; and



		<p>f) Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, must be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Section 5.09.040 of the Metro Code.</p>
5.8	Odor	<ol style="list-style-type: none">1. The franchisee must operate the facility in a manner that prevents the generation of odors that are detectable off-site.2. The franchisee must establish and follow procedures in the operating plan for minimizing odor at the facility.
5.9	Vectors (e.g. birds, rodents, insects)	<ol style="list-style-type: none">1. The franchisee must operate the facility in a manner that is not conducive to harboring rodents, birds, insects, or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.2. If vectors are present or detected at the facility, the franchisee must implement vector control measures.
5.10	Noise	<p>The franchisee must operate the facility in a manner that avoids noise sufficient to cause adverse off-site impacts and to the extent necessary to meet applicable regulatory standards and land-use regulations.</p>
5.11	Water contaminated by solid waste and solid waste leachate	<p>The franchisee must operate the facility consistent with an approved DEQ stormwater management plan or equivalent and must:</p> <ol style="list-style-type: none">a) Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; andb) Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state, and federal laws and regulations.
5.12	Access control	<ol style="list-style-type: none">1. The franchisee must control access to the facility as necessary to prevent unauthorized entry and dumping.2. The franchisee must maintain a gate or other suitable barrier



		at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.
5.13	Signage	<p>The franchisee must post signs at all public entrances to the facility. The signs must comply with local government signage regulations. These signs must be easily and readily visible, and legible from off-site during all hours and must contain at least the following information:</p> <ol style="list-style-type: none">a) Name of the facility;b) Address of the facility;c) Emergency telephone number for the facility;d) Operating hours during which the facility is open for the receipt of authorized waste;e) Fees and charges;f) Metro's name and telephone number (503) 234-3000;g) A list of authorized and prohibited wastes;h) Vehicle / traffic flow information or diagram;i) Covered load requirements; andj) Directions not to queue on public roadways.
5.14	Nuisance complaints	<ol style="list-style-type: none">1. The franchisee must respond to all nuisance complaints in timely manner (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), and must keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.2. If the facility receives a complaint, the Franchisee must:<ol style="list-style-type: none">a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); andb) Log all such complaints as provided by the operating plan. The franchisee must retain each log entry for one year and it must be available for inspection by Metro.
5.15	Operating hours	<p>Metro may reasonably regulate the hours of facility operation as it finds necessary to ensure compliance with this franchise. Metro will exercise best efforts to provide 90 days written notice</p>



		prior to regulating hours of operation and will not unreasonably increase the franchisee’s costs of operation of the facility.
5.16	Access to franchise document	The franchisee must maintain a copy of this franchise on the facility’s premises, and in a location where facility personnel and Metro representatives have ready access to it.

6.0	OPERATING PLAN	
6.1	Purpose	This section lists the requirements associated with preparing and implementing a facility operating plan, and lists the procedures that must be included in the required facility operating plan.
6.2	Plan compliance	The franchisee must operate the facility in accordance with an operating plan approved in writing by the COO. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this franchise. The franchisee may amend or revise the operating plan from time to time, subject to written approval by the COO.
6.3	Plan maintenance	The franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures, and requirements. The franchisee must submit amendments and revisions of the operating plan to the COO for written approval prior to implementation.
6.4	Access to operating plan	The franchisee must maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
6.5	Procedures for inspecting loads	The operating plan must establish: <ul style="list-style-type: none"> a) Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes; b) Procedures for identifying incoming and outgoing loads for waste classifications; c) A set of objective criteria for accepting and rejecting loads; and d) An asbestos testing protocol for all materials that appear to contain friable asbestos.



6.6	Procedures for processing and storage of loads	The operating plan must establish procedures for: <ul style="list-style-type: none">a) Processing authorized solid wastes;b) Reloading and transfer of authorized solid wastes;c) Managing stockpiles to ensure that they remain within the authorized weights, volumes and pile heights;d) Storing authorized solid wastes; ande) Minimizing storage times and avoiding delay in processing of authorized solid wastes.
6.7	Procedures for managing prohibited wastes	The operating plan must establish procedures for managing, reloading, and transferring to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan must establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.
6.8	Procedures for odor prevention	The operating plan must establish procedures for preventing objectionable odors generated at the facility from being detected off the premises of the facility. The plan must include: <ul style="list-style-type: none">a) A management plan that will be used to monitor and manage odors of any derivation including malodorous loads delivered to the facility; andb) Procedures for receiving and recording odor complaints, immediately investigating all odor complaints to determine the cause of odor emissions, and remedying promptly all odor problems at the facility.
6.9	Procedures for dust prevention	The operating plan must establish procedures for preventing dust from blowing off the premises of the facility. The plan must include: <ul style="list-style-type: none">a) A management plan that the franchisee will use to monitor and manage dust of any derivation; andb) Procedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions, and remedying promptly all dust problems at the facility.
6.10	Procedures for emergencies	The operating plan must establish procedures that the franchisee



		will follow in case of fire or other emergency.
6.11	Procedures for nuisance complaints	<ol style="list-style-type: none"> 1. For every nuisance complaint (for example odor, dust, vibrations, and litter) received, the franchisee must record: <ol style="list-style-type: none"> a) The nature of the complaint; b) The date the complaint was received; c) The name, address and telephone number of the person or persons making the complaint; and d) Any actions taken by the operator in response to the complaint (whether successful or unsuccessful). 2. The franchisee must make records of such information available to Metro upon request. The franchisee must retain each complaint record for a period of not less than one year.
6.12	Closure protocol	<p>The franchisee must establish protocol for closure and restoration of the site in the event of a cession of operations as provided in Metro Code Chapter 5.01. The plan must include protocol for:</p> <ol style="list-style-type: none"> a) Short-term closure (duration of time that is more than two consecutive business days but less than 120 days in length); and b) Long-term closure (duration of time that is 120 consecutive days or more in length).
6.13	Financial assurance	<p>The franchisee must maintain financial assurance in the amount of \$100,000 for the cost of the facility's closure and maintain such financial assurance in a form approved by Metro for the term of this franchise.</p>

7.0	FEES AND RATE SETTING	
7.1	Purpose	This section of the franchise specifies fees payable by the franchisee, and describes rate regulation by Metro.
7.2	Annual fee	The franchisee must pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
7.3	Rates	<ol style="list-style-type: none"> 1. The rates charged by the franchisee for accepting solid waste are not subject to regulation by Metro unless the Metro Council adopts an ordinance that establishes Metro's rate



		<p>regulation authority.</p> <p>2. Notwithstanding the provision above, the rates charged by the franchisee must not exceed the rates posted at the facility as described in Section 5.13.</p>
7.4	Rate review	<p>1. Metro may review the franchisee’s financial records for the purpose of determining whether the rates charged for the disposal of solid waste related to the costs of accepting, managing, transporting, and disposing of the waste by the franchisee are in the public interest. For purposes of this section, “costs” are defined to include general and administrative expenses including but not limited to allocated costs and normal profit for the private transfer station industry.</p> <p>2. As provided in this section, the franchisee must provide Metro access to the financial records that are sufficient to determine the information described above.</p>
7.5	Metro fee and tax imposed on disposal	<p>The franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.</p>
7.6	Metro community enhancement fee imposed on waste received	<p>The franchisee must collect and remit to Metro a community enhancement fee, as provided in Metro Code Chapter 5.06, in an amount equal to \$1.00 per ton for all putrescible waste including food waste and residential yard debris mixed with food waste. The franchisee must remit the community enhancement fees to Metro on a monthly basis in conjunction with fees remitted in Section 7.5.</p>

8.0	RECORD KEEPING AND REPORTING	
8.1	Purpose	<p>This section of the franchise describes record keeping and reporting requirements. The franchisee must effectively monitor facility operation and maintain accurate records of the information described in this section.</p>
8.2	Record keeping requirements	<p>For all solid waste and materials the franchisee is authorized to accept under Section 3.0, the franchisee must keep and maintain accurate records of the amount of authorized materials the</p>



		franchisee accepts, recovers, recycles, reloads, and disposes. These records include the information specified in the Metro document titled, <u>Reporting Requirements and Data Standards for Metro Solid Waste Licenses, Franchises, and Parties to Designated Facility Agreements</u> .
8.3	Reporting requirements	The franchisee must transmit to Metro records required under Section 8.0 no later than fifteen days following the end of each month in a format prescribed by Metro.
8.4	Account number listing	Within five business days of Metro's request, franchisee must provide Metro with a listing that cross-references the account numbers used in the transaction database with the company's name and address.
8.5	Transactions based on scale weights	Except for minimum fee transactions for small, lightweight loads, the franchisee must record each inbound and outbound transaction electronically based on actual and accurate scale weights using the franchisee's on-site scales.
8.6	DEQ submittals	The franchisee must provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
8.7	Copies of enforcement actions provided to Metro	The franchisee must ensure Metro receives copies of any notice of violation or noncompliance, citation, or any other similar enforcement actions issued to the franchisee by any federal, state, or local government (other than Metro) related to the operation of the facility.
8.8	Unusual occurrences	<ol style="list-style-type: none">1. The franchisee must keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.2. The franchisee must notify Metro within 24 hours of any breakdown of the franchisee's equipment if the breakdown will substantially impact the facility's ability to comply with this franchise or with Metro Code, or which will create off-site impacts.



		<ol style="list-style-type: none"> 3. The franchisee must report any facility fires, accidents, emergencies, and other significant incidents to Metro within 12 hours of the discovery of their occurrence. 4. The franchisee must give at least 24-hour notice to the COO prior to the short-term closure of the facility. The franchisee must comply with the closure protocol provided in Section 6.12. 5. The franchisee must give at least 90 days written notice to the COO prior to the long-term closure of the facility. The franchisee must comply with the closure protocol provided in Section 6.12.
8.9	Changes in ownership	<ol style="list-style-type: none"> 1. Any change in control of franchisee or the transfer of a controlling interest of franchisee requires prior written notice to Metro. "Transfer of a controlling interest of franchisee" includes without limitation the transfer of 10% or more of the ownership of franchisee to or from a single entity. Metro may amend this franchise under Section 11.3 to require the new ownership of franchisee to assume all the rights and obligations of this franchise. 2. The franchisee may not lease, assign, mortgage, sell, or otherwise transfer control of the franchise unless the franchisee follows the requirements of Metro Code Section 5.01.076.

9.0	INSURANCE REQUIREMENTS	
9.1	Purpose	This section describes the types of insurance that the franchisee must purchase and maintain at the franchisee's expense, covering the franchisee, its employees, and agents. The franchisee must provide Metro with documentation demonstrating that it holds all of the required insurance coverage described in Section 9.0.
9.2	General liability	The franchisee must carry the most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence and \$1,000,000 aggregate. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed operations. Contractor's coverage will be



		primary as respects Metro.
9.3	Automobile	The franchisee must carry automobile bodily injury and property damage liability insurance.
9.4	Coverage	Insurance coverage must be a minimum of \$1,000,000 per occurrence and \$1,000,000 aggregate.
9.5	Additional insureds	Metro, its elected officials, departments, employees, and agents must be named as ADDITIONAL INSUREDS.
9.6	Worker's Compensation Insurance	The franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law must comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. The franchisee must provide Metro with certification of Workers' Compensation insurance including employer's liability. If the franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
9.7	Notification	The franchisee must give at least 30 days written notice to the COO of any lapse or proposed cancellation of insurance coverage.

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



		District, notwithstanding any incidental impact that such ordinances may have upon the terms of this franchise or the franchisee's operation of the facility.
10.4	Penalties	Each violation of a franchise condition is punishable by penalties as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation.

11.0	AMENDMENT, SUSPENSION, AND REVOCATION	
11.1	Amendment by agreement	At any time during the term of the franchise, either the COO or the franchisee may propose amendments to this franchise. If either the COO or the franchisee proposes amendments to this franchise, both parties will make good faith efforts to arrive at consensus on the intent and implementing language of said amendments.
11.2	Amendment by Metro Council action	<p>Except as provided in Section 11.3, the provisions of this franchise will remain in effect unless the Metro Council:</p> <ul style="list-style-type: none"> a) Amends the Metro Code, amends the Regional Solid Waste Management Plan, or implements other legislation of broad applicability that affects the class of facilities of which this franchisee is a member; and b) Adopts an ordinance amending this franchise to implement the policy, code or process specified by said ordinance. <p>If, in the course of considering an ordinance amending this franchise as provided in (b) above, the franchisee provides evidence that the amendment will result in significant capital cost to the franchisee, the Metro Council will include capital cost and the ability of the franchisee to achieve a reasonable rate of return on any additional investment required as factors when considering whether to adopt the ordinance.</p>
11.3	Amendment, suspension or revocation by Metro for cause	<p>In addition to the amendments authorized by Section 4.2, the COO may, at any time before the expiration date, amend, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ul style="list-style-type: none"> a) Violation of the terms or conditions of this franchise,



		<p>Metro Code, or any applicable statute, rule, or standard;</p> <ul style="list-style-type: none">b) Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this franchise;c) Failure to disclose fully all relevant facts;d) A significant release into the environment from the facility;e) Significant change in the character of solid waste received or in the operation of the facility;f) Any change in ownership or control;g) A request from the local government stemming from impacts resulting from facility operations;h) Compliance history of the franchisee; andi) Changes in regional tonnage trends or actual solid waste generation.
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12.0		GENERAL OBLIGATIONS
12.1	Compliance with law	<p>The franchisee must fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility are deemed part of this franchise as if specifically set forth herein. These conditions and permits include those cited within or attached as exhibits to the franchise document, as well as any existing at the time the franchise is issued but not cited or attached, and permits or conditions issued or amended during the term of the franchise.</p>
12.2	Deliver waste to appropriate destinations	<p>The franchisee must ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.</p>



12.3	Right of inspection and audit	Authorized representatives of Metro may take photographs, collect samples of materials, and perform any inspection or audit as the COO deems appropriate. The franchisee must allow authorized representatives access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 12.4, Metro's right to inspect includes the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of franchisee that are directly related to the operation of the facility.
12.4	Confidential information	The franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The franchisee must prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro will treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five days of Metro's receipt of a request for disclosure of information identified by franchisee as confidential, Metro will provide franchisee written notice of the request. The franchisee will have three days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. The franchisee is responsible for any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. This Section 12.0 does not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon



		law, those representatives agree to continue to treat the information as confidential and make good faith efforts not to disclose the information
12.5	Compliance by agents	The franchisee is responsible for ensuring that its agents and contractors comply with this franchise.

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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 16-1381, FOR THE PURPOSE OF APPROVING A FRANCHISE TERM EXTENSION, ALLOCATING TONNAGE, AND AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE AN AMENDED FRANCHISE FOR FOREST GROVE TRANSFER STATION AND DECLARING AN EMERGENCY

October 7, 2016

Prepared by: Warren Johnson
503-797-1836

EXECUTIVE SUMMARY

Adoption of Ordinance No. 16-1381 authorizes a three-year franchise term extension and establishes a 2017 tonnage allocation of 125,000 tons for Forest Grove Transfer Station (Forest Grove). The ordinance also authorizes the Chief Operating Officer (COO) to establish subsequent annual tonnage allocations for the remainder of the franchise term, clarifies rate review and hauler access conditions, and incorporates various other non-substantive technical amendments in the franchise as described in this staff report. In addition, the ordinance establishes that an emergency exists and the proposed franchise will take effect on January 1, 2017, to ensure that the franchisee has ongoing authorization to accept putrescible waste for the health, safety, and welfare of the Metro area.

This proposed ordinance is an initial step in implementing Metro's transfer system configuration policy, adopted by the Metro Council on July 21, 2016.¹ In addition to this action for Forest Grove, the Metro Council will consider similar ordinances to renew franchises for Willamette Resources, Inc. (Ord. No. 16-1383), Pride Recycling Company (Ord. No. 16-1384), and Troutdale Transfer Station (Ord. No. 16-1382) at its meetings on October 20 and 27, 2016. The Metro Council will also consider an ordinance for a new franchise for Gresham Sanitary Service, Inc. (dba GSS Transfer LLC.) at its meetings on December 1 and 8, 2016. Gresham Sanitary seeks authority to operate a new transfer station at its existing solid waste reload site.

The COO recommends coordinating these franchise decisions to provide a clear and consistent approach to allocating tonnage for the privately-owned transfer stations. This coordinated approach also allows time for Metro to develop an administrative rule to further implement the configuration policy without causing undue disruption to the solid waste system in the interim. The administrative rule describing the tonnage allocation process will be developed and proposed to Metro Council during 2017.

¹ Resolution No. 16-4716

BACKGROUND

Metro's major solid waste contracts (operations,² transport, and disposal) will expire at the end of 2019. In an effort to shape the future solid waste system to better attain public benefits and improved sustainability, Metro has undertaken a major planning effort (known as the Solid Waste Roadmap) to set the future direction of the region's solid waste system for the next several years. A major component of this effort is to take a broad look at the role, configuration, and services offered by publicly and privately-owned transfer stations.

In 2013, Metro Council approved a two-year franchise term extension for Forest Grove,³ to provide a period of stability and continuity until work on the transfer system configuration policy was completed. In 2015, the COO also administratively granted a one-year franchise term extension to allow additional time for Metro to work on the configuration policy.⁴ Forest Grove's current franchise originally commenced on January 1, 2009, and was initially set to expire on December 31, 2013. As explained above, the franchise was subsequently extended for an additional three years and is now scheduled to expire on December 31, 2016.

On July 21, 2016, the Metro Council adopted a transfer system configuration policy. The purposes of the policy are to: 1) ensure that the region's transfer system provides maximum public benefit, 2) maintain the current configuration of publicly and privately-owned transfer stations, 3) ensure that an adequate amount of putrescible waste flows to publicly-owned stations (at least 40 percent of the region's putrescible tons), 4) limit the amount of putrescible waste that any one company may accept for transfer within the region (no more than 40 percent), and 5) improve rate transparency. In particular, the configuration policy shifts Metro away from its current "tonnage cap" system, in which the Metro Council establishes annual facility tonnage limits, to a new "tonnage allocation" system in which tonnage authority is proportionally allocated to privately-owned stations each year. Further details of the 2017 allocation methodology are described below.

Proposed franchise amendments for Forest Grove:

The COO recommends that the Metro Council approve a franchise extension for Forest Grove subject to the requirements listed in Metro Code Chapter 5.01 and further subject to the special conditions and technical updates described below. These changes are consistent with the transfer system configuration policy and are similarly included in the proposed franchises for the other privately-owned transfer stations identified in this report. All of the proposed changes to Forest Grove's franchise are shown in the "redline" document attached to this staff report as Attachment 1.

² Metro's transfer station operations contracts expire in March 2017, but can be extended until the end of 2019.

³ Forest Grove was granted a five-year franchise (Franchise No. F-004-08) in 2008 by Ordinance No. 08-1191. The original franchise term was January 1, 2009 through December 31, 2013. In 2013, Forest Grove's franchise was extended by two years by Ordinance No. 13-1310.

⁴ Forest Grove's current franchise (Franchise No. F-004-08C) includes a provision that authorized the COO to administratively extend the term of the franchise by up to one additional year to expire on December 31, 2016.

The proposed franchise for Forest Grove includes the following amendments:

1. Franchise Term Extension (Section 1.5)

The COO recommends extending the term of the proposed franchise by an additional three years to expire on December 31, 2019.

This proposed change will allow time for Metro to develop a detailed administrative rule to further implement the configuration policy without causing undue disruption to the solid waste system in the interim.

2. Tonnage Allocation (Section 4.2)

The COO recommends carrying forward the franchisee's current tonnage authorization and establishing an initial allocation of 125,000 tons of putrescible waste for calendar year 2017. The COO finds this tonnage allocation amount is sufficient at this time and a tonnage increase does not appear to be necessary for the facility in 2017. The COO also recommends that the Metro Council authorize the COO to subsequently establish the same annual tonnage allocations for the remainder of the franchise term (2018 and 2019) or as otherwise described in an administrative rule adopted by the COO or Metro Council.

It should also be noted that a different allocation process was used for all of the other franchised transfer stations referenced in this report. In those cases, each facility's tonnage allocation for 2017 is based on two factors: 1) its percentage of the region's putrescible waste in 2015 (as authorized by its franchise), and 2) the total allocable putrescible waste tonnage available in calendar year 2017 based on Metro's latest "Solid Waste Forecast."⁵ In short, those franchisees are authorized to accept the same *percentage of waste in 2017* that they were authorized to accept in 2015, relative to the region's total amount of putrescible waste to allocate.

Additionally, the proposed franchise states that each October the COO will amend the franchise to establish an annual tonnage allocation for the following calendar year throughout the term of the franchise. This allows the COO to administratively adjust the annual tonnage allocation as necessary to meet the transfer system configuration policy objectives. By adopting this ordinance, the Metro Council authorizes the COO to determine the franchisee's tonnage allocations for calendar years 2018 and 2019 as described above or as otherwise adopted by the COO or Metro Council. In 2017, staff will develop an administrative rule for Metro Council consideration that sets forth a detailed process for determining and adjusting future tonnage allocations. The COO recommends that Metro Council not allow any additional tonnage adjustments for the franchisee until an administrative rule has been adopted.

3. Waste Hauler Access (Section 4.3)

⁵ FY 2017-18 Solid Waste Forecast dated September 15, 2016.

The COO recommends carrying forward the current requirements that the franchisee comply with its annual tonnage allocation and: 1) maintain capacity to accept waste generated within the region, 2) accommodate haulers that collect waste within the geographic proximity of the facility, 3) not deny service to any unaffiliated waste hauler without due cause or without 30-day written notice, and 4) provide Metro with a written explanation if the franchisee denies service to a waste hauler.

Publicly and privately-owned transfer stations play an important role in the region's solid waste system. These stations provide public benefits to the region and they should serve the needs of customers located within proximity to their facilities. One public benefit of having public and private stations in different geographic locations is reduced vehicle miles traveled for haulers. This lowers costs to ratepayers and lowers hauler emissions into the environment. Accordingly, the COO recommends amending Forest Grove's current franchise conditions to align them with those of the other franchised transfer stations. Specifically, the franchisee should not refuse access to haulers that collect waste near the facility in order to accept other haulers that are located farther away. The COO recommends the proposed conditions to: 1) ensure that the franchisee considers time and vehicle miles traveled before refusing access to any unaffiliated haulers, 2) ensure that the public has adequate access to the region's transfer system, and 3) promote efficient off-route travel.

The proposed franchise also includes a new condition that prohibits the franchisee from denying access to an unaffiliated hauler without due cause or without providing written notice at least 30 days in advance. Denial of access for "due cause" could include a variety of legitimate reasons such as load contamination, failure to pay, or risk of exceeding the franchise tonnage allocation. This new notice requirement is intended to encourage open communication among parties, improve business planning, and minimize disruption to the system.

Additionally, the COO recommends including another new condition in this section whereby Metro may require the franchisee to provide a written explanation if the facility denies access to a waste hauler. This requirement would be triggered if the COO determines it to be necessary, such as in a case in which Metro receives a complaint about the facility from a local government or nearby waste hauler.

4. Rates (Section 7.3)

The COO recommends prohibiting the franchisee from charging any rates that exceed the amounts posted at the facility. The COO also recommends carrying forward the current requirement that explains that Metro will not otherwise regulate the facility's rates unless Metro Council adopts an ordinance that establishes Metro's rate regulation authority at the facility.

Metro Code Section 5.01.170 states that the Metro Council may establish facility rates if it is in the public interest as a matter of regional concern.⁶ However, as part of the recent configuration policy, Metro Council supported a progressive approach to achieve rate transparency at publicly and privately-owned transfer stations. As a first step in that approach, Metro will make its own rates more transparent to the public and local government rate-makers. In addition, the COO recommends carrying forward the current requirements in the franchise that explain that the Metro Council may set facility rates or require the franchisee to provide access to its financial records to determine costs when there is a public benefit to doing so. The COO also recommends amending these requirements to align them with those of the other franchised transfer stations. These are not new conditions because Metro already has the authority to access the financial records of a regulated facility.

Although Metro will not establish rates at privately-owned facilities without approval of the Metro Council, the COO recommends including a condition in the proposed franchise specifying that the franchisee may not charge its customers higher rates than those posted at the facility. This provision provides some measure of protection to an unaffiliated customer from discriminatory pricing.

5. Non-Substantive Amendments (various sections throughout franchise)

The COO recommends various non-substantive, technical amendments to improve clarity, consistency, and ease of reading, but which do not change or add new requirements. These non-substantive changes include using active voice, general formatting, grammatical changes, and other housekeeping improvements.

ANALYSIS / INFORMATION

Known Opposition

There is no known opposition to the proposed term extension and general housekeeping changes in the amended franchise. The facility operator may disagree with some of the proposed conditions that address tonnage allocations, rate regulation, rate transparency, and hauler access requirements at the facility. However, the COO finds that the proposed conditions are consistent with the Metro Council's transfer system configuration policy.

Legal Antecedents

1. Metro Code Chapter 5.01, entitled "Solid Waste Facility Regulation." In particular:

⁶ Likewise, the Oregon legislature has authorized Metro to regulate rates. ORS 268.317(5).

- A. Metro Code Section 5.01.070 which states that a solid waste facility franchise is required for a operating a transfer station.
 - B. Metro Code Section 5.01.073 which states that the Metro Council determines whether to grant a solid waste facility franchise and the conditions to include in a franchise.
2. Metro's transfer system configuration policy adopted by Metro Council via Resolution 16-4716 on July 21, 2016.

Anticipated Effects

Adoption of Ordinance No. 16-1381 will authorize a three-year term extension, establish annual tonnage allocations, explain rate review and hauler access conditions, and incorporate various other non-substantive technical amendments for Forest Grove's franchise. These changes are an initial step in the implementation of Metro's transfer system configuration policy while maintaining the stability and continuity of the region's solid waste system. In addition, this ordinance establishes that an emergency exists and the proposed franchise will take effect on January 1, 2017, to ensure that the franchisee has ongoing authorization to accept putrescible waste for the health, safety, and welfare of the Metro area.

Notwithstanding Metro Code Section 5.01.073(k) (which states that the term of a franchise may not exceed five years), the COO recommends that the Metro Council grant a three-year extension of Forest Grove's franchise as provided in this staff report because it is in the public interest.

Budget Impacts

The proposed ordinance authorizes, in part, annual transfer station tonnage allocations which may result in shifting the distribution of waste tonnage in the system. The proposed amendments to Forest Grove's transfer station franchise are based on direction from Metro's transfer system configuration policy. The budget impacts of the policy were accounted for in the 2016-17 budget adopted by the Metro Council.

Recommended Action:

Based on the information and analysis provided in this report, the COO recommends that the Metro Council adopt Ordinance No. 16-1381 and issue an amended franchise to Forest Grove as attached to this ordinance as Exhibit A.

WJ:bjl



SOLID WASTE FACILITY FRANCHISE

No. F-004-08DE

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

This franchise replaces and supersedes the provisions of Metro Solid Waste Facility Franchise No. F-004-~~08B08C~~. Metro grants this franchise to the franchisee named above. The franchisee is authorized to operate and maintain a solid waste facility and to accept the solid wastes and perform the activities authorized by and subject to the conditions stated in this franchise.

ISSUED BY METRO:

Paul Slyman, Property and Environmental Services Director

Date



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1.0	ISSUANCE	
1.1	Franchisee	Waste Management of Oregon, Inc. 7227 NE 55 th Avenue Portland, Oregon 97218 Tel. (503) 992-3015 Fax. (503) 357-4822
1.2	Corporate affiliation	Waste Management, Inc. 1001 Fannin, Suite 4000 Houston, Texas 77002
1.3	Contact	Kirk Duncan Phone: (503) 992-3015 Fax: (503) 357-4822 E-mail: kduncan2@wm.com
1.4	Franchise number	When referring to this franchise, please cite: Metro Solid Waste Facility Franchise No. F-004-08 DE .
1.5	Term	1. —The franchise originally term commences ds on January 1, 2009, and shall with a termination date of on December 31, 2016. <u>The franchise is now extended to terminate on December 31, 2019</u> , unless amended, modified , suspended, or revoked as provided in this franchise. At any time during the term of this franchise, Metro's Chief Operating Officer (the "COO") may extend the term of the franchise up to an additional 12 months to terminate no later than December 31, 2016.
1.6	Renewal	The franchisee may apply for a franchise renewal as provided in Metro Code Chapter 5.01.
1.7	Facility name and mailing address	Forest Grove Transfer Station 1525 B Street Forest Grove, Oregon 97116 Tel. (503) 992-3015 Fax. (503) 357-4822
1.8	Operator	Waste Management of Oregon, Inc. 7227 NE 55 th Avenue Portland, Oregon 97218 Tel. (503) 992-3015



		Fax. (503) 357-4822
1.9	Facility premises description	Tax Lot Identification No. 1S306BC09501, No. 1S306CB00500, and No. 1S306CB00600, City of Forest Grove, Washington County, State of Oregon
1.10	Property owner	Waste Management of Oregon, Inc. 7227 NE 55 th Avenue Portland, Oregon 97218 Tel. (503) 992-3015 Fax. (503) 357-4822
1.11	Permission to operate	The franchisee is the property owner.

2.0	CONDITIONS AND DISCLAIMERS	
2.1	Guarantees	This franchise shall <u>does</u> not vest any right or privilege in the franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise.
2.2	Non-exclusive franchise	This franchise shall <u>does</u> not in any way limit Metro from granting other solid waste franchises within Metro's boundaries.
2.3	Property rights	This franchise does not convey any property rights in either real or personal property.
2.4	Amendment and modification	Except as provided in Section 11.0 of this franchise , no amendment or modification shall <u>will</u> be effective unless approved by the Metro Council.
2.5	No recourse	The franchisee shall <u>will</u> have no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement of the franchise or in the event Metro determines that the franchise or any part thereof is invalid.
2.6	Indemnification	The franchisee shall <u>must</u> indemnify Metro, <u>the Council</u> , the COO, and any of their employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the granting of this franchise or the franchisee's performance of or failure to perform



		any of its obligations under the franchise or Metro Code Chapter 5.01, including without limitation patent infringement and any claims or disputes involving subcontractors.
2.7	Binding nature	This franchise is binding on the franchisee. The franchisee is liable for all acts and omissions of the franchisee's contractors and agents.
2.8	Waivers	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 11.0 and be in writing and signed by the COO.
2.9	Effect of waiver	Waiver of a term or condition of this franchise shall <u>does</u> not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.10	Choice of law	The franchise shall <u>will</u> be construed, applied, and enforced in accordance with the laws of the State of Oregon.
2.11	Enforceability	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise shall <u>will</u> not be affected.
2.12	Franchise not a waiver	This franchise does not relieve any owner, operator, or the franchisee from the obligation to obtain all required permits, franchises, or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.13	Franchise not limiting	This franchise does not limit the power of a federal, state, or local agency to enforce any provision of law relating to the facility.
2.14	Definitions	<p>1. <u>"Mixed Non-Putrescible Waste" means a mixture of more than one type of non-putrescible waste, including commingled recyclables other than residential curbside recyclable material. This category includes construction and demolition waste but excludes Cleanup Materials Contaminated by Hazardous Substances, Source-Separated Recyclable Material, special waste, land clearing debris and yard debris.</u></p> <p>1.2. Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.00.</p>



3.0	AUTHORIZATIONS	
3.1	Purpose	This section of the franchise describes the wastes that the franchisee is authorized to accept at the facility and the waste-related activities the franchisee is authorized to perform at the facility.
3.2	General conditions on solid waste	The franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
3.3	General conditions on activities	The franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.
3.4	Acceptance and management of putrescible solid waste	<ol style="list-style-type: none">1. The franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 12.2of this franchise. The franchisee also is authorized to accept putrescible waste for material recovery.2. The franchisee shall<u>must</u> receive, manage, store, reload, and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers. Public self-haul customers may tip waste outside, provided that such waste is tipped directly into watertight containers that are covered or tarped within 12 hours of receipt, or by the end of the business day, whichever is earlier.
3.5	Acceptance and management of mixed non-putrescible solid wastefor reloading	<ol style="list-style-type: none">1. The franchisee is authorized to accept loads of mixed non-putrescible solid waste for reload and transfer to a facility authorized by Metro to perform material recovery.2. Except as provided below in Subsections (a) and (b), the franchise shall<u>must</u> receive, sort, store, reload, and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides.<ol style="list-style-type: none">a. Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are



		<p>moved under cover prior to processing, within 12 hours of receipt, or by the end of the business day, whichever is earlier.</p> <p>b. Public self-haul customers may tip waste outside, provided that such waste is tipped directly into watertight containers that are covered or tarped within 12 hours of receipt, or by the end of the business day, whichever is earlier.</p> <p>3. The franchisee shall<u>must</u> reload and remove all mixed non-putrescible waste from the site within 48 hours of receipt.</p>
3.6	Origin of solid waste	The franchisee must accept authorized solid waste generated within the Metro boundary from any person who delivers such waste to the facility.
3.67	Household hazardous waste collection	The franchisee shall <u>must</u> provide opportunities for Metro to hold household hazardous waste collection events on-site at regular intervals and shall <u>must</u> set aside a suitable area for that purpose.
3.78	Acceptance of source-separated recyclable materials	<p>1. The franchisee shall<u>must</u> provide an area for collecting source-separated recyclable materials without charge at the facility premises, or at another location more convenient to the population being served by the facility, on the days and at the times that the facility is normally open to the public for disposal of solid waste. For purposes of this section, Section 3.8, said "source-separated recyclable materials" will<u>shall</u> include newspaper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, aluminum, container glass, high grade office paper, tin cans, and any other material that is added by the COO based on a change to Oregon Administrative Rules Section 340-090-0070(1) subsequent to the effective date of this franchise.</p> <p>2. The franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.</p>
3.89	Acceptance of yard debris	The franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged



		fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.1 3.110	Acceptance of source-separated food waste	The franchisee is authorized to accept source-separated food waste that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The franchisee may accept source-separated food waste only for reloading to authorized facilities for composting or other useful purposes as described in an operating plan and approved in writing by the COO.
3.101 3.111	Acceptance of untreated wood	The franchisee is authorized to accept for processing and reloading, source-separated, untreated and unpainted wood waste, for example untreated lumber and wood pallets. The franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.112 3.112	Acceptance of painted and treated wood	The franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by the COO. The franchisee shall must not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock, or any other product unless otherwise described in an operating plan and approved in writing by the COO.
3.123 3.123	Acceptance of electronics devices	The franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer, and other similar functions related to preparing these materials for reuse, recycling, or disposal as required by the Oregon Department of Environmental Quality (DEQ).
3.134 3.134	Acceptance of inert material	The franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer, and other similar functions related to preparing these materials for useful purposes.

4.0	LIMITATIONS AND PROHIBITIONS
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4.1	Purpose	This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility.
4.2	Tonnage authorization allocation	<p><u>1. The franchisee is authorized to accept putrescible waste generated inside the Metro region as follows:</u></p> <p><u>a) For calendar year 2017, beginning on January 1 and ending December 31, 2017, the franchisee is authorized to accept up to 125,000 tons of putrescible waste generated inside the Metro region;</u></p> <p><u>b) In October 2017, the COO will allocate tonnage for calendar year 2018 and amend Section 4.2 of this franchise as described in the staff report to Ordinance No. 16-1381; and</u></p> <p><u>c) In October 2018, the COO will allocate tonnage for calendar year 2019 and amend Section 4.2 of this franchise as described in the staff report to Ordinance No. 16-1381.</u></p> <p><u>2. Metro bases its tonnage allocations on its <i>Solid Waste Forecast</i>. Although Metro makes every effort to include accurate and reliable information in its forecast, Metro may adjust tonnage allocations based on tonnage trends and actual solid waste generation.</u></p> <p>The Franchisee is authorized to accept up to 125,000 tons of putrescible waste generated inside the Metro region within each calendar year.</p> <p>The Franchisee shall not accept solid waste generated outside the Metro region if to do so would limit the Franchisee from accepting 125,000 tons of putrescible waste, or any non-putrescible waste, generated inside the Metro region.</p>
4.3	Waste hauler access Tonnage authorization growth allowance	<p><u>It is in the public's best interest that transfer stations located inside the Metro region maintain adequate capacity to accommodate solid waste generated within the region and provide adequate access to waste haulers that collect solid waste within the geographic proximity of the facility. Therefore:</u></p> <p><u>a) The franchisee must not accept solid waste generated outside the Metro region if to do so would limit the franchisee from accepting any putrescible or non-putrescible waste generated inside the Metro region;</u></p>



		<p><u>b) The franchisee should not accept solid waste collected outside of the geographic proximity of the facility if to do so would deny access to waste haulers that collect solid waste within the geographic proximity of the facility;</u></p> <p><u>c) The franchisee must not deny access to any unaffiliated waste hauler without due cause or written notice 30-days in advance; and</u></p> <p><u>d) The COO may require the franchisee to provide a written explanation of its rationale if the facility denies access or refuses service to a waste hauler.</u></p> <p>The COO may amend Section 4.2 of this franchise to increase the calendar year tonnage authorization by up to an additional five percent if the COO determines that there is a sufficient public benefit and available tonnage forecasted to granting such an increase.</p>
4.4	Prohibited waste	<p>The franchisee shall<u>must</u> not knowingly receive, process, reload, or dispose of any solid waste not authorized by this franchise. The franchisee shall<u>must</u> not knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; regulated hazardous waste; or any waste prohibited by the DEQ.</p>
4.5	Prohibition on mixing	<ol style="list-style-type: none">1. The franchisee shall<u>must</u> not mix or commingle any source-separated recyclable materials, source-separated yard debris or wood wastes brought to the facility with any unprocessed solid wastes or solid wastes destined for disposal.2. The franchisee shall<u>must</u> not mix or commingle putrescible solid waste with non-putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.3. The franchisee shall<u>must</u> not mix or commingle non-putrescible solid waste with putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.
4.6	Prohibition of size reduction on non-putrescible waste	<p>The franchisee shall<u>must</u> not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, or processing residual</p>



		consolidation or loading operations, and such size reduction is described <u>in an operating plan</u> and approved <u>in writing</u> by the COO, in an operating plan.
4.7	No disposal of recyclable materials	The franchisee shall <u>must</u> not transfer source-separated recyclable materials to a disposal site, including without limitation landfills and incineration facilities.
4.8	Composting prohibited	The franchisee shall <u>must</u> not keep yard debris on site long enough for more than negligible biological decomposition to begin.
4.9	Limits not exclusive	This franchise shall <u>will</u> not be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

5.0	OPERATING CONDITIONS	
5.1	Purpose and general performance goals	<p>This section of the franchise describes criteria and standards for the operation of the facility. The franchisee shall<u>must</u> operate in a manner that meets the following general performance goals:</p> <ul style="list-style-type: none">a) Environment. The franchisee shall<u>must</u> design and operate the facility to preclude the creation of<u>avoid</u> undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste, asbestos and other prohibited wastes.b) Health and safety. The franchisee shall<u>must</u> design and operate the facility to preclude the creation of<u>avoid</u> conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.c) Nuisances. The franchisee shall<u>must</u> design and operate the facility to preclude the creation of<u>avoid</u> nuisance conditions including, but not limited to, litter, dust, odors, and noise.
5.2	Qualified operator	1. Except as described in an operating plan and approved in writing by the COO, the franchisee shall <u>must</u> , during all hours



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



		<p>prohibited by the franchise. This program must include at a minimum:</p> <ul style="list-style-type: none">a) Visual inspection. As each load is tipped, a qualified operator shall<u>must</u> visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise.b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas shall<u>must</u> be covered and enclosed to prevent leaking and contamination.c) Record maintenance. <u>The franchisee must maintain records</u> Records of the training of personnel in the recognition, proper handling, and disposition of prohibited waste shall be maintained in the operating record and <u>make those records</u>be available for review by Metro. <p>3. Upon discovery, the franchisee shall<u>must</u> remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the franchisee unknowingly receives shall<u>must</u> be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by the DEQ or local government.</p>
5.6	Storage and exterior stockpiles	<p>The franchisee shall<u>must</u>:</p> <ul style="list-style-type: none">a) Manage, contain, and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards;b) Maintain storage areas in an orderly manner and keep the areas free of litter;c) Position exterior stockpiles within footprints identified on the facility site plan or operating plan; andd) Not stockpile recovered or source-separated materials for longer than 180 days (6 months).
5.7	Dust, airborne debris and litter	<p>The franchisee shall<u>must</u> operate the facility in a manner that minimizes and mitigates the generation of dust, airborne debris and litter, and shall<u>must</u> prevent its migration beyond property boundaries. The franchisee shall<u>must</u>:</p>



		<ul style="list-style-type: none">a) Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit;b) Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit;c) Maintain and operate all access roads and receiving, processing, storage, and reload areas in such a manner as to minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site;d) Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation;e) Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; andf) Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, shall<u>must</u> be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Section 5.09.040 of the Metro Code.
5.8	Odor	<ul style="list-style-type: none">1. The franchisee shall<u>must</u> operate the facility in a manner that prevents the generation of odors that are detectable off-site.2. The franchisee shall<u>must</u> establish and follow procedures in the operating plan for minimizing odor at the facility.
5.9	Vectors (e.g. birds, rodents, insects)	<ul style="list-style-type: none">1. The franchisee shall<u>must</u> operate the facility in a manner that is not conducive to the harborage of<u>harboring</u> rodents, birds, insects, or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.2. If vectors are present or detected at the facility, the franchisee



		shall <u>must</u> implement vector control measures.
5.10	Noise	The franchisee shall <u>must</u> operate the facility in a manner that prevents the creation of <u>avoids</u> noise sufficient to cause adverse off-site impacts and to the extent necessary to meet applicable regulatory standards and land-use regulations.
5.11	Water contaminated by solid waste and solid waste leachate	The franchisee shall <u>must</u> operate the facility consistent with an approved DEQ stormwater management plan or equivalent and shall <u>must</u> : <ol style="list-style-type: none">Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; andDispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state, and federal laws and regulations.
5.12	Access control	<ol style="list-style-type: none">The franchisee shall<u>must</u> control access to the facility as necessary to prevent unauthorized entry and dumping.The franchisee shall<u>must</u> maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.
5.13	Signage	The franchisee shall <u>must</u> post signs at all public entrances to the facility, and in conformity <u>The signs must comply</u> with local government signage regulations. These signs shall <u>must</u> be easily and readily visible, and legible from off-site during all hours and shall <u>must</u> contain at least the following information: <ol style="list-style-type: none">Name of the facility;Address of the facility;Emergency telephone number for the facility;Operating hours during which the facility is open for the receipt of authorized waste;Fees and charges;Metro's name and telephone number (503) 234-3000;A list of authorized and prohibited wastes;Vehicle / traffic flow information or diagram;Covered load requirements; and



		j) Directions not to queue on public roadways.
5.14	Nuisance complaints	<p>1. The franchisee shallmust respond to all nuisance complaints in timely manner (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), and shallmust keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.</p> <p>2. If the facility receives a complaint, the Franchisee shallmust:</p> <p>a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); and</p> <p>b) Log all such complaints as provided by the operating plan. The franchisee must retain eachEach log entry shall be retained for one year and shall it must be available for inspection by Metro.</p>
5.15	Operating hours	<p>Metro may reasonably regulate the hours of facility operation as it finds necessary to ensure compliance with this franchise.</p> <p>Metro shallwill exercise best efforts to provide 90 days written notice prior to regulating hours of operation and shallwill not unreasonably increase the franchisee's costs of operation of the facility.</p>
5.16	Access to franchise document	<p>The franchisee shallmust maintain a copy of this franchise on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.</p>

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



6.3	Plan maintenance	The franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures, and requirements. The franchisee must submit amendments and revisions of the operating plan to the COO for written approval prior to implementation.
6.4	Access to operating plan	The franchisee shall <u>must</u> maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
6.5	Procedures for inspecting loads	The operating plan shall <u>must</u> establish: a) Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes; b) Procedures for identifying incoming and outgoing loads for waste classifications; c) A set of objective criteria for accepting and rejecting loads; <u>and</u> d) Procedures for providing reasonable notice and justification prior to refusing service to any customer of the facility; and <u>e)d) _____</u> An asbestos testing protocol for all materials that appear to contain friable asbestos.
6.6	Procedures for processing and storage of loads	The operating plan shall <u>must</u> establish procedures for: a) Processing authorized solid wastes; b) Reloading and transfer of authorized solid wastes; c) Managing stockpiles to ensure that they remain within the authorized weights, volumes and pile heights; d) Storing authorized solid wastes; and e) Minimizing storage times and avoiding delay in processing of authorized solid wastes.
6.7	Procedures for managing prohibited wastes	The operating plan shall <u>must</u> establish procedures for managing, reloading, and transferring to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan shall <u>must</u> establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for



		the facility.
6.8	Procedures for odor prevention	<p>The operating plan shall<u>must</u> establish procedures for preventing objectionable odors generated at the facility from being detected off the premises of the facility. The plan must include:</p> <ul style="list-style-type: none">a) A management plan that will be used to monitor and manage odors of any derivation including malodorous loads delivered to the facility; andb) Procedures for receiving and recording odor complaints, immediately investigating all odor complaints to determine the cause of odor emissions, and remedying promptly all odor problems at the facility.
6.9	Procedures for dust prevention	<p>The operating plan shall<u>must</u> establish procedures for preventing dust from blowing off the premises of the facility. The plan must include:</p> <ul style="list-style-type: none">a) A management plan that <u>the franchisee will be used</u>use to monitor and manage dust of any derivation; andb) Procedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions, and remedying promptly all dust problems at the facility.
6.10	Procedures for emergencies	<p>The operating plan shall<u>must</u> establish procedures <u>that the franchisee will follow</u>to be followed in case of fire or other emergency.</p>
6.11	Procedures for nuisance complaints	<ol style="list-style-type: none">1. For every nuisance complaint (for example odor, dust, vibrations, and litter) received, the franchisee shall<u>must</u> record:<ul style="list-style-type: none">a) The nature of the complaint;b) The date the complaint was received;c) The name, address and telephone number of the person or persons making the complaint; andd) Any actions taken by the operator in response to the complaint (whether successful or unsuccessful).2. The franchisee shall<u>must</u> make records of such information available to Metro upon request. The franchisee shall<u>must</u> retain each complaint record for a period of not less than one year.



6.12	Closure protocol	The franchisee shall <u>must</u> establish protocol for closure and restoration of the site in the event of a cession of operations as provided in Metro Code Chapter <u>Section</u> 5.01 -.072(c)(3) . The plan shall include <u>establish</u> protocol for: <ul style="list-style-type: none"> a) Short-term closure (duration of time that is more than two consecutive business days but less than 120 days in length); and b) Long-term closure (duration of time that is 120 consecutive days or more in length).
6.13	Financial assurance	The franchisee shall <u>must</u> maintain financial assurance in the amount of \$100,000 for the cost of the facility's closure and maintain such financial assurance in a form approved by Metro for the term of this franchise.

7.0	FEES AND RATE SETTING	
7.1	Purpose	This section of the franchise specifies fees payable by the franchisee, and describes rate regulation by Metro.
7.2	Annual fee	The franchisee shall <u>must</u> pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
7.3	Rates	<p><u>1. The rates charged by the franchisee for accepting solid waste are not subject to regulation by Metro unless the Metro Council adopts an ordinance that establishes Metro's rate regulation authority.</u></p> <p><u>2. Notwithstanding the provision above, the rates charged by the franchisee must not exceed the rates posted at the facility as described in Section 5.13.</u></p> <p>The rates charged to customers of the Franchisee for the acceptance of solid waste (including without limitation tip fees, acceptance fees, processing fees, transaction fees and environmental charges) are not subject to regulation by Metro; unless, pursuant to Section 11.1 or 11.2 of this franchise, the Council adopts an ordinance that:</p> <ul style="list-style-type: none"> a) Extends Metro's rate regulation authority over the class of facilities of which this Franchisee is a member; and



		<p>Amends this franchise to implement the regulations and process specified by said ordinance.</p>
7.4	<p>Access to financial records Rate review</p>	<p>1. Metro may review the franchisee's financial records for the purpose of determining whether the rates charged for the disposal of solid waste related to the costs of accepting, managing, transporting, and disposing of the waste by the franchisee are in the public interest. For purposes of this section, "costs" are defined to include general and administrative expenses including but not limited to allocated costs and normal profit for the private transfer station industry.</p> <p>2. As provided in this section, the franchisee must provide Metro access to the financial records that are sufficient to determine the information described above. If during the term of this franchise, the Metro Council directs a review of the Franchisee's financial records that exceeds, or is not covered by, the requirements set forth in Section 12.3 of this franchise, then the Franchisee shall provide access for an independent auditor or financial analyst to these financial records, and access to said financial records shall not be unreasonably withheld.</p>
7.5	<p>Metro fee and tax imposed on disposal</p>	<p>1. The Franchisee shall collect and remit to Metro the Regional System Fee, as provided in Metro Code Title V, and the Excise Tax, as provided in Metro Code Title VII, on all solid wastes it receives through December 31, 2015.</p> <p>Effective January 1, 2016, the The franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.</p>
7.6	<p>Metro community enhancement fee imposed on waste received</p>	<p>Effective July 1, 2015, theThe franchisee shallmust collect and remit to Metro a community enhancement fee, as provided in Metro Code Chapter 5.06, in an amount equal to \$1.00 per ton for all putrescible waste including food waste and residential yard debris mixed with food waste. The franchisee shallmust remit the community enhancement fees to Metro on a monthly basis in conjunction with fees remitted in Section 7.45.</p>



8.0	RECORD KEEPING AND REPORTING	
8.1	Purpose	This section of the franchise describes record keeping and reporting requirements. The franchisee shall must effectively monitor facility operation and maintain accurate records of the information described in this section.
8.2	<u>Reporting-Record keeping requirements</u>	<p>For all solid waste and materials the franchisee is authorized to accept under Section 3.0, the franchisee must keep and maintain accurate records of the amount of authorized materials the franchisee accepts, recovers, recycles, reloads, and disposes. These records include the information specified in the Metro document titled, <i>Reporting Requirements and Data Standards for Metro Solid Waste Licenses, Franchises, and Parties to Designated Facility Agreements.</i></p> <p>1. For all solid waste and materials the franchisee is authorized to receive under Section 3.0 of this franchise, the franchisee shall keep and maintain accurate records of the amount of such materials the franchisee receives, recovers, recycles, reloads, and disposes.</p> <p>2. The franchisee shall keep and maintain complete and accurate records of the following for all transactions:</p> <ul style="list-style-type: none">a) Ticket Number (should be the same as the ticket number on the weight slips);b) Customer account numbers identifying incoming customers and outgoing destinations;c) Description whether the load was incoming to the facility or outgoing from the facility;d) Material Category: Code designating the following types of material (more detail, such as differentiating yard debris, is acceptable): (1) incoming source separated recyclable materials by type; (2) incoming non putrescible waste; (3) incoming putrescible waste (4) outgoing recyclable materials by type; (5) outgoing non putrescible waste; (6) outgoing putrescible waste;e) Origin: Code designating the following origin of material: (1) from inside Metro boundaries; (2) from within Multnomah, Clackamas and Washington Counties but outside Metro boundaries; and (3) from another location outside Metro boundaries;



		<p>i. Any load containing any amount of waste from within the Metro region shall be reported as if the entire load was generated from inside the Metro region.</p> <p>ii. If the Franchisee elects to report all loads delivered to the facility as being generated from inside the Metro region, then the Franchisee is not required to designate the origin of loads as described above in Subsections (e)(2) and (e)(3).</p> <p>f) Date the load was received at, transferred within, or transmitted from the facility;</p> <p>g) Time the load was received at, transferred within, or transmitted from the facility;</p> <p>h) Indicate whether Franchisee accepted or rejected the load;</p> <p>i) Net weight of the load; and</p> <p>The fee charged to the generator of the load.</p>
8.3	Record transmittals Reporting requirements	The franchisee shall must transmit to Metro records required under Section 8.0 and the corresponding summary report derived from such records no later than fifteen days following the end of each month in a format prescribed by Metro.
8.4	Account number listing	Within five business days of Metro's request, franchisee shall must provide Metro with a listing that cross-references the account numbers used in the transaction database with the company's name and address.
8.5	Transactions based on scale weights	Except for minimum fee transactions for small, lightweight loads, the franchisee shall must record each inbound and outbound transaction electronically based on actual and accurate scale weights using the franchisee's on-site scales.
8.6	DEQ submittals	The franchisee shall must provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
8.7	Copies of enforcement actions provided	The franchisee shall must ensure Metro receives copies of any notice of violation or noncompliance, citation, or any other similar enforcement actions issued to the franchisee by any



	to Metro	federal, state, or local government (other than Metro), and related to the operation of the facility.
8.8	Unusual occurrences	<ol style="list-style-type: none">1. The franchisee shall<u>must</u> keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.2. <u>The franchisee must notify Metro within 24 hours of any</u> if a breakdown of the franchisee's equipment <u>if the breakdown occurs that</u> will substantially impact the <u>facility's</u> ability of the facility to <u>comply with this franchise or with Metro Code</u> remain in compliance, or <u>which will</u> create off-site impacts, the Franchisee shall notify Metro within 24 hours.3. The franchisee shall<u>must</u> report any facility fires, accidents, emergencies, and other significant incidents to Metro within 12 hours of the discovery of their occurrence.4. The franchisee shall<u>must</u> give at least 24-hour notice to the COO prior to the short-term closure of the facility. The franchisee shall<u>must</u> comply with the closure protocol provided in Section 6.12, of this franchise.5. The franchisee shall<u>must</u> give at least 90 days written notice to the COO prior to the long-term closure of the facility. The franchisee shall<u>must</u> comply with the closure protocol provided in Section 6.12, of this franchise.
8.9	Changes in ownership	<ol style="list-style-type: none">1. Any change in control of franchisee or the transfer of a controlling interest of franchisee shall<u>requires</u> prior written notice to Metro. "Transfer of a controlling interest of franchisee" includes without limitation the transfer of 10% or more of the ownership of franchisee to or from a single entity. Metro may <u>amend</u>modify this franchise under Section 11.3 to require the new ownership of franchisee to assume all the rights and obligations of this franchise.2. The franchisee may not lease, assign, mortgage, sell, or otherwise transfer control of the franchise unless the franchisee follows the requirements of Metro Code Section 5.01.076.



9.0	INSURANCE REQUIREMENTS	
9.1	Purpose	This section describes the types of insurance that the franchisee shall must purchase and maintain at the franchisee's expense, covering the franchisee, its employees, and agents. The franchisee shall must provide Metro with documentation demonstrating that it holds all of the required insurance coverage described in Section 9.0 -of this franchise.
9.2	General liability	The franchisee shall must carry the most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence and \$1,000,000 aggregate. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed operations. Contractor's coverage will be primary as respects Metro.
9.3	Automobile	The franchisee shall must carry automobile bodily injury and property damage liability insurance.
9.4	Coverage	Insurance coverage shall must be a minimum of \$1,000,000 per occurrence and \$1,000,000 aggregate.



9.5	Additional insureds	Metro, its elected officials, departments, employees, and agents shall <u>must</u> be named as ADDITIONAL INSUREDS.
9.6	Worker's Compensation Insurance	The franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law shall <u>must</u> comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. The franchisee shall <u>must</u> provide Metro with certification of Workers' Compensation insurance including employer's liability. If the franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
9.7	Notification	The franchisee shall <u>must</u> give at least 30 days written notice to the COO of any lapse or proposed cancellation of insurance coverage.

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



		penalties as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation.
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11.0	AMENDMENT, MODIFICATION, SUSPENSION, AND REVOCATION	
11.1	Amendment by agreement	At any time during the term of the franchise, either the COO or the franchisee may propose amendments to this franchise. If either the COO or the franchisee proposes amendments to this franchise, both parties shall <u>will</u> make good faith efforts to arrive at consensus on the intent and implementing language of said amendments.
11.2	Amendment by Metro Council action	<p>Except as provided in Section 11.3, the provisions of this franchise shall<u>will</u> remain in effect unless the Metro Council:</p> <ul style="list-style-type: none"> a) Amends the Metro Code, amends the Regional Solid Waste Management Plan, or implements other legislation of broad applicability that affects the class of facilities of which this franchisee is a member; and b) Adopts an ordinance amending this franchise to implement the policy, code or process specified by said ordinance. <p>If, in the course of considering an ordinance amending this franchise as provided in (b) above, the franchisee provides evidence that the amendment will result in significant capital cost to the franchisee, the Metro Council will include capital cost and the ability of the franchisee to achieve a reasonable rate of return on any additional investment required as factors when considering whether to adopt the ordinance.</p>
11.3	Amendment<u>Modification</u>, suspension or revocation by Metro for cause	<p>In addition to the modifications<u>amendments</u> authorized by Sections 4.2 -1.5 and 4.3 of this franchise, the COO may, at any time before the expiration date, amend<u>modify</u>, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ul style="list-style-type: none"> a) Violation of the terms or conditions of this franchise, Metro Code, or any applicable statute, rule, or standard; b) Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this franchise;



		<p>c) Failure to disclose fully all relevant facts;</p> <p>d) A significant release into the environment from the facility;</p> <p>e) Significant change in the character of solid waste received or in the operation of the facility;</p> <p>f) Any change in ownership or control;</p> <p>g) A request from the local government stemming from impacts resulting from facility operations; and</p> <p><u>h) Compliance history of the franchisee; and</u></p> <p><u>h)i) Changes in regional tonnage trends or actual solid waste generation.</u></p>
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12.0	GENERAL OBLIGATIONS	
12.1	Compliance with law	<p>The franchisee shall<u>must</u> fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall beare deemed part of this franchise as if specifically set forth herein. Such-These conditions and permits include those cited within or attached as exhibits to the franchise document, as well as any existing at the time the issuance of the franchise<u>franchise is issued</u> but not cited or attached, and permits or conditions issued or modified-amended during the term of the franchise.</p>
12.2	Deliver waste to appropriate destinations	<p>The franchisee shall<u>must</u> ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.</p>
12.3	Right of inspection and audit	<p>Authorized representatives of Metro may take photographs, collect samples of materials, and perform such any inspection or audit as the COO deems appropriate. The franchisee must allow authorized representatives and shall be permitted access to the</p>



		<p>premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 12.54<u>of this franchise</u>, Metro's right to inspect shall<u>includes</u> the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of franchisee that are directly related to the operation of the facility.</p>
12.4	Confidential information	<p>The franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The franchisee shall<u>must</u> prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall<u>will</u> treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt of a request for disclosure of information identified by franchisee as confidential, Metro shall<u>will</u> provide franchisee written notice of the request. The franchisee shall<u>will</u> have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. The franchisee <u>is responsible for</u> shall pay any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. This Section 12.0 shall does not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such those representatives agree to continue to treat such the information as confidential and make good faith efforts not to disclose such the information</p>
12.5	Compliance by agents	<p>The franchisee shall be<u>is</u> responsible for ensuring that its agents</p>



		and contractors operate in compliance <u>comply</u> with this franchise.
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| w:bjt

reading

Agenda Item No. 6.2

Ordinance No. 16-1382, For the Purpose of Approving a Franchise Term Extension, Allocating Tonnage, and Authorizing the Chief Operating Officer to Issue an Amended Franchise for Troutdale Transfer Station and Declaring an Emergency

Ordinances (first read)

Metro Council Meeting
Thursday, October 13, 2016
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING A	)	ORDINANCE NO. 16-1382
FRANCHISE TERM EXTENSION,)	
ALLOCATING TONNAGE, AND	)	Introduced by Chief Operating Officer Martha
AUTHORIZING THE CHIEF OPERATING	)	Bennett in concurrence with Council
OFFICER TO ISSUE AN AMENDED	)	President Tom Hughes
FRANCHISE FOR TROUTDALE TRANSFER)	
STATION AND DECLARING AN EMERGENCY)	

WHEREAS, Metro Code Section 5.01.070(a)(2) states that a Metro Solid Waste Facility Franchise is required for any person owning or controlling a facility that operates a Transfer Station; and

WHEREAS, Waste Management of Oregon, Inc. operates the Troutdale Transfer Station and holds Metro Solid Waste Facility Franchise Number F-001-08F, which will expire on December 31, 2016; and

WHEREAS, Metro Code Section 5.01.073(k) establishes a franchise term as not more than five years; and

WHEREAS, Metro remains engaged in the Solid Waste Roadmap process, which is a long term effort to determine the best approach to managing the region’s solid waste and other discarded materials; and

WHEREAS, on July 21, 2016, the Metro Council adopted a transfer system configuration policy via Resolution No. 16-4716 to ensure that the regional transfer system provides maximum public benefit and that Metro maintain the current configuration of public and private transfer stations; and

WHEREAS, the transfer system configuration policy requires that Metro (1) allocate tonnage on a percentage basis to ensure flow to public stations; (2) develop by administrative rule a consistent process and framework for adjusting allocations in the future; (3) limit the amount of putrescible solid waste any one private company may transfer; and (4) ensure transfer station rate transparency; and

WHEREAS, the Chief Operating Officer recommends amending the franchise to increase the tonnage allocation authorization, but with no further tonnage allocation adjustment until the Metro Council adopts an administrative rule outlining the allocation adjustment process; and

WHEREAS, the Chief Operating Officer further recommends amending the franchise to require a franchisee to provide 30-days notice when denying waste haulers access to a facility, to add provisions designed to increase transfer station rate transparency, and other housekeeping changes to improve readability and consistency; and

WHEREAS, the Chief Operating Officer recommends that the Metro Council extend the franchise for three additional years to December 31, 2019, in order to maintain continuity in the transfer station system while the Solid Waste Roadmap process continues; and

WHEREAS, the Metro Council finds that the proposed amendments are in the public interest; and

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

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The transfer station franchise amendments for Troutdale Transfer Station are approved subject to the terms, conditions, and limitations contained in Exhibit A.
2. The Chief Operating Officer is authorized to issue to Waste Management of Oregon, Inc. an amended Solid Waste Facility Franchise for Troutdale Transfer Station substantially similar to the one attached as Exhibit A.
3. That this Ordinance being necessary for the health, safety, and welfare of the Metro area by ensuring that transfer stations have ongoing Metro authorization to accept putrescible waste, an emergency is declared to exist pursuant to Metro Charter Section 38 (1), and this Ordinance will take effect on January 1, 2017.

ADOPTED by the Metro Council this ___ day of October 2016.

Attest:

Tom Hughes, Council President

Approved as to Form:

Nellie Papsdorf, Recording Secretary

Alison R. Kean, Metro Attorney

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



SOLID WASTE FACILITY FRANCHISE
 No. F-001-08G

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

This franchise replaces and supersedes the provisions of Metro Solid Waste Facility Franchise No. F-001-08F. Metro grants this franchise to the franchisee named above. The franchisee is authorized to operate and maintain a solid waste facility and to accept the solid wastes and perform the activities authorized by and subject to the conditions stated in this franchise.

ISSUED BY METRO:

Paul Slyman, Property and Environmental Services Director

Date



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1.0	ISSUANCE	
1.1	Franchisee	Waste Management of Oregon, Inc. 869 NW Eastwind Drive Troutdale, Oregon 97060 Tel. (503) 640-9427 Fax. (503) 648-3942
1.2	Corporate affiliation	Waste Management, Inc. 1001 Fannin, Suite 4000 Houston, Texas 77002
1.3	Contact	William Carr Phone: (541) 454-3307 e-mail: wcarr@wm.com
1.4	Franchise number	When referring to this franchise, please cite: Metro Solid Waste Facility Franchise No. F-001-08G.
1.5	Term	The franchise originally commenced on January 1, 2009, with a termination date of December 31, 2016. The franchise is now extended to terminate on December 31, 2019, unless amended, suspended, or revoked as provided in this franchise.
1.6	Renewal	The franchisee may apply for a franchise renewal as provided in Metro Code Chapter 5.01.
1.7	Facility name and mailing address	Troutdale Transfer Station 869 NW Eastwind Drive Troutdale, Oregon 97060 Tel. (503) 667-5264 Fax. (503) 667-6237
1.8	Operator	Waste Management of Oregon, Inc. 3205 SE Minter Bridge Road Hillsboro, Oregon 97123 Tel. (503) 640-9427 Fax. (503) 648-3942
1.9	Facility premises description	Tax Lot Identification No. 1N3E27A -00103, City of Troutdale, Multnomah County, State of Oregon



1.10	Property owner	TDK Corp. 333 NE 3rd Gresham, Oregon 97030 Tel. (503) 665-3860
1.11	Permission to operate	Franchisee has obtained the property owner's consent to operate the facility as specified in this franchise.

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



2.8	Waivers	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 11.0 and be in writing and signed by the COO.
2.9	Effect of waiver	Waiver of a term or condition of this franchise does not waive nor prejudice Metro’s right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.10	Choice of law	The franchise will be construed, applied, and enforced in accordance with the laws of the State of Oregon.
2.11	Enforceability	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise will not be affected.
2.12	Franchise not a waiver	This franchise does not relieve any owner, operator, or the franchisee from the obligation to obtain all required permits, franchises, or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.13	Franchise not limiting	This franchise does not limit the power of a federal, state, or local agency to enforce any provision of law relating to the facility.
2.14	Definitions	<ol style="list-style-type: none"> 1. “Mixed Non-Putrescible Waste” means a mixture of more than one type of non-putrescible waste, including commingled recyclables other than residential curbside recyclable material. This category includes construction and demolition waste but excludes Cleanup Materials Contaminated by Hazardous Substances, Source-Separated Recyclable Material, special waste, land clearing debris and yard debris. 2. Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.00.

3.0	AUTHORIZATIONS	
3.1	Purpose	This section of the franchise describes the wastes that the franchisee is authorized to accept at the facility and the waste-related activities the franchisee is authorized to perform at the



		facility.
3.2	General conditions on solid waste	The franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
3.3	General conditions on activities	The franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.
3.4	Acceptance and management of putrescible solid waste	<ol style="list-style-type: none">1. The franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 12.2. The franchisee also is authorized to accept putrescible waste for material recovery.2. The franchisee must receive, manage, store, reload, and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers.3. The franchisee is authorized to accept putrescible waste generated inside the Metro region only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
3.5	Acceptance and management of mixed non-putrescible solid waste	<ol style="list-style-type: none">1. The franchisee is authorized to accept mixed non-putrescible solid waste for material recovery.2. The franchisee must receive, sort, store, reload, and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover prior to processing, within 12 hours of receipt, or by the end of the business day, whichever is earlier.3. The franchisee is authorized to accept mixed non-putrescible waste from all customers including public self-haul.
3.6	Material recovery required	<ol style="list-style-type: none">1. The franchisee must perform material recovery on mixed non-putrescible wastes at no less than the minimum level stipulated in Metro Code Chapter 5.01 or must reload and



		<p>transfer such waste to a facility authorized by Metro to perform material recovery.</p> <ol style="list-style-type: none">2. The franchisee must ensure that the facility is designed and operated so that materials are recovered in a timely manner and that the reloading and transfer of non-putrescible waste to a Metro-authorized material recovery facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery.3. The franchisee must take quarterly samples of processing residual, when generated at the facility, that are statistically valid and representative of the facility's residual. Each sample required by this section shall weigh at least 300 pounds.
3.7	Management of processing residual from material recovery	<p>The franchisee must store, reload, and transfer all non-putrescible waste processing residual on an impervious surface and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers.</p>
3.8	Acceptance of source-separated recyclable materials	<ol style="list-style-type: none">1. The franchisee must provide a place for collecting source-separated recyclable materials on the facility premises.2. The franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.
3.9	Acceptance of yard debris	<p>The franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.</p>
3.10	Acceptance of source-separated food waste	<p>The franchisee is authorized to accept source-separated food waste that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The franchisee may accept source-separated food waste only for reloading to authorized facilities for composting or other useful purposes as described in an operating plan and approved</p>



		in writing by the COO.
3.11	Acceptance of untreated wood	The franchisee is authorized to accept for processing and reloading, source-separated, untreated and unpainted wood waste, for example untreated lumber and wood pallets. The franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.12	Acceptance of painted and treated wood	The franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by the COO. The franchisee must not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock, or any other product unless otherwise described in an operating plan and approved in writing by the COO.
3.13	Acceptance of electronics devices	The franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer, and other similar functions related to preparing these materials for reuse, recycling, or disposal as required by the Oregon Department of Environmental Quality (DEQ).
3.14	Acceptance of inert material	The franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer, and other similar functions related to preparing these materials for useful purposes.
3.15	Production of hogged fuel	<ol style="list-style-type: none">1. As authorized by Section 3.0, the franchisee is authorized to accept and process only untreated wood, painted wood, and incidental quantities of treated wood for delivery to facilities with industrial boilers for use as hogged fuel.2. The franchisee is prohibited from mixing any other solid waste with the wood wastes described above in Section 3.15.1 for the production of hogged fuel.



4.0	LIMITATIONS AND PROHIBITIONS	
4.1	Purpose	This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility.
4.2	Tonnage allocation	<ol style="list-style-type: none">1. The franchisee is authorized to accept putrescible waste generated inside the Metro region as follows:<ol style="list-style-type: none">a) For calendar year 2017, beginning on January 1 and ending December 31, 2017, the franchisee is authorized to accept up to 77,435 tons of putrescible waste generated inside the Metro region;b) In October 2017, the COO will allocate tonnage for calendar year 2018 and amend Section 4.2 of this franchise as described in the staff report to Ordinance No. 16-1382; andc) In October 2018, the COO will allocate tonnage for calendar year 2019 and amend Section 4.2 of this franchise as described in the staff report to Ordinance No. 16-1382.2. Metro bases its tonnage allocations on its <i>Solid Waste Forecast</i>. Although Metro makes every effort to include accurate and reliable information in its forecast, Metro may adjust tonnage allocations based on tonnage trends and actual solid waste generation.
4.3	Waste hauler access	It is in the public's best interest that transfer stations located inside the Metro region maintain adequate capacity to accommodate solid waste generated within the region and provide adequate access to waste haulers that collect solid waste within the geographic proximity of the facility. Therefore: <ol style="list-style-type: none">a) The franchisee must not accept solid waste generated outside the Metro region if to do so would limit the franchisee from accepting any putrescible or non-putrescible waste generated inside the Metro region;b) The franchisee should not accept solid waste collected outside of the geographic proximity of the facility if to do so would deny access to waste haulers that collect solid waste within the geographic proximity of the facility;c) The franchisee must not deny access to any unaffiliated



		<p>waste hauler without due cause or written notice 30-days in advance; and</p> <p>d) The COO may require the franchisee to provide a written explanation of its rationale if the facility denies access or refuses service to a waste hauler.</p>
4.4	Prohibited waste	<p>The franchisee must not knowingly receive, process, reload, or dispose of any solid waste not authorized by this franchise. The franchisee must not knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; or any waste prohibited by the DEQ.</p>
4.5	Prohibition on mixing	<ol style="list-style-type: none">1. The franchisee must not mix or commingle any source-separated recyclable materials, source-separated yard debris or wood wastes brought to the facility with any unprocessed solid wastes or solid wastes destined for disposal.2. The franchisee must not mix or commingle putrescible solid waste with non-putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.3. The franchisee must not mix or commingle non-putrescible solid waste with putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.
4.6	Prohibition of size reduction on non-putrescible waste	<p>The franchisee must not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, or processing residual consolidation or loading operations, and such size reduction is described in an operating plan and approved in writing by the COO.</p>
4.7	No disposal of recyclable materials	<p>The franchisee must not transfer source-separated recyclable materials to a disposal site, including without limitation landfills and incineration facilities.</p>
4.8	Composting prohibited	<p>The franchisee must not keep yard debris on site long enough for more than negligible biological decomposition to begin.</p>



4.9	Limits not exclusive	This franchise will not be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.
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5.0	OPERATING CONDITIONS	
5.1	Purpose and general performance goals	<p>This section of the franchise describes criteria and standards for the operation of the facility. The franchisee must operate in a manner that meets the following general performance goals:</p> <ul style="list-style-type: none">a) Environment. The franchisee must design and operate the facility to avoid undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste, asbestos and other prohibited wastes.b) Health and safety. The franchisee must design and operate the facility to avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.c) Nuisances. The franchisee must design and operate the facility to avoid nuisance conditions including, but not limited to, litter, dust, odors, and noise.
5.2	Qualified operator	<ol style="list-style-type: none">1. The franchisee must, during all hours of operation, provide an operating staff employed by the facility and qualified and competent to carry out the functions required by this franchise and to otherwise comply with Metro Code Chapter 5.01.2. Facility personnel, as relevant to their job duties and responsibilities, must be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan.3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.
5.3	Fire prevention	The franchisee must provide fire prevention, protection, and



		control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from processing and storage areas.
5.4	Adequate vehicle accommodation	<p>The franchisee must:</p> <ul style="list-style-type: none">a) Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. The franchisee must maintain access roads to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather.b) Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles must not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances.c) Post signs to inform customers not to queue on public roadways.d) Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site tarping and untarping of loads.
5.5	Managing prohibited wastes	<ul style="list-style-type: none">1. The franchisee must reject prohibited waste upon discovery and must properly manage and dispose of prohibited waste when unknowingly received.2. The franchisee must implement a load-checking program to prevent accepting prohibited waste. This program must include at a minimum:<ul style="list-style-type: none">a) Visual inspection. As each load is tipped, a qualified operator must visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise.b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas must be covered and enclosed to prevent leaking and contamination.c) Record maintenance. The franchisee must maintain records of the training of personnel in the recognition, proper handling, and disposition of prohibited waste and make those records available for review by Metro.3. Upon discovery, the franchisee must remove all prohibited or



		<p>unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the franchisee unknowingly receives must be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by the DEQ or local government.</p>
5.6	Storage and exterior stockpiles	<p>The franchisee must:</p> <ul style="list-style-type: none">a) Manage, contain, and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards;b) Maintain storage areas in an orderly manner and keep the areas free of litter;c) Position exterior stockpiles within footprints identified on the facility site plan or operating plan; andd) Not stockpile recovered or source-separated materials for longer than 180 days (6 months).
5.7	Dust, airborne debris and litter	<p>The franchisee must operate the facility in a manner that minimizes and mitigates the generation of dust, airborne debris and litter, and must prevent its migration beyond property boundaries. The franchisee must:</p> <ul style="list-style-type: none">a) Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit;b) Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit;c) Maintain and operate all access roads and receiving, processing, storage, and reload areas in such a manner as to minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site;d) Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's



		<p>operation;</p> <p>e) Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; and</p> <p>f) Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, must be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Section 5.09.040 of the Metro Code.</p>
5.8	Odor	<ol style="list-style-type: none">1. The franchisee must operate the facility in a manner that prevents the generation of odors that are detectable off-site.2. The franchisee must establish and follow procedures in the operating plan for minimizing odor at the facility.
5.9	Vectors (e.g. birds, rodents, insects)	<ol style="list-style-type: none">1. The franchisee must operate the facility in a manner that is not conducive to harboring rodents, birds, insects, or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.2. If vectors are present or detected at the facility, the franchisee must implement vector control measures.
5.10	Noise	<p>The franchisee must operate the facility in a manner that avoids noise sufficient to cause adverse off-site impacts and to the extent necessary to meet applicable regulatory standards and land-use regulations.</p>
5.11	Water contaminated by solid waste and solid waste leachate	<p>The franchisee must operate the facility consistent with an approved DEQ stormwater management plan or equivalent and must:</p> <ol style="list-style-type: none">a) Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; andb) Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local,



		state, and federal laws and regulations.
5.12	Access control	<ol style="list-style-type: none">1. The franchisee must control access to the facility as necessary to prevent unauthorized entry and dumping.2. The franchisee must maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.
5.13	Signage	<p>The franchisee must post signs at all public entrances to the facility. The signs must comply with local government signage regulations. These signs must be easily and readily visible, and legible from off-site during all hours and must contain at least the following information:</p> <ol style="list-style-type: none">a) Name of the facility;b) Address of the facility;c) Emergency telephone number for the facility;d) Operating hours during which the facility is open for the receipt of authorized waste;e) Fees and charges;f) Metro's name and telephone number (503) 234-3000;g) A list of authorized and prohibited wastes;h) Vehicle / traffic flow information or diagram;i) Covered load requirements; andj) Directions not to queue on public roadways.
5.14	Nuisance complaints	<ol style="list-style-type: none">1. The franchisee must respond to all nuisance complaints in timely manner (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), and must keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.2. If the facility receives a complaint, the Franchisee must:<ol style="list-style-type: none">a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); andb) Log all such complaints as provided by the operating plan. The franchisee must retain each log entry for one year



		and it must be available for inspection by Metro.
5.15	Access to franchise document	The franchisee must maintain a copy of this franchise on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.

6.0	OPERATING PLAN	
6.1	Purpose	This section lists the requirements associated with preparing and implementing a facility operating plan, and lists the procedures that must be included in the required facility operating plan.
6.2	Plan compliance	The franchisee must operate the facility in accordance with an operating plan approved in writing by the COO. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this franchise. The franchisee may amend or revise the operating plan from time to time, subject to written approval by the COO.
6.3	Plan maintenance	The franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures, and requirements. The franchisee must submit amendments and revisions of the operating plan to the COO for written approval prior to implementation.
6.4	Access to operating plan	The franchisee must maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
6.5	Procedures for inspecting loads	The operating plan must establish: <ul style="list-style-type: none"> a) Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes; b) Procedures for identifying incoming and outgoing loads for waste classifications; c) A set of objective criteria for accepting and rejecting loads; and d) An asbestos testing protocol for all materials that appear to contain friable asbestos.



6.6	Procedures for processing and storage of loads	The operating plan must establish procedures for: <ul style="list-style-type: none">a) Processing authorized solid wastes;b) Reloading and transfer of authorized solid wastes;c) Managing stockpiles to ensure that they remain within the authorized weights, volumes and pile heights;d) Storing authorized solid wastes; ande) Minimizing storage times and avoiding delay in processing of authorized solid wastes.
6.7	Procedures for managing prohibited wastes	The operating plan must establish procedures for managing, reloading, and transferring to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan must establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.
6.8	Procedures for odor prevention	The operating plan must establish procedures for preventing objectionable odors generated at the facility from being detected off the premises of the facility. The plan must include: <ul style="list-style-type: none">a) A management plan that will be used to monitor and manage odors of any derivation including malodorous loads delivered to the facility; andb) Procedures for receiving and recording odor complaints, immediately investigating all odor complaints to determine the cause of odor emissions, and remedying promptly all odor problems at the facility.
6.9	Procedures for dust prevention	The operating plan must establish procedures for preventing dust from blowing off the premises of the facility. The plan must include: <ul style="list-style-type: none">a) A management plan that the franchisee will use to monitor and manage dust of any derivation; andb) Procedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions, and remedying promptly all dust problems at the facility.
6.10	Procedures for emergencies	The operating plan must establish procedures that the franchisee will follow in case of fire or other emergency.



<p>6.11</p>	<p>Procedures for nuisance complaints</p>	<ol style="list-style-type: none"> 1. For every nuisance complaint (for example odor, dust, vibrations, and litter) received, the franchisee must record: <ol style="list-style-type: none"> a) The nature of the complaint; b) The date the complaint was received; c) The name, address and telephone number of the person or persons making the complaint; and d) Any actions taken by the operator in response to the complaint (whether successful or unsuccessful). 2. The franchisee must make records of such information available to Metro upon request. The franchisee must retain each complaint record for a period of not less than one year.
<p>6.12</p>	<p>Closure protocol</p>	<p>The franchisee must establish protocol for closure and restoration of the site in the event of a long-term cessation of operations as provided in Metro Code Section 5.01.072(c)(3).</p>
<p>6.13</p>	<p>Financial assurance</p>	<p>The franchisee must maintain financial assurance in the amount of \$25,000 for the cost of the facility's closure and maintain such financial assurance in a form approved by Metro for the term of this franchise.</p>

<p>7.0</p>	<p>FEES AND RATE SETTING</p>	
<p>7.1</p>	<p>Purpose</p>	<p>This section of the franchise specifies fees payable by the franchisee, and describes rate regulation by Metro.</p>
<p>7.2</p>	<p>Annual fee</p>	<p>The franchisee must pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.</p>
<p>7.3</p>	<p>Rates</p>	<ol style="list-style-type: none"> 1. The rates charged by the franchisee for accepting solid waste are not subject to regulation by Metro unless the Metro Council adopts an ordinance that establishes Metro's rate regulation authority. 2. Notwithstanding the provision above, the rates charged by the franchisee must not exceed the rates posted at the facility as described in Section 5.13.
<p>7.4</p>	<p>Rate review</p>	<ol style="list-style-type: none"> 1. Metro may review the franchisee's financial records for the purpose of determining whether the rates charged for the



		<p>disposal of solid waste related to the costs of accepting, managing, transporting, and disposing of the waste by the franchisee are in the public interest. For purposes of this section, “costs” are defined to include general and administrative expenses including but not limited to allocated costs and normal profit for the private transfer station industry.</p> <p>2. As provided in this section, the franchisee must provide Metro access to the financial records that are sufficient to determine the information described above.</p>
7.5	Metro fee and tax imposed on disposal	The franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.
7.6	Metro community enhancement fee imposed on waste received	The franchisee must collect and remit to Metro a community enhancement fee, as provided in Metro Code Chapter 5.06, in an amount equal to \$1.00 per ton for all putrescible waste including food waste and residential yard debris mixed with food waste. The franchisee must remit the community enhancement fees to Metro on a monthly basis in conjunction with fees remitted in Section 7.5.

8.0	RECORD KEEPING AND REPORTING	
8.1	Purpose	This section of the franchise describes record keeping and reporting requirements. The franchisee must effectively monitor facility operation and maintain accurate records of the information described in this section.
8.2	Record keeping requirements	For all solid waste and materials the franchisee is authorized to accept under Section 3.0, the franchisee must keep and maintain accurate records of the amount of authorized materials the franchisee accepts, recovers, recycles, reloads, and disposes. These records include the information specified in the Metro document titled, <u>Reporting Requirements and Data Standards for Metro Solid Waste Licenses, Franchises, and Parties to Designated Facility Agreements.</u>
8.3	Reporting requirements	The franchisee must transmit to Metro records required under Section 8.0 no later than fifteen days following the end of each



		month in a format prescribed by Metro.
8.4	Material recovery reporting	The franchisee must provide the results of its quarterly sampling of processing residual, as provided in Section 3.6, to Metro as a component of its monthly report no later than fifteen days following the end of the each quarter in a format prescribed by Metro.
8.5	Account number listing	Within five business days of Metro's request, franchisee must provide Metro with a listing that cross-references the account numbers used in the transaction database with the company's name and address.
8.6	Transactions based on scale weights	Except for minimum fee transactions for small, lightweight loads, the franchisee must record each inbound and outbound transaction electronically based on actual and accurate scale weights using the franchisee's on-site scales.
8.7	DEQ submittals	The franchisee must provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
8.8	Copies of enforcement actions provided to Metro	The franchisee must ensure Metro receives copies of any notice of violation or noncompliance, citation, or any other similar enforcement actions issued to the franchisee by any federal, state, or local government (other than Metro) related to the operation of the facility.
8.9	Unusual occurrences	<ol style="list-style-type: none">1. The franchisee must keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.2. The franchisee must notify Metro within 24 hours of any breakdown of the franchisee's equipment if the breakdown will substantially impact the facility's ability to comply with this franchise or with Metro Code, or which will create off-site impacts.3. The franchisee must report any facility fires, accidents, emergencies, and other significant incidents to Metro within



		12 hours of the discovery of their occurrence.
8.10	Changes in ownership	<ol style="list-style-type: none"> 1. Any change in control of franchisee or the transfer of a controlling interest of franchisee requires prior written notice to Metro. "Transfer of a controlling interest of franchisee" includes without limitation the transfer of 10% or more of the ownership of franchisee to or from a single entity. Metro may amend this franchise under Section 11.3 to require the new ownership of franchisee to assume all the rights and obligations of this franchise. 2. The franchisee may not lease, assign, mortgage, sell, or otherwise transfer control of the franchise unless the franchisee follows the requirements of Metro Code Section 5.01.076.

9.0	INSURANCE REQUIREMENTS	
9.1	Purpose	This section describes the types of insurance that the franchisee must purchase and maintain at the franchisee's expense, covering the franchisee, its employees, and agents. The franchisee must provide Metro with documentation demonstrating that it holds all of the required insurance coverage described in Section 9.0.
9.2	General liability	The franchisee must carry the most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence and \$1,000,000 aggregate. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed operations. Contractor's coverage will be primary as respects Metro.
9.3	Automobile	The franchisee must carry automobile bodily injury and property damage liability insurance.
9.4	Coverage	Insurance coverage must be a minimum of \$1,000,000 per occurrence and \$1,000,000 aggregate.
9.5	Additional insureds	Metro, its elected officials, departments, employees, and agents must be named as ADDITIONAL INSURED.



9.6	Worker's Compensation Insurance	The franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law must comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. The franchisee must provide Metro with certification of Workers' Compensation insurance including employer's liability. If the franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
9.7	Notification	The franchisee must give at least 30 days written notice to the COO of any lapse or proposed cancellation of insurance coverage.

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



11.0	AMENDMENT, SUSPENSION, AND REVOCATION	
11.1	Amendment by agreement	At any time during the term of the franchise, either the COO or the franchisee may propose amendments to this franchise. If either the COO or the franchisee proposes amendments to this franchise, both parties will make good faith efforts to arrive at consensus on the intent and implementing language of said amendments.
11.2	Amendment by Metro Council action	<p>Except as provided in Section 11.3, the provisions of this franchise will remain in effect unless the Metro Council:</p> <ul style="list-style-type: none">a) Amends the Metro Code, amends the Regional Solid Waste Management Plan, or implements other legislation of broad applicability that affects the class of facilities of which this franchisee is a member; andb) Adopts an ordinance amending this franchise to implement the policy, code or process specified by said ordinance. <p>If, in the course of considering an ordinance amending this franchise as provided in (b) above, the franchisee provides evidence that the amendment will result in significant capital cost to the franchisee, the Metro Council will include capital cost and the ability of the franchisee to achieve a reasonable rate of return on any additional investment required as factors when considering whether to adopt the ordinance.</p>
11.3	Amendment, suspension or revocation by Metro for cause	<p>In addition to the amendments authorized by Section 4.2 , the COO may, at any time before the expiration date, amend, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ul style="list-style-type: none">a) Violation of the terms or conditions of this franchise, Metro Code, or any applicable statute, rule, or standard;b) Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this franchise;c) Failure to disclose fully all relevant facts;d) A significant release into the environment from the facility;e) Significant change in the character of solid waste received



		<p>or in the operation of the facility;</p> <p>f) Any change in ownership or control;</p> <p>g) A request from the local government stemming from impacts resulting from facility operations;</p> <p>h) Compliance history of the franchisee; and</p> <p>i) Changes in regional tonnage trends or actual solid waste generation.</p>
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12.0	GENERAL OBLIGATIONS	
12.1	Compliance with law	The franchisee must fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility are deemed part of this franchise as if specifically set forth herein. These conditions and permits include those cited within or attached as exhibits to the franchise document, as well as any existing at the time the franchise is issued but not cited or attached, and permits or conditions issued or amended during the term of the franchise.
12.2	Deliver waste to appropriate destinations	The franchisee must ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.
12.3	Right of inspection and audit	<ol style="list-style-type: none"> 1. Authorized representatives of Metro may take photographs, collect samples of materials, and perform any inspection or audit as the COO deems appropriate. The franchisee must allow authorized representatives access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 12.4, Metro's right to inspect includes the right to review all



		<p>information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of franchisee that are directly related to the operation of the facility.</p> <p>2. The franchisee must permit access to the facility premises to authorized representatives of Metro, including personnel on contract to Metro, at all reasonable times during business hours with or without notice to determine whether the franchisee meets the minimum level of recovery as provided in Section 3.6. The franchisee must provide:</p> <ul style="list-style-type: none">a) Access to all areas where it generates, manages, stores, and reloads processing residual, including without limitation to transfer vehicles;b) Access to facility personnel and equipment to collect, segregate, contain, and weigh individual samples of processing residual; andc) A safe, covered location away from working areas and vehicle traffic where authorized representatives of Metro may conduct an analysis of the franchisee's processing residual.
12.4	Confidential information	<p>The franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The franchisee must prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro will treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five days of Metro's receipt of a request for disclosure of information identified by franchisee as confidential, Metro will provide franchisee written notice of the request. The franchisee will have three days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. The franchisee is responsible for any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that</p>



		<p>Metro produces in response to a public records request. This Section 12.0 does not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, those representatives agree to continue to treat the information as confidential and make good faith efforts not to disclose the information</p>
12.5	Compliance by agents	<p>The franchisee is responsible for ensuring that its agents and contractors comply with this franchise.</p>

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 16-1382, FOR THE PURPOSE OF APPROVING A FRANCHISE TERM EXTENSION, ALLOCATING TONNAGE, AND AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE AN AMENDED FRANCHISE FOR TROUTDALE TRANSFER STATION AND DECLARING AN EMERGENCY

October 7, 2016

Prepared by: Warren Johnson
503-797-1836

EXECUTIVE SUMMARY

Adoption of Ordinance No. 16-1382 authorizes a three-year franchise term extension and establishes a 2017 tonnage allocation of 77,435 tons for Troutdale Transfer Station (Troutdale). The ordinance also authorizes the Chief Operating Officer (COO) to establish subsequent annual tonnage allocations for the remainder of the franchise term, clarifies rate review and hauler access conditions, and incorporates various other non-substantive technical amendments in the franchise as described in this staff report. In addition, the ordinance establishes that an emergency exists and the proposed franchise will take effect on January 1, 2017, to ensure that the franchisee has ongoing authorization to accept putrescible waste for the health, safety, and welfare of the Metro area.

This proposed ordinance is an initial step in implementing Metro's transfer system configuration policy, adopted by the Metro Council on July 21, 2016.¹ In addition to this action for Troutdale, the Metro Council will consider similar ordinances to renew franchises for Forest Grove Transfer Station (Ord. No. 16-1381), Pride Recycling Company (Ord. No. 16-1384), and Willamette Resources, Inc. (Ord. No. 16-1383) at its meetings on October 20 and 27, 2016. The Metro Council will also consider an ordinance for a new franchise for Gresham Sanitary Service, Inc. (dba GSS Transfer LLC.) at its meetings on December 1 and 8, 2016. Gresham Sanitary seeks authority to operate a new transfer station at its existing solid waste reload site.

The COO recommends coordinating these franchise decisions to provide a clear and consistent approach to allocating tonnage for the privately-owned transfer stations. This coordinated approach also allows time for Metro to develop an administrative rule to further implement the configuration policy without causing undue disruption to the solid waste system in the interim. The administrative rule describing the tonnage allocation process will be developed and proposed to Metro Council during 2017.

¹ Resolution No. 16-4716

BACKGROUND

Metro's major solid waste contracts (operations,² transport, and disposal) will expire at the end of 2019. In an effort to shape the future solid waste system to better attain public benefits and improved sustainability, Metro has undertaken a major planning effort (known as the Solid Waste Roadmap) to set the future direction of the region's solid waste system for the next several years. A major component of this effort is to take a broad look at the role, configuration, and services offered by publicly and privately-owned transfer stations.

In 2013, Metro Council approved a two-year franchise term extension for Troutdale,³ to provide a period of stability and continuity until work on the transfer system configuration policy was completed. In 2015, the COO also administratively granted a one-year franchise term extension to allow additional time for Metro to work on the configuration policy.⁴ Troutdale's current franchise originally commenced on January 1, 2009, and was initially set to expire on December 31, 2013. As explained above, the franchise was subsequently extended for an additional three years and is now scheduled to expire on December 31, 2016.

On July 21, 2016, the Metro Council adopted a transfer system configuration policy. The purposes of the policy are to: 1) ensure that the region's transfer system provides maximum public benefit, 2) maintain the current configuration of publicly and privately-owned transfer stations, 3) ensure that an adequate amount of putrescible waste flows to publicly-owned stations (at least 40 percent of the region's putrescible tons), 4) limit the amount of putrescible waste that any one company may accept for transfer within the region (no more than 40 percent), and 5) improve rate transparency. In particular, the configuration policy shifts Metro away from its current "tonnage cap" system, in which the Metro Council establishes annual facility tonnage limits, to a new "tonnage allocation" system in which tonnage authority is proportionally allocated to privately-owned stations each year. Further details of the 2017 allocation methodology are described below.

Proposed franchise amendments for Troutdale:

The COO recommends that the Metro Council approve a franchise extension for Troutdale subject to the requirements listed in Metro Code Chapter 5.01 and further subject to the special conditions and technical updates described below. These changes are consistent with the transfer system configuration policy and are similarly included in the proposed franchises for the other privately-owned transfer stations identified in this report. All of the proposed changes to Troutdale's franchise are shown in the "redline" document attached to this staff report as Attachment 1.

² Metro's transfer station operations contracts expire in March 2017, but can be extended until the end of 2019.

³ Troutdale was granted a five-year franchise (Franchise No. F-001-08) in 2008 by Ordinance No. 08-1192. The original franchise term was January 1, 2009 through December 31, 2013. In 2013, Troutdale's franchise was extended by two years by Ordinance No. 13-1309.

⁴ Troutdale's current franchise (Franchise No. F-001-08F) includes a provision that authorized the COO to administratively extend the term of the franchise by up to one additional year to expire on December 31, 2016.

The proposed franchise for Troutdale includes the following amendments:

1. Franchise Term Extension (Section 1.5)

The COO recommends extending the term of the proposed franchise by an additional three years to expire on December 31, 2019.

This proposed change will allow time for Metro to develop a detailed administrative rule to further implement the configuration policy without causing undue disruption to the solid waste system in the interim.

2. Tonnage Allocation (Section 4.2)

The COO recommends establishing an initial tonnage allocation of 77,435 tons of putrescible waste for calendar year 2017 as described in this report and authorizing the COO to subsequently use the same allocation methodology (or as otherwise described in an administrative rule adopted by the COO or Metro Council) to establish annual tonnage allocations for the remainder of the franchise term (2018 and 2019).

A franchisee's tonnage allocation for 2017 is based on two factors: 1) its percentage of the region's putrescible waste in 2015 (as authorized by its franchise), and 2) the total allocable putrescible waste tonnage available in calendar year 2017 based on Metro's latest "Solid Waste Forecast." In short, a franchisee is authorized to accept the same *percentage* of waste in 2017 that it was authorized to accept in 2015, relative to the region's total amount of putrescible waste to allocate. This same process was used to determine the 2017 tonnage allocations for all of the franchised transfer stations except for the Forest Grove Transfer Station.

In 2015, Troutdale was authorized to accept 70,000 tons of putrescible waste. That was about 10.69 percent of the region's total putrescible waste that year. In 2017, Metro forecasts that the region will generate 724,649 tons of putrescible waste.⁵ Accordingly, Troutdale will receive an allocation of about 10.69 percent of the forecasted 724,649 tons for calendar year 2017 (which equals 77,435 tons).

Additionally, the proposed franchise states that each October the COO will amend the franchise to establish an annual tonnage allocation for the following calendar year throughout the term of the franchise. This allows the COO to administratively adjust the annual tonnage allocation as necessary to meet the transfer system configuration policy objectives. By adopting this ordinance, the Metro Council authorizes the COO to determine the franchisee's tonnage allocations for calendar years 2018 and 2019 using the same methodology described above or as otherwise adopted by the COO or Metro Council. In 2017, staff will develop an administrative rule for Metro Council consideration that sets forth a detailed process for determining and adjusting future tonnage allocations. The COO

⁵ FY 2017-18 Solid Waste Forecast dated September 15, 2016.

recommends that Metro Council not allow any additional tonnage adjustments for the franchisee until an administrative rule has been adopted.

3. Waste Hauler Access (Section 4.3)

The COO recommends that the franchisee be required to comply with its annual tonnage allocation and: 1) maintain capacity to accept waste generated within the region, 2) accommodate haulers that collect waste within the geographic proximity of the facility, 3) not deny service to any unaffiliated waste hauler without due cause or without 30-day written notice, and 4) provide Metro with a written explanation if the franchisee denies service to a waste hauler.

Publicly and privately-owned transfer stations play an important role in the region's solid waste system. These stations provide public benefits to the region and they should serve the needs of customers located within proximity to their facilities. One public benefit of having public and private stations in different geographic locations is reduced vehicle miles traveled for haulers. This lowers costs to ratepayers and lowers hauler emissions into the environment. Accordingly, the COO recommends a new franchise condition for Troutdale that states that the franchisee should not refuse access to haulers that collect waste near the facility in order to accept other haulers that are located farther away. The COO recommends the proposed conditions to: 1) ensure that the franchisee considers time and vehicle miles traveled before refusing access to any unaffiliated haulers, 2) ensure that the public has adequate access to the region's transfer system, and 3) promote efficient off-route travel.

The proposed franchise also includes a new condition that prohibits the franchisee from denying access to an unaffiliated hauler without due cause or without providing written notice at least 30 days in advance. Denial of access for "due cause" could include a variety of legitimate reasons such as load contamination, failure to pay, or risk of exceeding the franchise tonnage allocation. This new notice requirement is intended to encourage open communication among parties, improve business planning, and minimize disruption to the system.

Additionally, the COO recommends including another new condition in this section whereby Metro may require the franchisee to provide a written explanation if the facility denies access to a waste hauler. This requirement would be triggered if the COO determines it to be necessary, such as in a case in which Metro receives a complaint about the facility from a local government or nearby waste hauler.

4. Rates (Section 7.3)

The COO recommends prohibiting the franchisee from charging any rates that exceed the amounts posted at the facility. The COO also recommends explaining that Metro will not otherwise regulate the facility's rates unless Metro Council adopts an ordinance that establishes Metro's rate regulation authority at the facility.

Metro Code Section 5.01.170 states that the Metro Council may establish facility rates if it is in the public interest as a matter of regional concern.⁶ However, as part of the recent configuration policy, Metro Council supported a progressive approach to achieve rate transparency at publicly and privately-owned transfer stations. As a first step in that approach, Metro will make its own rates more transparent to the public and local government rate-makers. In addition, the COO has added a franchise condition to explain that the Metro Council may also set facility rates or require the franchisee to provide access to its financial records to determine costs when there is a public benefit to doing so. These are not new conditions because Metro already has the authority to access the financial records of a regulated facility.

Although Metro will not establish rates at privately-owned facilities without approval of the Metro Council, the COO recommends including a condition in the proposed franchise specifying that the franchisee may not charge its customers higher rates than those posted at the facility. This provision provides some measure of protection to an unaffiliated customer from discriminatory pricing.

5. Non-Substantive Amendments (various sections throughout franchise)

The COO recommends various non-substantive, technical amendments to improve clarity, consistency, and ease of reading, but which do not change or add new requirements. These non-substantive changes include using active voice, general formatting, grammatical changes, and other housekeeping improvements.

ANALYSIS / INFORMATION

Known Opposition

There is no known opposition to the proposed term extension and general housekeeping changes in the amended franchise. The facility operator may disagree with some of the proposed conditions that address tonnage allocations, rate regulation, rate transparency, and hauler access requirements at the facility. However, the COO finds that the proposed conditions are consistent with the Metro Council's transfer system configuration policy.

Legal Antecedents

⁶ Likewise, the Oregon legislature has authorized Metro to regulate rates. ORS 268.317(5).

1. Metro Code Chapter 5.01, entitled "Solid Waste Facility Regulation." In particular:
 - A. Metro Code Section 5.01.070 which states that a solid waste facility franchise is required for a operating a transfer station.
 - B. Metro Code Section 5.01.073 which states that the Metro Council determines whether to grant a solid waste facility franchise and the conditions to include in a franchise.
2. Metro's transfer system configuration policy adopted by Metro Council via Resolution 16-4716 on July 21, 2016.

Anticipated Effects

Adoption of Ordinance No. 16-1382 will authorize a three-year term extension, establish annual tonnage allocations, explain rate review and hauler access conditions, and incorporate various other non-substantive technical amendments for Troutdale's franchise. These changes are an initial step in the implementation of Metro's transfer system configuration policy while maintaining the stability and continuity of the region's solid waste system. In addition, this ordinance establishes that an emergency exists and the proposed franchise will take effect on January 1, 2017, to ensure that the franchisee has ongoing authorization to accept putrescible waste for the health, safety, and welfare of the Metro area.

Notwithstanding Metro Code Section 5.01.073(k) (which states that the term of a franchise may not exceed five years), the COO recommends that the Metro Council grant a three-year extension of Troutdale's franchise as provided in this staff report because it is in the public interest.

Budget Impacts

The proposed ordinance authorizes, in part, annual transfer station tonnage allocations which may result in shifting the distribution of waste tonnage in the system. The proposed amendments to Troutdale's transfer station franchise are based on direction from Metro's transfer system configuration policy. The budget impacts of the policy were accounted for in the 2016-17 budget adopted by the Metro Council.

Recommended Action:

Based on the information and analysis provided in this report, the COO recommends that the Metro Council adopt Ordinance No. 16-1382 and issue an amended franchise to Troutdale as attached to this ordinance as Exhibit A.

WJ



SOLID WASTE FACILITY FRANCHISE

No. F-001-08~~08E~~**GF**

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

This franchise replaces and supersedes the provisions of Metro Solid Waste Facility Franchise No. F-001-~~08E08E~~**GF**. Metro grants this franchise to the franchisee named above. The franchisee is authorized to operate and maintain a solid waste facility and to accept the solid wastes and perform the activities authorized by and subject to the conditions stated in this franchise.

ISSUED BY METRO:

Paul Slyman, Property and Environmental Services Director

Date



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1.0	ISSUANCE	
1.1	Franchisee	Waste Management of Oregon, Inc. 869 NW Eastwind Drive Troutdale, Oregon 97060 Tel. (503) 640-9427 Fax. (503) 648-3942
1.2	Corporate affiliation	Waste Management, Inc. 1001 Fannin, Suite 4000 Houston, Texas 77002
1.3	Contact	William Carr Phone: (541) 454-3307 e-mail: wcarr@wm.com
1.4	Franchise number	When referring to this franchise, please cite: Metro Solid Waste Facility Franchise No. F-001-08GF.
1.5	Term	1. The franchise originally term commences on January 1, 2009, and shall with a termination date of on December 31, 2016. The franchise is now extended to terminate on December 31, 2019, unless amended, modified, suspended, or revoked as provided in this franchise. At any time during the term of this franchise, Metro's Chief Operating Officer (the "COO") may extend the term of the franchise up to an additional 12 months to terminate no later than December 31, 2016.
1.6	Renewal	The franchisee may apply for a franchise renewal as provided in Metro Code Chapter 5.01.
1.7	Facility name and mailing address	Troutdale Transfer Station 869 NW Eastwind Drive Troutdale, Oregon 97060 Tel. (503) 667-5264 Fax. (503) 667-6237
1.8	Operator	Waste Management of Oregon, Inc. 3205 SE Minter Bridge Road Hillsboro, Oregon 97123 Tel. (503) 640-9427 Fax. (503) 648-3942



1.9	Facility premises description	Tax Lot Identification No. 1N3E27A -00103, City of Troutdale, Multnomah County, State of Oregon
1.10	Property owner	TDK Corp. 333 NE 3rd Gresham, Oregon 97030 Tel. (503) 665-3860
1.11	Permission to operate	Franchisee warrants that it has obtained the property owner's consent to operate the facility as specified in this franchise.

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



2.7	Binding nature	This franchise is binding on the franchisee. The franchisee is liable for all acts and omissions of the franchisee's contractors and agents.
2.8	Waivers	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 11.0 and be in writing and signed by the COO.
2.9	Effect of waiver	Waiver of a term or condition of this franchise shall <u>does</u> not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.10	Choice of law	The franchise shall <u>will</u> be construed, applied, and enforced in accordance with the laws of the State of Oregon.
2.11	Enforceability	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise shall <u>will</u> not be affected.
2.12	Franchise not a waiver	This franchise does not relieve any owner, operator, or the franchisee from the obligation to obtain all required permits, franchises, or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.13	Franchise not limiting	This franchise does not limit the power of a federal, state, or local agency to enforce any provision of law relating to the facility.
2.14	Definitions	<p><u>1. "Mixed Non-Putrescible Waste" means a mixture of more than one type of non-putrescible waste, including commingled recyclables other than residential curbside recyclable material. This category includes construction and demolition waste but excludes Cleanup Materials Contaminated by Hazardous Substances, Source-Separated Recyclable Material, special waste, land clearing debris and yard debris.</u></p> <p>1-2. Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.00.</p>

3.0	AUTHORIZATIONS
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3.1	Purpose	This section of the franchise describes the wastes that the franchisee is authorized to accept at the facility and the waste-related activities the franchisee is authorized to perform at the facility.
3.2	General conditions on solid waste	The franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
3.3	General conditions on activities	The franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.
3.4	Acceptance and management of putrescible solid waste	<ol style="list-style-type: none">1. The franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 12.2of this franchise. The franchisee also is authorized to accept putrescible waste for material recovery.2. The franchisee shall<u>must</u> receive, manage, store, reload, and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers.3. The franchisee is authorized to accept putrescible waste generated inside the Metro region only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
3.5	Acceptance and management of mixed non-putrescible solid waste	<ol style="list-style-type: none">1. The franchisee is authorized to accept mixed non-putrescible solid waste for material recovery.2. The franchisee shall<u>must</u> receive, sort, store, reload, and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover prior to processing, within 12 hours of receipt, or by the end of the business day, whichever is earlier.3. The franchisee is authorized to accept mixed non-putrescible waste from all customers including public self-haul.



3.6	Material recovery required	<ol style="list-style-type: none">1. The franchisee shall<u>must</u> perform material recovery on mixed non-putrescible wastes at no less than the minimum level stipulated in Metro Code Chapter 5.01 or shall<u>must</u> reload and transfer such waste to a facility authorized by Metro to perform material recovery.2. The franchisee shall<u>must</u> ensure that the facility is designed and operated so that materials are recovered in a timely manner and that the reloading and transfer of non-putrescible waste to a Metro-authorized material recovery facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery.3. The franchisee shall<u>must</u> take quarterly samples of processing residual, when generated at the facility, that are statistically valid and representative of the facility's residual. Each sample required by this section shall weigh at least 300 pounds.
3.7	Management of processing residual from material recovery	The franchisee shall <u>must</u> store, reload, and transfer all non-putrescible waste processing residual on an impervious surface and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers.
3.8	Acceptance of source-separated recyclable materials	<ol style="list-style-type: none">1. The franchisee shall<u>must</u> provide a place for collecting source-separated recyclable materials on the facility premises.2. The franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.
3.9	Acceptance of yard debris	The franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.10	Acceptance of source-separated food waste	The franchisee is authorized to accept source-separated food waste that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the



		facility. The franchisee may accept source-separated food waste only for reloading to authorized facilities for composting or other useful purposes as described in an operating plan and approved in writing by the COO.
3.11	Acceptance of untreated wood	The franchisee is authorized to accept for processing and reloading, source-separated, untreated and unpainted wood waste, for example untreated lumber and wood pallets. The franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.12	Acceptance of painted and treated wood	The franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful <u>purposes</u> as described in an operating plan and approved in writing by the COO. The franchisee shall <u>must</u> not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock, or any other product unless otherwise described in an operating plan and approved in writing by the COO.
3.13	Acceptance of electronics devices	The franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer, and other similar functions related to preparing these materials for reuse, recycling, or disposal as required by the Oregon Department of Environmental Quality (DEQ).
3.14	Acceptance of inert material	The franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer, and other similar functions related to preparing these materials for useful purposes.
3.15	<u>Production of hogged fuel</u>	<ol style="list-style-type: none"><u>1. As authorized by Section 3.0, the franchisee is authorized to accept and process only untreated wood, painted wood, and incidental quantities of treated wood for delivery to facilities with industrial boilers for use as hogged fuel.</u><u>2. The franchisee is prohibited from mixing any other solid waste with the wood wastes described above in Section 3.15.1 for the production of hogged fuel.</u>



4.0	LIMITATIONS AND PROHIBITIONS	
4.1	Purpose	This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility.
4.2	Tonnage authorization allocation	<p><u>1. The franchisee is authorized to accept putrescible waste generated inside the Metro region as follows:</u></p> <p><u>a) For calendar year 2017, beginning on January 1 and ending December 31, 2017, the franchisee is authorized to accept up to 77,435 tons of putrescible waste generated inside the Metro region;</u></p> <p><u>b) In October 2017, the COO will allocate tonnage for calendar year 2018 and amend Section 4.2 of this franchise as described in the staff report to Ordinance No. 16-1382; and</u></p> <p><u>c) In October 2018, the COO will allocate tonnage for calendar year 2019 and amend Section 4.2 of this franchise as described in the staff report to Ordinance No. 16-1382.</u></p> <p><u>2. Metro bases its tonnage allocations on its <i>Solid Waste Forecast</i>. Although Metro makes every effort to include accurate and reliable information in its forecast, Metro may adjust tonnage allocations based on tonnage trends and actual solid waste generation.</u></p> <p>The Franchisee is authorized to accept up to 75,000 tons of putrescible waste generated inside the Metro region within each calendar year.</p> <p>The Franchisee shall not accept solid waste generated outside the Metro region if to do so would limit the Franchisee from accepting 75,000 tons of putrescible waste, or any non-putrescible waste, generated inside the Metro region.</p>
4.3	Waste hauler access Tonnage authorization growth allowance	<p><u>It is in the public's best interest that transfer stations located inside the Metro region maintain adequate capacity to accommodate solid waste generated within the region and provide adequate access to waste haulers that collect solid waste within the geographic proximity of the facility. Therefore:</u></p> <p><u>1. The franchisee must not accept solid waste generated outside the Metro region if to do so would limit the</u></p>



		<p><u>franchisee from accepting any putrescible or non-putrescible waste generated inside the Metro region;</u></p> <p><u>2. The franchisee should not accept solid waste collected outside of the geographic proximity of the facility if to do so would deny access to waste haulers that collect solid waste within the geographic proximity of the facility;</u></p> <p><u>3. The franchisee must not deny access to any unaffiliated waste hauler without due cause or written notice 30-days in advance; and</u></p> <p><u>4. The COO may require the franchisee to provide a written explanation of its rationale if the facility denies access or refuses service to a waste hauler.</u></p> <p>Effective January 1, 2016, the COO may amend Section 4.2 of this franchise to increase the calendar year tonnage authorization by up to an additional five percent if the COO determines that there is a sufficient public benefit and available tonnage forecasted to granting such an increase.</p>
4.4	Prohibited waste	<p>The franchisee shall<u>must</u> not knowingly receive, process, reload, or dispose of any solid waste not authorized by this franchise. The franchisee shall<u>must</u> not knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the DEQ.</p>
4.5	Prohibition on mixing	<p>1. The franchisee shall<u>must</u> not mix or commingle any source-separated recyclable materials, source-separated yard debris or wood wastes brought to the facility with any unprocessed solid wastes or solid wastes destined for disposal.</p> <p>2. The franchisee shall<u>must</u> not mix or commingle putrescible solid waste with non-putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.</p> <p>3. The franchisee shall<u>must</u> not mix or commingle non-putrescible solid waste with putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.</p>
4.6	Prohibition of size	<p>The franchisee shall<u>must</u> not crush, grind or otherwise reduce the</p>



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

5.0	OPERATING CONDITIONS	
5.1	Purpose and general performance goals	<p>This section of the franchise describes criteria and standards for the operation of the facility. The franchisee shall<u>must</u> operate in a manner that meets the following general performance goals:</p> <ul style="list-style-type: none">a) Environment. The franchisee shall<u>must</u> design and operate the facility to preclude the creation of<u>avoid</u> undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste, asbestos and other prohibited wastes.b) Health and safety. The franchisee shall<u>must</u> design and operate the facility to preclude the creation of<u>avoid</u> conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.c) Nuisances. The franchisee shall<u>must</u> design and operate the facility to preclude the creation of<u>avoid</u> nuisance conditions including, but not limited to, litter, dust, odors, and noise.



5.2	Qualified operator	<ol style="list-style-type: none">1. The franchisee shall<u>must</u>, during all hours of operation, provide an operating staff employed by the facility and qualified and competent to carry out the functions required by this franchise and to otherwise ensure compliance<u>comply</u> with Metro Code Chapter 5.01.2. Facility personnel, as relevant to their job duties and responsibilities, shall<u>must</u> be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan.3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.
5.3	Fire prevention	The franchisee shall <u>must</u> provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from processing and storage areas.
5.4	Adequate vehicle accommodation	The franchisee shall <u>must</u> : <ol style="list-style-type: none">a) Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. <u>The franchisee must maintain access roads</u> Access roads shall be maintained to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather.b) Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles shall<u>must</u> not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances.c) Post signs to inform customers not to queue on public roadways.d) Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site tarping and untarping of loads.
5.5	Managing prohibited wastes	<ol style="list-style-type: none">1. The franchisee shall<u>must</u> reject prohibited waste upon discovery and shall<u>must</u> properly manage and dispose of prohibited waste when unknowingly received.2. The franchisee shall<u>must</u> implement a load-checking program



		<p>to prevent the acceptance of accepting prohibited waste, that is prohibited by the franchise. This program must include at a minimum:</p> <ul style="list-style-type: none">a) Visual inspection. As each load is tipped, a qualified operator shall<u>must</u> visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise.b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas shall<u>must</u> be covered and enclosed to prevent leaking and contamination.c) Record maintenance. <u>The franchisee must maintain records</u> Records of the training of personnel in the recognition, proper handling, and disposition of prohibited waste shall be maintained in the operating record and <u>make those records</u> be available for review by Metro. <p>3. Upon discovery, the franchisee shall<u>must</u> remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the franchisee unknowingly receives shall<u>must</u> be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by the DEQ or local government.</p>
5.6	Storage and exterior stockpiles	<p>The franchisee shall<u>must</u>:</p> <ul style="list-style-type: none">a) Manage, contain, and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards;b) Maintain storage areas in an orderly manner and keep the areas free of litter;c) Position exterior stockpiles within footprints identified on the facility site plan or operating plan; andd) Not stockpile recovered or source-separated materials for longer than 180 days (6 months).
5.7	Dust, airborne debris and litter	<p>The franchisee shall<u>must</u> operate the facility in a manner that minimizes and mitigates the generation of dust, airborne debris and litter, and shall<u>must</u> prevent its migration beyond property</p>



		<p>boundaries. The franchisee shall<u>must</u>:</p> <ul style="list-style-type: none">a) Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit;b) Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit;c) Maintain and operate all access roads and receiving, processing, storage, and reload areas in such a manner as to minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site;d) Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation;e) Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; andf) Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, shall<u>must</u> be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Section 5.09.040 of the Metro Code.
5.8	Odor	<ul style="list-style-type: none">1. The franchisee shall<u>must</u> operate the facility in a manner that prevents the generation of odors that are detectable off-site.2. The franchisee shall<u>must</u> establish and follow procedures in the operating plan for minimizing odor at the facility.
5.9	Vectors (e.g. birds, rodents, insects)	<ul style="list-style-type: none">1. The franchisee shall<u>must</u> operate the facility in a manner that is not conducive to the harborage of<u>harboring</u> rodents, birds, insects, or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.



		<p>2. If vectors are present or detected at the facility, the franchisee shall<u>must</u> implement vector control measures.</p>
5.10	Noise	<p>The franchisee shall<u>must</u> operate the facility in a manner that prevents the creation of<u>avoids</u> noise sufficient to cause adverse off-site impacts and to the extent necessary to meet applicable regulatory standards and land-use regulations.</p>
5.11	Water contaminated by solid waste and solid waste leachate	<p>The franchisee shall<u>must</u> operate the facility consistent with an approved DEQ stormwater management plan or equivalent and shall<u>must</u>:</p> <ul style="list-style-type: none">a) Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; andb) Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state, and federal laws and regulations.
5.12	Access control	<p>1. The franchisee shall<u>must</u> control access to the facility as necessary to prevent unauthorized entry and dumping.</p> <p>2. The franchisee shall<u>must</u> maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.</p>
5.13	Signage	<p>The franchisee shall<u>must</u> post signs at all public entrances to the facility, and in conformity<u>The signs must comply</u> with local government signage regulations. These signs shall<u>must</u> be easily and readily visible, and legible from off-site during all hours and shall<u>must</u> contain at least the following information:</p> <ul style="list-style-type: none">a) Name of the facility;b) Address of the facility;c) Emergency telephone number for the facility;d) Operating hours during which the facility is open for the receipt of authorized waste;e) Fees and charges;f) Metro's name and telephone number (503) 234-3000;g) A list of authorized and prohibited wastes;h) Vehicle / traffic flow information or diagram;



		<ul style="list-style-type: none">i) Covered load requirements; andj) Directions not to queue on public roadways.
5.14	Nuisance complaints	<p>1. The franchisee shall<u>must</u> respond to all nuisance complaints in timely manner (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), and shall<u>must</u> keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.</p> <p>2. If the facility receives a complaint, the Franchisee shall<u>must</u>:</p> <ul style="list-style-type: none">a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); andb) Log all such complaints as provided by the operating plan. The franchisee must retain each<u>Each</u> log entry shall be retained for one year and shall it must be available for inspection by Metro.
5.15	Access to franchise document	The franchisee shall <u>must</u> maintain a copy of this franchise on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.

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



6.4	Access to operating plan	The franchisee shall must maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
6.5	Procedures for inspecting loads	The operating plan shall must establish: <ul style="list-style-type: none">a) Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes;b) Procedures for identifying incoming and outgoing loads for waste classifications;c) A set of objective criteria for accepting and rejecting loads; andd) An asbestos testing protocol for all materials that appear to contain friable asbestos.
6.6	Procedures for processing and storage of loads	The operating plan shall must establish procedures for: <ul style="list-style-type: none">a) Processing authorized solid wastes;b) Reloading and transfer of authorized solid wastes;c) Managing stockpiles to ensure that they remain within the authorized weights, volumes and pile heights;d) Storing authorized solid wastes; ande) Minimizing storage times and avoiding delay in processing of authorized solid wastes.
6.7	Procedures for managing prohibited wastes	The operating plan shall must establish procedures for managing, reloading, and transferring to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan shall must establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.
6.8	Procedures for odor prevention	The operating plan shall must establish procedures for preventing objectionable odors generated at the facility from being detected off the premises of the facility. The plan must include: <ul style="list-style-type: none">a) A management plan that will be used to monitor and manage odors of any derivation including malodorous loads delivered to the facility; andb) Procedures for receiving and recording odor complaints,



		immediately investigating all odor complaints to determine the cause of odor emissions, and remedying promptly all odor problems at the facility.
6.9	Procedures for dust prevention	<p>The operating plan shall<u>must</u> establish procedures for preventing dust from blowing off the premises of the facility. The plan must include:</p> <ul style="list-style-type: none">a) A management plan that <u>the franchisee will be used</u>use to monitor and manage dust of any derivation; andb) Procedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions, and remedying promptly all dust problems at the facility.
6.10	Procedures for emergencies	<p>The operating plan shall<u>must</u> establish procedures <u>that the franchisee will follow</u>to be followed in case of fire or other emergency.</p>
6.11	Procedures for nuisance complaints	<ol style="list-style-type: none">1. For every nuisance complaint (for example odor, dust, vibrations, and litter) received, the franchisee shall<u>must</u> record:<ul style="list-style-type: none">a) The nature of the complaint;b) The date the complaint was received;c) The name, address and telephone number of the person or persons making the complaint; andd) Any actions taken by the operator in response to the complaint (whether successful or unsuccessful).2. The franchisee shall<u>must</u> make records of such information available to Metro upon request. The franchisee shall<u>must</u> retain each complaint record for a period of not less than one year.
6.12	Closure protocol	<p>The franchisee shall<u>must</u> establish protocol for closure and restoration of the site in the event of a long-term cessation of operations as provided in Metro Code Section 5.01.072(c)(3).</p>
6.13	Financial assurance	<p>The franchisee shall<u>must</u> maintain financial assurance in the amount of \$25,000 for the cost of the facility's closure and maintain such financial assurance in a form approved by Metro for the term of this franchise.</p>



7.0	FEES AND RATE SETTING	
7.1	Purpose	This section of the franchise specifies fees payable by the franchisee, and describes rate regulation by Metro.
7.2	Annual fee	The franchisee shall must pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
7.3	Rates not regulated	<p><u>1. The rates charged by the franchisee for accepting solid waste are not subject to regulation by Metro unless the Metro Council adopts an ordinance that establishes Metro's rate regulation authority.</u></p> <p><u>2. Notwithstanding the provision above, the rates charged by the franchisee must not exceed the rates posted at the facility as described in Section 5.13.</u></p> <p>The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro.</p>
7.4	Rate review	<p><u>1. Metro may review the franchisee's financial records for the purpose of determining whether the rates charged for the disposal of solid waste related to the costs of accepting, managing, transporting, and disposing of the waste by the franchisee are in the public interest. For purposes of this section, "costs" are defined to include general and administrative expenses including but not limited to allocated costs and normal profit for the private transfer station industry.</u></p> <p><u>2. As provided in this section, the franchisee must provide Metro access to the financial records that are sufficient to determine the information described above.</u></p>
7.54	Metro fee and tax imposed on disposal	The franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.
7.65	Metro community enhancement fee imposed on waste received	Effective July 1, 2015, the The franchisee shall must collect and remit to Metro a community enhancement fee, as provided in Metro Code Chapter 5.06, in an amount equal to \$1.00 per ton for all putrescible waste including food waste and residential yard



		debris mixed with food waste. The franchisee shall must remit the community enhancement fees to Metro on a monthly basis in conjunction with fees remitted in Section 7.45.
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8.0	RECORD KEEPING AND REPORTING	
8.1	Purpose	This section of the franchise describes record keeping and reporting requirements. The franchisee shall must effectively monitor facility operation and maintain accurate records of the information described in this section.
8.2	<u>Reporting-Record keeping requirements</u>	<p><u>For all solid waste and materials the franchisee is authorized to accept under Section 3.0, the franchisee must keep and maintain accurate records of the amount of authorized materials the franchisee accepts, recovers, recycles, reloads, and disposes. These records include the information specified in the Metro document titled, Reporting Requirements and Data Standards for Metro Solid Waste Licenses, Franchises, and Parties to Designated Facility Agreements.</u></p> <p>1. For all solid waste and materials the franchisee is authorized to receive under Section 3.0 of this franchise, the franchisee shall keep and maintain accurate records of the amount of such materials the franchisee receives, recovers, recycles, reloads, and disposes.</p> <p>2. The franchisee shall keep and maintain complete and accurate records of the following for all transactions:</p> <ul style="list-style-type: none"> a) Ticket Number (should be the same as the ticket number on the weight slips); b) Customer account numbers identifying incoming customers and outgoing destinations; c) Description whether the load was incoming to the facility or outgoing from the facility; d) Material Category: Code designating the following types of material (more detail, such as differentiating yard debris, is acceptable): (1) incoming source-separated recyclable materials by type; (2) incoming non-putrescible waste; (3) incoming putrescible waste (4) outgoing recyclable materials by type; (5) outgoing non-putrescible waste; (6) outgoing putrescible waste; e) Origin: Code designating the following origin of material:



		<p>(1) from inside Metro boundaries; (2) from within Multnomah, Clackamas and Washington Counties but outside Metro boundaries; and (3) from another location outside Metro boundaries:</p> <p>i. Any load containing any amount of waste from within the Metro region shall be reported as if the entire load was generated from inside the Metro region.</p> <p>ii. If the Franchisee elects to report all loads delivered to the facility as being generated from inside the Metro region, then the Franchisee is not required to designate the origin of loads as described above in Subsections (c)(2) and (c)(3).</p> <p>f) Date the load was received at, transferred within, or transmitted from the facility;</p> <p>g) Time the load was received at, transferred within, or transmitted from the facility;</p> <p>h) Indicate whether Franchisee accepted or rejected the load;</p> <p>i) Net weight of the load; and</p> <p>The fee charged to the generator of the load.</p>
8.3	<u>Record transmittals</u> <u>Reporting requirements</u>	<p>The franchisee shallmust transmit to Metro records required under Section 8.0 and the corresponding summary report derived from such records no later than fifteen days following the end of each month in a format prescribed by Metro.</p>
8.4	Material recovery reporting	<p>The franchisee shallmust provide the results of its quarterly sampling of processing residual, as provided in Section 3.6 of this franchise, to Metro as a component of its monthly report no later than fifteen days following the end of the each quarter in a format prescribed by Metro.</p>
8.5	Account number listing	<p>Within five business days of Metro's request, franchisee shallmust provide Metro with a listing that cross-references the account numbers used in the transaction database with the company's name and address.</p>
8.6	Transactions based on scale weights	<p>Except for minimum fee transactions for small, lightweight loads, the franchisee shallmust record each inbound and outbound transaction electronically based on actual and accurate scale</p>



		weights using the franchisee's on-site scales.
8.7	DEQ submittals	The franchisee shall <u>must</u> provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
8.8	Copies of enforcement actions provided to Metro	The franchisee shall <u>must</u> ensure Metro receives copies of any notice of violation or noncompliance, citation, or any other similar enforcement actions issued to the franchisee by any federal, state, or local government (other than Metro), and related to the operation of the facility.
8.9	Unusual occurrences	<ol style="list-style-type: none">1. The franchisee shall<u>must</u> keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.2. The franchisee must notify Metro within 24 hours of any breakdown of the franchisee's equipment if the breakdown occurs that will substantially impact the facility's ability of the facility to comply with this franchise or with Metro Code remain in compliance, or which will create off-site impacts, the Franchisee shall notify Metro within 24 hours.3. The franchisee shall<u>must</u> report any facility fires, accidents, emergencies, and other significant incidents to Metro within 12 hours of the discovery of their occurrence.
8.10	Changes in ownership	<ol style="list-style-type: none">1. Any change in control of franchisee or the transfer of a controlling interest of franchisee shall<u>requires</u> prior written notice to Metro. "Transfer of a controlling interest of franchisee" includes without limitation the transfer of 10% or more of the ownership of franchisee to or from a single entity. Metro may amend<u>modify</u> this franchise under Section 11.3 to require the new ownership of franchisee to assume all the rights and obligations of this franchise.2. The franchisee may not lease, assign, mortgage, sell, or otherwise transfer control of the franchise unless the franchisee follows the requirements of Metro Code Section 5.01.076.



9.0		INSURANCE REQUIREMENTS
9.1	Purpose	This section describes the types of insurance that the franchisee shall <u>must</u> purchase and maintain at the franchisee's expense, covering the franchisee, its employees, and agents. The franchisee shall <u>must</u> provide Metro with documentation demonstrating that it holds all of the required insurance coverage described in Section 9.0 -of this franchise.
9.2	General liability	The franchisee shall <u>must</u> carry the most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence and \$1,000,000 aggregate. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed operations. Contractor's coverage will be primary as respects Metro.
9.3	Automobile	The franchisee shall <u>must</u> carry automobile bodily injury and property damage liability insurance.
9.4	Coverage	Insurance coverage shall <u>must</u> be a minimum of \$1,000,000 per occurrence and \$1,000,000 aggregate.



9.5	Additional insureds	Metro, its elected officials, departments, employees, and agents shall <u>must</u> be named as ADDITIONAL INSURED.
9.6	Worker's Compensation Insurance	The franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law shall <u>must</u> comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. The franchisee shall <u>must</u> provide Metro with certification of Workers' Compensation insurance including employer's liability. If the franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
9.7	Notification	The franchisee shall <u>must</u> give at least 30 days written notice to the COO of any lapse or proposed cancellation of insurance coverage.

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



		penalties as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation.
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11.0	AMENDMENT, MODIFICATION, SUSPENSION, AND REVOCATION	
11.1	Amendment by agreement	At any time during the term of the franchise, either the COO or the franchisee may propose amendments to this franchise. If either the COO or the franchisee proposes amendments to this franchise, both parties shall <u>will</u> make good faith efforts to arrive at consensus on the intent and implementing language of said amendments.
11.2	Amendment by Metro Council action	<p>Except as provided in Section 11.3, the provisions of this franchise shall<u>will</u> remain in effect unless the Metro Council:</p> <ul style="list-style-type: none"> a) Amends the Metro Code, amends the Regional Solid Waste Management Plan, or implements other legislation of broad applicability that affects the class of facilities of which this franchisee is a member; and b) Adopts an ordinance amending this franchise to implement the policy, code or process specified by said ordinance. <p>If, in the course of considering an ordinance amending this franchise as provided in (b) above, the franchisee provides evidence that the amendment will result in significant capital cost to the franchisee, the Metro Council will include capital cost and the ability of the franchisee to achieve a reasonable rate of return on any additional investment required as factors when considering whether to adopt the ordinance.</p>
11.3	Amendment Modification, suspension or revocation by Metro for cause	<p>In addition to the modifications-amendments authorized by Sections 4.2 -1.5 and 4.3 of this franchise, the COO may, at any time before the expiration date, amend modify, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ul style="list-style-type: none"> a) Violation of the terms or conditions of this franchise, Metro Code, or any applicable statute, rule, or standard; b) Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this franchise;



		<p>c) Failure to disclose fully all relevant facts;</p> <p>d) A significant release into the environment from the facility;</p> <p>e) Significant change in the character of solid waste received or in the operation of the facility;</p> <p>f) Any change in ownership or control;</p> <p>g) A request from the local government stemming from impacts resulting from facility operations; and</p> <p><u>h) Compliance history of the franchisee; and</u></p> <p><u>h)i) Changes in regional tonnage trends or actual solid waste generation.</u></p>
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12.0	GENERAL OBLIGATIONS	
12.1	Compliance with law	<p>The franchisee shall<u>must</u> fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be<u>are</u> deemed part of this franchise as if specifically set forth herein. Such-These conditions and permits include those cited within or attached as exhibits to the franchise document, as well as any existing at the time the issuance of the franchise<u>franchise is issued</u> but not cited or attached, and permits or conditions issued or modified<u>amended</u> during the term of the franchise.</p>
12.2	Deliver waste to appropriate destinations	<p>The franchisee shall<u>must</u> ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.</p>
12.3	Right of inspection and audit	<p>1. Authorized representatives of Metro may take photographs, collect samples of materials, and perform such any inspection or audit as the COO deems appropriate. The franchisee must allow authorized representatives and shall be permitted access</p>



		<p>to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 12.54of this franchise, Metro's right to inspect shall includes the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of franchisee that are directly related to the operation of the facility.</p> <p>2. The franchisee shall<u>must</u> permit access to the facility premises to authorized representatives of Metro, including personnel on contract to Metro, at all reasonable times during business hours with or without notice to determine whether the franchisee meets the minimum level of recovery as provided in Section 3.6of this franchise. The franchisee shall<u>must</u> provide:</p> <ul style="list-style-type: none">a) Access to all areas where it generates, manages, stores, and reloads processing residual, including without limitation to transfer vehicles;b) Access to facility personnel and equipment to collect, segregate, contain, and weigh individual samples of processing residual; andc) A safe, covered location away from working areas and vehicle traffic where authorized representatives of Metro may conduct an analysis of the franchisee's processing residual.
12.4	Confidential information	<p>The franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The franchisee shall<u>must</u> prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall<u>will</u> treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt of a request for disclosure of information identified by</p>



		<p>franchisee as confidential, Metro shall will provide franchisee written notice of the request. The franchisee shall will have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. The franchisee <u>is responsible for shall pay</u> any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. This Section 12.0 shall does not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such those representatives agree to continue to treat such the information as confidential and make good faith efforts not to disclose such the information</p>
12.5	Compliance by agents	<p>The franchisee shall be is responsible for ensuring that its agents and contractors operate in compliance <u>comply</u> with this franchise.</p>

Agenda Item No. 6.3

Ordinance No. 16-1383, For the Purpose of Approving a Franchise Term Extension, Allocating Tonnage, and Authorizing the Chief Operating Officer to Issue an Amended Franchise for Willamette Resources, Inc. and Declaring an Emergency

Ordinances (first read)

Metro Council Meeting
Thursday, October 13, 2016
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING A	)	ORDINANCE NO. 16-1383
FRANCHISE TERM EXTENSION,)	
ALLOCATING TONNAGE, AND	)	Introduced by Chief Operating Officer Martha
AUTHORIZING THE CHIEF OPERATING	)	Bennett in concurrence with Council
OFFICER TO ISSUE AN AMENDED	)	President Tom Hughes
FRANCHISE FOR WILLAMETTE RESOURCES,)	
INC. AND DECLARING AN EMERGENCY)	

WHEREAS, Metro Code Section 5.01.070(a)(2) states that a Metro Solid Waste Facility Franchise is required for any person owning or controlling a facility that operates a Transfer Station; and

WHEREAS, Willamette Resources, Inc. operates a Transfer Station and holds Metro Solid Waste Facility Franchise Number F-005-08F, which will expire on December 31, 2016; and

WHEREAS, Metro Code Section 5.01.073(k) establishes a franchise term as not more than five years; and

WHEREAS, Metro remains engaged in the Solid Waste Roadmap process, which is a long term effort to determine the best approach to managing the region's solid waste and other discarded materials; and

WHEREAS, on July 21, 2016, the Metro Council adopted a transfer system configuration policy via Resolution No. 16-4716 to ensure that the regional transfer system provides maximum public benefit and that Metro maintain the current configuration of public and private transfer stations; and

WHEREAS, the transfer system configuration policy requires that Metro (1) allocate tonnage on a percentage basis to ensure flow to public stations; (2) develop by administrative rule a consistent process and framework for adjusting allocations in the future; (3) limit the amount of putrescible solid waste any one private company may transfer; and (4) ensure transfer station rate transparency; and

WHEREAS, the Chief Operating Officer recommends amending the franchise to increase the tonnage allocation authorization, but with no further tonnage allocation adjustment until the Metro Council adopts an administrative rule outlining the allocation adjustment process; and

WHEREAS, the Chief Operating Officer further recommends amending the franchise to require a franchisee to provide 30-days notice when denying waste haulers access to a facility, to add provisions designed to increase transfer station rate transparency, and other housekeeping changes to improve readability and consistency; and

WHEREAS, the Chief Operating Officer recommends that the Metro Council extend the franchise for three additional years to December 31, 2019, in order to maintain continuity in the transfer station system while the Solid Waste Roadmap process continues; and

WHEREAS, the Metro Council finds that the proposed amendments are in the public interest; and

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

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The transfer station franchise amendments for Willamette Resources, Inc. Transfer Station are approved subject to the terms, conditions, and limitations contained in Exhibit A.
2. The Chief Operating Officer is authorized to issue to Willamette Resources, Inc. an amended Solid Waste Facility Franchise substantially similar to the one attached as Exhibit A.
3. That this Ordinance being necessary for the health, safety, and welfare of the Metro area by ensuring that transfer stations have ongoing Metro authorization to accept putrescible waste, an emergency is declared to exist pursuant to Metro Charter Section 38 (1), and this Ordinance will take effect on January 1, 2017.

ADOPTED by the Metro Council this ____ day of October 2016.

Tom Hughes, Council President

Attest:

Approved as to Form:

Nellie Papsdorf, Recording Secretary

Alison R. Kean, Metro Attorney

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



SOLID WASTE FACILITY FRANCHISE

No. F-005-08G

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

This franchise replaces and supersedes the provisions of Metro Solid Waste Facility Franchise No. F-005-08F. Metro grants this franchise to the franchisee named above. The franchisee is authorized to operate and maintain a solid waste facility and to accept the solid wastes and perform the activities authorized by and subject to the conditions stated in this franchise.

ISSUED BY METRO:

Paul Slyman, Property and Environmental Services Director

Date



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1.0	ISSUANCE	
1.1	Franchisee	Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523
1.2	Corporate affiliation	Republic Services, Inc. 18500 North Allied Way Phoenix, AZ 85054
1.3	Contact	Jason Jordan, General Manager Phone: (503) 570-0626 ext. 228 e-mail: jjordan4@republicservices.com
1.4	Franchise number	When referring to this franchise, please cite: Metro Solid Waste Facility Franchise No. F-005-08G.
1.5	Term	The franchise originally commenced on January 1, 2009, with a termination date of December 31, 2016. The franchise is now extended to terminate on December 31, 2019, unless amended, suspended, or revoked as provided in this franchise.
1.6	Renewal	The franchisee may apply for a franchise renewal as provided in Metro Code Chapter 5.01.
1.7	Facility name and mailing address	Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523
1.8	Operator	Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523
1.9	Facility premises description	Tax Lot Identification No. 3S102C001400 and No. 3S102C001500, City of Wilsonville, Washington County, State of Oregon



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

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



		and agents.
2.8	Waivers	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 11.0 and be in writing and signed by the COO.
2.9	Effect of waiver	Waiver of a term or condition of this franchise does not waive nor prejudice Metro’s right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.10	Choice of law	The franchise will be construed, applied, and enforced in accordance with the laws of the State of Oregon.
2.11	Enforceability	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise will not be affected.
2.12	Franchise not a waiver	This franchise does not relieve any owner, operator, or the franchisee from the obligation to obtain all required permits, franchises, or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.13	Franchise not limiting	This franchise does not limit the power of a federal, state, or local agency to enforce any provision of law relating to the facility.
2.14	Definitions	<ol style="list-style-type: none"> 1. “Mixed Non-Putrescible Waste” means a mixture of more than one type of non-putrescible waste, including commingled recyclables other than residential curbside recyclable material. This category includes construction and demolition waste but excludes Cleanup Materials Contaminated by Hazardous Substances, Source-Separated Recyclable Material, special waste, land clearing debris and yard debris. 2. Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.00.

3.0	AUTHORIZATIONS	
3.1	Purpose	This section of the franchise describes the wastes that the franchisee is authorized to accept at the facility and the waste-



		related activities the franchisee is authorized to perform at the facility.
3.2	General conditions on solid waste	The franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
3.3	General conditions on activities	The franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.
3.4	Acceptance and management of putrescible solid waste	<ol style="list-style-type: none">1. The franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 12.2. The franchisee also is authorized to accept putrescible waste for material recovery.2. The franchisee must receive, manage, store, reload, and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers.3. The franchisee is authorized to accept putrescible waste generated inside the Metro region only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
3.5	Acceptance and management of mixed non-putrescible solid waste	<ol style="list-style-type: none">1. The franchisee is authorized to accept mixed non-putrescible solid waste for material recovery.2. The franchisee must receive, sort, store, reload, and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover prior to processing, within 12 hours of receipt, or by the end of the business day, whichever is earlier.3. The franchisee is authorized to accept mixed non-putrescible waste from all customers including public self-haul.
3.6	Material recovery required	<ol style="list-style-type: none">1. The franchisee must perform material recovery on mixed non-putrescible wastes. The franchisee must ensure that the



		<p>facility is designed and operated to assure materials are recovered in a timely manner and to protect the quality of non-putrescible waste that has not yet undergone material recovery. The franchisee must perform recovery at no less than the minimum level stipulated in Metro Code Chapter 5.01.</p> <p>2. The franchisee must take quarterly samples of processing residual that are statistically valid and representative of the facility's residual. Each sample required by this section must weigh at least 300 pounds.</p>
3.7	Management of processing residual from material recovery	<p>The franchisee must store, reload, and transfer all non-putrescible waste processing residual on an impervious surface and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers.</p>
3.8	Acceptance of source-separated recyclable materials	<p>1. The franchisee must provide a place for collecting source-separated recyclable materials on the facility premises.</p> <p>2. The franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.</p>
3.9	Acceptance of yard debris	<p>The franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.</p>
3.10	Acceptance of source-separated food waste	<p>The franchisee is authorized to accept source-separated food waste that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The franchisee may accept source-separated food waste only for reloading to authorized facilities for composting or other useful purposes as described in an operating plan and approved in writing by the COO.</p>
3.11	Acceptance of untreated wood	<p>The franchisee is authorized to accept for processing and reloading, source-separated, untreated and unpainted wood</p>



		waste, for example untreated lumber and wood pallets. The franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.12	Acceptance of painted and treated wood	The franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by the COO. The franchisee must not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock, or any other product unless otherwise described in an operating plan and approved in writing by the COO.
3.13	Acceptance of electronics devices	The franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer, and other similar functions related to preparing these materials for reuse, recycling, or disposal as required by the Oregon Department of Environmental Quality (DEQ).
3.14	Acceptance of inert material	The franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer, and other similar functions related to preparing these materials for useful purposes.
3.15	Acceptance of infectious waste	The franchisee is authorized to accept infectious waste for short-term storage up to 72 hours pending transport to an appropriate disposal location.
3.16	Acceptance of special waste	The franchisee is authorized to accept non-hazardous special waste for short-term storage up to 48 hours pending transport to an appropriate disposal location.
3.17	Production of hogged fuel	<ol style="list-style-type: none">1. As authorized by Section 3.0, the franchisee is authorized to accept and process only untreated wood, painted wood, and incidental quantities of treated wood for delivery to facilities with industrial boilers for use as hogged fuel.2. The franchisee is prohibited from mixing any other solid waste with the wood wastes described above in Section 3.17.1 for the production of hogged fuel.



4.0	LIMITATIONS AND PROHIBITIONS	
4.1	Purpose	This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility.
4.2	Tonnage allocation	<ol style="list-style-type: none">1. The franchisee is authorized to accept putrescible waste generated inside the Metro region as follows:<ol style="list-style-type: none">a) For calendar year 2017, beginning on January 1 and ending December 31, 2017, the franchisee is authorized to accept up to 77,435 tons of putrescible waste generated inside the Metro region;b) In October 2017, the COO will allocate tonnage for calendar year 2018 and amend Section 4.2 of this franchise as described in the staff report to Ordinance No. 16-1383; andc) In October 2018, the COO will allocate tonnage for calendar year 2019 and amend Section 4.2 of this franchise as described in the staff report to Ordinance No. 16-1383.2. Metro bases its tonnage allocations on its <i>Solid Waste Forecast</i>. Although Metro makes every effort to include accurate and reliable information in its forecast, Metro may adjust tonnage allocations based on tonnage trends and actual solid waste generation.
4.3	Waste hauler access	It is in the public's best interest that transfer stations located inside the Metro region maintain adequate capacity to accommodate solid waste generated within the region and provide adequate access to waste haulers that collect solid waste within the geographic proximity of the facility. Therefore: <ol style="list-style-type: none">a) The franchisee must not accept solid waste generated outside the Metro region if to do so would limit the franchisee from accepting any putrescible or non-putrescible waste generated inside the Metro region;b) The franchisee should not accept solid waste collected outside of the geographic proximity of the facility if to do so would deny access to waste haulers that collect solid waste within the geographic proximity of the facility;



		<p>c) The franchisee must not deny access to any unaffiliated waste hauler without due cause or written notice 30-days in advance; and</p> <p>d) The COO may require the franchisee to provide a written explanation of its rationale if the facility denies access or refuses service to a waste hauler.</p>
4.4	Prohibited waste	The franchisee must not knowingly receive, process, reload, or dispose of any solid waste not authorized by this franchise. The franchisee must not knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; radioactive waste; hazardous waste; or any waste prohibited by the DEQ.
4.5	Prohibition on mixing	<ol style="list-style-type: none">1. The franchisee must not mix or commingle any source-separated recyclable materials, source-separated yard debris or wood wastes brought to the facility with any unprocessed solid wastes or solid wastes destined for disposal.2. The franchisee must not mix or commingle putrescible solid waste with unprocessed non-putrescible solid waste or processing residual except when such mixing is described in an operating plan and approved in writing by the COO.
4.6	Prohibition of size reduction on non-putrescible waste	The franchisee must not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, or processing residual consolidation or loading operations, and such size reduction is described in an operating plan and approved in writing by the COO.
4.7	No disposal of recyclable materials	The franchisee must not transfer source-separated recyclable materials to a disposal site, including without limitation landfills and incineration facilities.
4.8	Composting prohibited	The franchisee must not keep yard debris on site long enough for more than negligible biological decomposition to begin.
4.9	Limits not exclusive	This franchise will not be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance,



		order or permit.
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5.0 OPERATING CONDITIONS		
5.1	Purpose and general performance goals	<p>This section of the franchise describes criteria and standards for the operation of the facility. The franchisee must operate in a manner that meets the following general performance goals:</p> <ul style="list-style-type: none">a) Environment. The franchisee must design and operate the facility to avoid undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste, asbestos and other prohibited wastes.b) Health and safety. The franchisee must design and operate the facility to avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.c) Nuisances. The franchisee must design and operate the facility to avoid nuisance conditions including, but not limited to, litter, dust, odors, and noise.
5.2	Qualified operator	<ul style="list-style-type: none">1. The franchisee must, during all hours of operation, provide an operating staff employed by the facility and qualified and competent to carry out the functions required by this franchise and to otherwise comply with Metro Code Chapter 5.01.2. Facility personnel, as relevant to their job duties and responsibilities, must be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan.3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.
5.3	Fire prevention	<p>The franchisee must provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from processing and storage areas.</p>



5.4	Adequate vehicle accommodation	<p>The franchisee must:</p> <ul style="list-style-type: none">a) Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. The franchisee must maintain access roads to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather.b) Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles must not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances.c) Post signs to inform customers not to queue on public roadways.d) Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site tarping and untarping of loads.
5.5	Managing prohibited wastes	<ul style="list-style-type: none">1. The franchisee must reject prohibited waste upon discovery and must properly manage and dispose of prohibited waste when unknowingly received.2. The franchisee must implement a load-checking program to prevent accepting prohibited waste. This program must include at a minimum:<ul style="list-style-type: none">a) Visual inspection. As each load is tipped, a qualified operator must visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise.b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas must be covered and enclosed to prevent leaking and contamination.c) Record maintenance. The franchisee must maintain records of the training of personnel in the recognition, proper handling, and disposition of prohibited waste and make those records available for review by Metro.3. Upon discovery, the franchisee must remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the franchisee unknowingly



		receives must be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by the DEQ or local government.
5.6	Storage and exterior stockpiles	<p>The franchisee must:</p> <ul style="list-style-type: none">a) Manage, contain, and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards;b) Maintain storage areas in an orderly manner and keep the areas free of litter;c) Position exterior stockpiles within footprints identified on the facility site plan or operating plan; andd) Not stockpile recovered or source-separated materials for longer than 180 days (6 months).
5.7	Dust, airborne debris and litter	<p>The franchisee must operate the facility in a manner that minimizes and mitigates the generation of dust, airborne debris and litter, and must prevent its migration beyond property boundaries. The franchisee must:</p> <ul style="list-style-type: none">a) Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit;b) Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit;c) Maintain and operate all access roads and receiving, processing, storage, and reload areas in such a manner as to minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site;d) Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation;e) Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of



		<p>mud off-site; and</p> <p>f) Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, must be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Section 5.09.040 of the Metro Code.</p>
5.8	Odor	<ol style="list-style-type: none">1. The franchisee must operate the facility in a manner that prevents the generation of odors that are detectable off-site.2. The franchisee must establish and follow procedures in the operating plan for minimizing odor at the facility.
5.9	Vectors (e.g. birds, rodents, insects)	<ol style="list-style-type: none">1. The franchisee must operate the facility in a manner that is not conducive to harboring rodents, birds, insects, or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.2. If vectors are present or detected at the facility, the franchisee must implement vector control measures.
5.10	Noise	<p>The franchisee must operate the facility in a manner that avoids noise sufficient to cause adverse off-site impacts and to the extent necessary to meet applicable regulatory standards and land-use regulations.</p>
5.11	Water contaminated by solid waste and solid waste leachate	<p>The franchisee must operate the facility consistent with an approved DEQ stormwater management plan or equivalent and must:</p> <ol style="list-style-type: none">a) Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; andb) Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state, and federal laws and regulations.
5.12	Access control	<ol style="list-style-type: none">1. The franchisee must control access to the facility as necessary to prevent unauthorized entry and dumping.



		<p>2. The franchisee must maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.</p>
5.13	Signage	<p>The franchisee must post signs at all public entrances to the facility. The signs must comply with local government signage regulations. These signs must be easily and readily visible, and legible from off-site during all hours and must contain at least the following information:</p> <ul style="list-style-type: none">a) Name of the facility;b) Address of the facility;c) Emergency telephone number for the facility;d) Operating hours during which the facility is open for the receipt of authorized waste;e) Fees and charges;f) Metro's name and telephone number (503) 234-3000;g) A list of authorized and prohibited wastes;h) Vehicle / traffic flow information or diagram;i) Covered load requirements; andj) Directions not to queue on public roadways.
5.14	Nuisance complaints	<p>1. The franchisee must respond to all nuisance complaints in timely manner (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), and must keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.</p> <p>2. If the facility receives a complaint, the Franchisee must:</p> <ul style="list-style-type: none">a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); andb) Log all such complaints as provided by the operating plan. The franchisee must retain each log entry for one year and it must be available for inspection by Metro.
5.15	Access to franchise document	<p>The franchisee must maintain a copy of this franchise on the facility's premises, and in a location where facility personnel and</p>



		Metro representatives have ready access to it.
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6.0	OPERATING PLAN	
6.1	Purpose	This section lists the requirements associated with preparing and implementing a facility operating plan, and lists the procedures that must be included in the required facility operating plan.
6.2	Plan compliance	The franchisee must operate the facility in accordance with an operating plan approved in writing by the COO. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this franchise. The franchisee may amend or revise the operating plan from time to time, subject to written approval by the COO.
6.3	Plan maintenance	The franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures, and requirements. The franchisee must submit amendments and revisions of the operating plan to the COO for written approval prior to implementation.
6.4	Access to operating plan	The franchisee must maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
6.5	Procedures for inspecting loads	The operating plan must establish: <ul style="list-style-type: none"> a) Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes; b) Procedures for identifying incoming and outgoing loads for waste classifications; c) A set of objective criteria for accepting and rejecting loads; and d) An asbestos testing protocol for all materials that appear to contain friable asbestos.
6.6	Procedures for processing and storage of loads	The operating plan must establish procedures for: <ul style="list-style-type: none"> a) Processing authorized solid wastes; b) Reloading and transfer of authorized solid wastes including, but not limited to; <ul style="list-style-type: none"> i. Loading waste for delivery to disposal sites; and



		<ul style="list-style-type: none">ii. Record keeping and reporting procedures for mixed outbound loads.c) Managing stockpiles to ensure that they remain within the authorized weights, volumes and pile heights;d) Storing authorized solid wastes; ande) Minimizing storage times and avoiding delay in processing of authorized solid wastes.
6.7	Procedures for managing prohibited wastes	The operating plan must establish procedures for managing, reloading, and transferring to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan must establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.
6.8	Procedures for odor prevention	The operating plan must establish procedures for preventing objectionable odors generated at the facility from being detected off the premises of the facility. The plan must include: <ul style="list-style-type: none">a) A management plan that will be used to monitor and manage odors of any derivation including malodorous loads delivered to the facility; andb) Procedures for receiving and recording odor complaints, immediately investigating all odor complaints to determine the cause of odor emissions, and remedying promptly all odor problems at the facility.
6.9	Procedures for dust prevention	The operating plan must establish procedures for preventing dust from blowing off the premises of the facility. The plan must include: <ul style="list-style-type: none">a) A management plan that the franchisee will use to monitor and manage dust of any derivation; andb) Procedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions, and remedying promptly all dust problems at the facility.
6.10	Procedures for emergencies	The operating plan must establish procedures that the franchisee will follow in case of fire or other emergency.



<p>6.11</p>	<p>Procedures for nuisance complaints</p>	<ol style="list-style-type: none"> 1. For every nuisance complaint (for example odor, dust, vibrations, and litter) received, the franchisee must record: <ol style="list-style-type: none"> a) The nature of the complaint; b) The date the complaint was received; c) The name, address and telephone number of the person or persons making the complaint; and d) Any actions taken by the operator in response to the complaint (whether successful or unsuccessful). 2. The franchisee must make records of such information available to Metro upon request. The franchisee must retain each complaint record for a period of not less than one year.
<p>6.12</p>	<p>Closure protocol</p>	<p>The franchisee must establish protocol for closure and restoration of the site in the event of a long-term cessation of operations as provided in Metro Code Section 5.01.072(c)(3).</p>
<p>6.13</p>	<p>Financial assurance</p>	<p>The franchisee must maintain financial assurance in the amount of \$25,000 for the cost of the facility's closure and maintain such financial assurance in a form approved by Metro for the term of this franchise.</p>

<p>7.0</p>	<p>FEES AND RATE SETTING</p>	
<p>7.1</p>	<p>Purpose</p>	<p>This section of the franchise specifies fees payable by the franchisee, and describes rate regulation by Metro.</p>
<p>7.2</p>	<p>Annual fee</p>	<p>The franchisee must pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.</p>
<p>7.3</p>	<p>Rates</p>	<ol style="list-style-type: none"> 1. The rates charged by the franchisee for accepting solid waste are not subject to regulation by Metro unless the Metro Council adopts an ordinance that establishes Metro's rate regulation authority. 2. Notwithstanding the provision above, the rates charged by the franchisee must not exceed the rates posted at the facility as described in Section 5.13.
<p>7.4</p>	<p>Rate review</p>	<ol style="list-style-type: none"> 1. Metro may review the franchisee's financial records for the purpose of determining whether the rates charged for the



		<p>disposal of solid waste related to the costs of accepting, managing, transporting, and disposing of the waste by the franchisee are in the public interest. For purposes of this section, “costs” are defined to include general and administrative expenses including but not limited to allocated costs and normal profit for the private transfer station industry.</p> <p>2. As provided in this section, the franchisee must provide Metro access to the financial records that are sufficient to determine the information described above.</p>
7.5	Metro fee and tax imposed on disposal	The franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.
7.6	Metro community enhancement fee imposed on waste received	The franchisee must collect and remit to Metro a community enhancement fee, as provided in Metro Code Chapter 5.06, in an amount equal to \$1.00 per ton for all putrescible waste including food waste and yard debris mixed with food waste. The franchisee must remit the community enhancement fees to Metro on a monthly basis in conjunction with fees remitted in Section 7.5.

8.0	RECORD KEEPING AND REPORTING	
8.1	Purpose	This section of the franchise describes record keeping and reporting requirements. The franchisee must effectively monitor facility operation and maintain accurate records of the information described in this section.
8.2	Record keeping requirements	For all solid waste and materials the franchisee is authorized to accept under Section 3.0, the franchisee must keep and maintain accurate records of the amount of authorized materials the franchisee accepts, recovers, recycles, reloads, and disposes. These records include the information specified in the Metro document titled, <u>Reporting Requirements and Data Standards for Metro Solid Waste Licenses, Franchises, and Parties to Designated Facility Agreements</u> .
8.3	Reporting requirements	The franchisee must transmit to Metro records required under Section 8.0 no later than fifteen days following the end of each



		month in a format prescribed by Metro.
8.4	Material recovery reporting	The franchisee must provide the results of its quarterly sampling of processing residual, as provided in Section 3.6, to Metro as a component of its monthly report no later than fifteen days following the end of the each quarter in a format prescribed by Metro.
8.5	Account number listing	Within five business days of Metro's request, franchisee must provide Metro with a listing that cross-references the account numbers used in the transaction database with the company's name and address.
8.6	Transactions based on scale weights	Except for minimum fee transactions for small, lightweight loads, the franchisee must record each inbound and outbound transaction electronically based on actual and accurate scale weights using the franchisee's on-site scales.
8.7	DEQ submittals	The franchisee must provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
8.8	Copies of enforcement actions provided to Metro	The franchisee must ensure Metro receives copies of any notice of violation or noncompliance, citation, or any other similar enforcement actions issued to the franchisee by any federal, state, or local government (other than Metro) related to the operation of the facility.
8.9	Unusual occurrences	<ol style="list-style-type: none">1. The franchisee must keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.2. The franchisee must notify Metro within 24 hours of any breakdown of the franchisee's equipment if the breakdown will substantially impact the facility's ability to comply with this franchise or with Metro Code, or which will create off-site impacts.3. The franchisee must report any facility fires, accidents, emergencies, and other significant incidents to Metro within



		12 hours of the discovery of their occurrence.
8.10	Changes in ownership	<ol style="list-style-type: none">1. Any change in control of franchisee or the transfer of a controlling interest of franchisee requires prior written notice to Metro. "Transfer of a controlling interest of franchisee" includes without limitation the transfer of 10% or more of the ownership of franchisee to or from a single entity. Metro may amend this franchise under Section 11.3 to require the new ownership of franchisee to assume all the rights and obligations of this franchise.2. The franchisee may not lease, assign, mortgage, sell, or otherwise transfer control of the franchise unless the franchisee follows the requirements of Metro Code Section 5.01.076.

9.0	INSURANCE REQUIREMENTS	
9.1	Purpose	This section describes the types of insurance that the franchisee must purchase and maintain at the franchisee's expense, covering the franchisee, its employees, and agents. The franchisee must provide Metro with documentation demonstrating that it holds all of the required insurance coverage described in Section 9.0.
9.2	General liability	The franchisee must carry the most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence and \$1,000,000 aggregate. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed operations. Contractor's coverage will be primary as respects Metro.
9.3	Automobile	The franchisee must carry automobile bodily injury and property damage liability insurance.
9.4	Coverage	Insurance coverage must be a minimum of \$1,000,000 per occurrence and \$1,000,000 aggregate.
9.5	Additional insureds	Metro, its elected officials, departments, employees, and agents must be named as ADDITIONAL INSURED.



9.6	Worker's Compensation Insurance	The franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law must comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. The franchisee must provide Metro with certification of Workers' Compensation insurance including employer's liability. If the franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
9.7	Notification	The franchisee must give at least 30 days written notice to the COO of any lapse or proposed cancellation of insurance coverage.

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



11.0	AMENDMENT, SUSPENSION, AND REVOCATION	
11.1	Amendment by agreement	At any time during the term of the franchise, either the COO or the franchisee may propose amendments to this franchise. If either the COO or the franchisee proposes amendments to this franchise, both parties will make good faith efforts to arrive at consensus on the intent and implementing language of said amendments.
11.2	Amendment by Metro Council action	<p>Except as provided in Section 11.3, the provisions of this franchise will remain in effect unless the Metro Council:</p> <ul style="list-style-type: none">a) Amends the Metro Code, amends the Regional Solid Waste Management Plan, or implements other legislation of broad applicability that affects the class of facilities of which this franchisee is a member; andb) Adopts an ordinance amending this franchise to implement the policy, code or process specified by said ordinance. <p>If, in the course of considering an ordinance amending this franchise as provided in (b) above, the franchisee provides evidence that the amendment will result in significant capital cost to the franchisee, the Metro Council will include capital cost and the ability of the franchisee to achieve a reasonable rate of return on any additional investment required as factors when considering whether to adopt the ordinance.</p>
11.3	Amendment, suspension or revocation by Metro for cause	<p>In addition to the amendments authorized by Section 4.2 , the COO may, at any time before the expiration date, amend, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ul style="list-style-type: none">a) Violation of the terms or conditions of this franchise, Metro Code, or any applicable statute, rule, or standard;b) Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this franchise;c) Failure to disclose fully all relevant facts;d) A significant release into the environment from the facility;e) Significant change in the character of solid waste received



		<p>or in the operation of the facility;</p> <p>f) Any change in ownership or control;</p> <p>g) A request from the local government stemming from impacts resulting from facility operations;</p> <p>h) Compliance history of the franchisee; and</p> <p>i) Changes in regional tonnage trends or actual solid waste generation.</p>
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12.0	GENERAL OBLIGATIONS	
12.1	Compliance with law	The franchisee must fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility are deemed part of this franchise as if specifically set forth herein. These conditions and permits include those cited within or attached as exhibits to the franchise document, as well as any existing at the time the franchise is issued but not cited or attached, and permits or conditions issued or amended during the term of the franchise.
12.2	Deliver waste to appropriate destinations	The franchisee must ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.
12.3	Right of inspection and audit	<ol style="list-style-type: none"> 1. Authorized representatives of Metro may take photographs, collect samples of materials, and perform any inspection or audit as the COO deems appropriate. The franchisee must allow authorized representatives access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 12.4, Metro's right to inspect includes the right to review all



		<p>information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of franchisee that are directly related to the operation of the facility.</p> <p>2. The franchisee must permit access to the facility premises to authorized representatives of Metro, including personnel on contract to Metro, at all reasonable times during business hours with or without notice to determine whether the franchisee meets the minimum level of recovery as provided in Section 3.6. The franchisee must provide:</p> <ul style="list-style-type: none">a) Access to all areas where it generates, manages, stores, and reloads processing residual, including without limitation to transfer vehicles;b) Access to facility personnel and equipment to collect, segregate, contain, and weigh individual samples of processing residual; andc) A safe location away from working areas and vehicle traffic where authorized representatives of Metro may conduct an analysis of the franchisee's processing residual.
12.4	Confidential information	<p>The franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The franchisee must prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro will treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five days of Metro's receipt of a request for disclosure of information identified by franchisee as confidential, Metro will provide franchisee written notice of the request. The franchisee will have three days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. The franchisee is responsible for any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that</p>



		<p>Metro produces in response to a public records request. This Section 12.0 does not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, those representatives agree to continue to treat the information as confidential and make good faith efforts not to disclose the information</p>
12.5	Compliance by agents	<p>The franchisee is responsible for ensuring that its agents and contractors comply with this franchise.</p>

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 16-1383, FOR THE PURPOSE OF APPROVING A FRANCHISE TERM EXTENSION, ALLOCATING TONNAGE, AND AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE AN AMENDED FRANCHISE FOR WILLAMETTE RESOURCES, INC. AND DECLARING AN EMERGENCY

October 7, 2016

Prepared by: Warren Johnson
503-797-1836

EXECUTIVE SUMMARY

Adoption of Ordinance No. 16-1383 authorizes a three-year franchise term extension and establishes a 2017 tonnage allocation of 77,435 tons for Willamette Resources, Inc. (WRI). The ordinance also authorizes the Chief Operating Officer (COO) to establish subsequent annual tonnage allocations for the remainder of the franchise term, clarifies rate review and hauler access conditions, and incorporates various other non-substantive technical amendments in the franchise as described in this staff report. In addition, the ordinance establishes that an emergency exists and the proposed franchise will take effect on January 1, 2017, to ensure that the franchisee has ongoing authorization to accept putrescible waste for the health, safety, and welfare of the Metro area.

This proposed ordinance is an initial step in implementing Metro's transfer system configuration policy, adopted by the Metro Council on July 21, 2016.¹ In addition to this action for WRI, the Metro Council will consider similar ordinances to renew franchises for Forest Grove Transfer Station (Ord. No. 16-1381), Pride Recycling Company (Ord. No. 16-1384), and Troutdale Transfer Station (Ord. No. 16-1382) at its meetings on October 20 and 27, 2016. The Metro Council will also consider an ordinance for a new franchise for Gresham Sanitary Service, Inc. (dba GSS Transfer LLC.) at its meetings on December 1 and 8, 2016. Gresham Sanitary seeks authority to operate a new transfer station at its existing solid waste reload site.

The COO recommends coordinating these franchise decisions to provide a clear and consistent approach to allocating tonnage for the privately-owned transfer stations. This coordinated approach also allows time for Metro to develop an administrative rule to further implement the configuration policy without causing undue disruption to the solid waste system in the interim. The administrative rule describing the tonnage allocation process will be developed and proposed to Metro Council during 2017.

¹ Resolution No. 16-4716

BACKGROUND

Metro's major solid waste contracts (operations,² transport, and disposal) will expire at the end of 2019. In an effort to shape the future solid waste system to better attain public benefits and improved sustainability, Metro has undertaken a major planning effort (known as the Solid Waste Roadmap) to set the future direction of the region's solid waste system for the next several years. A major component of this effort is to take a broad look at the role, configuration, and services offered by publicly and privately-owned transfer stations.

In 2013, Metro Council approved a two-year franchise term extension for WRI,³ to provide a period of stability and continuity until work on the transfer system configuration policy was completed. In 2015, the COO also administratively granted a one-year franchise term extension to allow additional time for Metro to work on the configuration policy.⁴ WRI's current franchise originally commenced on January 1, 2009, and was initially set to expire on December 31, 2013. As explained above, the franchise was subsequently extended for an additional three years and is now scheduled to expire on December 31, 2016.

On July 21, 2016, the Metro Council adopted a transfer system configuration policy. The purposes of the policy are to: 1) ensure that the region's transfer system provides maximum public benefit, 2) maintain the current configuration of publicly and privately-owned transfer stations, 3) ensure that an adequate amount of putrescible waste flows to publicly-owned stations (at least 40 percent of the region's putrescible tons), 4) limit the amount of putrescible waste that any one company may accept for transfer within the region (no more than 40 percent), and 5) improve rate transparency. In particular, the configuration policy shifts Metro away from its current "tonnage cap" system, in which the Metro Council establishes annual facility tonnage limits, to a new "tonnage allocation" system in which tonnage authority is proportionally allocated to privately-owned stations each year. Further details of the 2017 allocation methodology are described below.

Proposed franchise amendments for WRI:

The COO recommends that the Metro Council approve a franchise extension for WRI subject to the requirements listed in Metro Code Chapter 5.01 and further subject to the special conditions and technical updates described below. These changes are consistent with the transfer system configuration policy and are similarly included in the proposed franchises for the other privately-owned transfer stations identified in this report. All of the proposed changes to WRI's franchise are shown in the "redline" document attached to this staff report as Attachment 1.

² Metro's transfer station operations contracts expire in March 2017, but can be extended until the end of 2019.

³ WRI was granted a five-year franchise (Franchise No. F-005-08) in 2008 by Ordinance No. 08-1194. The original franchise term was January 1, 2009 through December 31, 2013. In 2013, WRI's franchise was extended by two years by Ordinance No. 13-1307.

⁴ WRI's current franchise (Franchise No. F-005-08F) includes a provision that authorized the COO to administratively extend the term of the franchise by up to one additional year to expire on December 31, 2016.

The proposed franchise for WRI includes the following amendments:

1. Franchise Term Extension (Section 1.5)

The COO recommends extending the term of the proposed franchise by an additional three years to expire on December 31, 2019.

This proposed change will allow time for Metro to develop a detailed administrative rule to further implement the configuration policy without causing undue disruption to the solid waste system in the interim.

2. Tonnage Allocation (Section 4.2)

The COO recommends establishing an initial tonnage allocation of 77,435 tons of putrescible waste for calendar year 2017 as described in this report and authorizing the COO to subsequently use the same allocation methodology (or as otherwise described in an administrative rule adopted by the COO or Metro Council) to establish annual tonnage allocations for the remainder of the franchise term (2018 and 2019).

A franchisee's tonnage allocation for 2017 is based on two factors: 1) its percentage of the region's putrescible waste in 2015 (as authorized by its franchise), and 2) the total allocable putrescible waste tonnage available in calendar year 2017 based on Metro's latest "Solid Waste Forecast." In short, a franchisee is authorized to accept the same *percentage* of waste in 2017 that it was authorized to accept in 2015, relative to the region's total amount of putrescible waste to allocate. This same process was used to determine the 2017 tonnage allocations for all of the franchised transfer stations except for the Forest Grove Transfer Station.

In 2015, WRI was authorized to accept 70,000 tons of putrescible waste. That was about 10.69 percent of the region's total putrescible waste that year. In 2017, Metro forecasts that the region will generate 724,649 tons of putrescible waste.⁵ Accordingly, WRI will receive an allocation of about 10.69 percent of the forecasted 724,649 tons for calendar year 2017 (which equals 77,435 tons).

Additionally, the proposed franchise states that each October the COO will amend the franchise to establish an annual tonnage allocation for the following calendar year throughout the term of the franchise. This allows the COO to administratively adjust the annual tonnage allocation as necessary to meet the transfer system configuration policy objectives. By adopting this ordinance, the Metro Council authorizes the COO to determine the franchisee's tonnage allocations for calendar years 2018 and 2019 using the same methodology described above or as otherwise adopted by the COO or Metro Council. In 2017, staff will develop an administrative rule for Metro Council consideration that sets forth a detailed process for determining and adjusting future tonnage allocations. The COO

⁵ FY 2017-18 Solid Waste Forecast dated September 15, 2016.

recommends that Metro Council not allow any additional tonnage adjustments for the franchisee until an administrative rule has been adopted.

3. Waste Hauler Access (Section 4.3)

The COO recommends that the franchisee be required to comply with its annual tonnage allocation and: 1) maintain capacity to accept waste generated within the region, 2) accommodate haulers that collect waste within the geographic proximity of the facility, 3) not deny service to any unaffiliated waste hauler without due cause or without 30-day written notice, and 4) provide Metro with a written explanation if the franchisee denies service to a waste hauler.

Publicly and privately-owned transfer stations play an important role in the region's solid waste system. These stations provide public benefits to the region and they should serve the needs of customers located within proximity to their facilities. One public benefit of having public and private stations in different geographic locations is reduced vehicle miles traveled for haulers. This lowers costs to ratepayers and lowers hauler emissions into the environment. Accordingly, the COO recommends a new franchise condition for WRI that states that the franchisee should not refuse access to haulers that collect waste near the facility in order to accept other haulers that are located farther away. The COO recommends the proposed conditions to: 1) ensure that the franchisee considers time and vehicle miles traveled before refusing access to any unaffiliated haulers, 2) ensure that the public has adequate access to the region's transfer system, and 3) promote efficient off-route travel.

The proposed franchise also includes a new condition that prohibits the franchisee from denying access to an unaffiliated hauler without due cause or without providing written notice at least 30 days in advance. Denial of access for "due cause" could include a variety of legitimate reasons such as load contamination, failure to pay, or risk of exceeding the franchise tonnage allocation. This new notice requirement is intended to encourage open communication among parties, improve business planning, and minimize disruption to the system.

Additionally, the COO recommends including another new condition in this section whereby Metro may require the franchisee to provide a written explanation if the facility denies access to a waste hauler. This requirement would be triggered if the COO determines it to be necessary, such as in a case in which Metro receives a complaint about the facility from a local government or nearby waste hauler.

4. Rates (Section 7.3)

The COO recommends prohibiting the franchisee from charging any rates that exceed the amounts posted at the facility. The COO also recommends explaining that Metro will not otherwise regulate the facility's rates unless Metro Council adopts an ordinance that establishes Metro's rate regulation authority at the facility.

Metro Code Section 5.01.170 states that the Metro Council may establish facility rates if it is in the public interest as a matter of regional concern.⁶ However, as part of the recent configuration policy, Metro Council supported a progressive approach to achieve rate transparency at publicly and privately-owned transfer stations. As a first step in that approach, Metro will make its own rates more transparent to the public and local government rate-makers. In addition, the COO has added a franchise condition to explain that the Metro Council may also set facility rates or require the franchisee to provide access to its financial records to determine costs when there is a public benefit to doing so. These are not new conditions because Metro already has the authority to access the financial records of a regulated facility.

Although Metro will not establish rates at privately-owned facilities without approval of the Metro Council, the COO recommends including a condition in the proposed franchise specifying that the franchisee may not charge its customers higher rates than those posted at the facility. This provision provides some measure of protection to an unaffiliated customer from discriminatory pricing.

5. Non-Substantive Amendments (various sections throughout franchise)

The COO recommends various non-substantive, technical amendments to improve clarity, consistency, and ease of reading, but which do not change or add new requirements. These non-substantive changes include using active voice, general formatting, grammatical changes, and other housekeeping improvements.

ANALYSIS / INFORMATION

Known Opposition

There is no known opposition to the proposed term extension and general housekeeping changes in the amended franchise. The facility operator may disagree with some of the proposed conditions that address tonnage allocations, rate regulation, rate transparency, and hauler access requirements at the facility. However, the COO finds that the proposed conditions are consistent with the Metro Council's transfer system configuration policy.

Legal Antecedents

⁶ Likewise, the Oregon legislature has authorized Metro to regulate rates. ORS 268.317(5).

1. Metro Code Chapter 5.01, entitled "Solid Waste Facility Regulation." In particular:
 - A. Metro Code Section 5.01.070 which states that a solid waste facility franchise is required for a operating a transfer station.
 - B. Metro Code Section 5.01.073 which states that the Metro Council determines whether to grant a solid waste facility franchise and the conditions to include in a franchise.
2. Metro's transfer system configuration policy adopted by Metro Council via Resolution 16-4716 on July 21, 2016.

Anticipated Effects

Adoption of Ordinance No. 16-1383 will authorize a three-year term extension, establish annual tonnage allocations, explain rate review and hauler access conditions, and incorporate various other non-substantive technical amendments for WRI's franchise. These changes are an initial step in the implementation of Metro's transfer system configuration policy while maintaining the stability and continuity of the region's solid waste system. In addition, this ordinance establishes that an emergency exists and the proposed franchise will take effect on January 1, 2017, to ensure that the franchisee has ongoing authorization to accept putrescible waste for the health, safety, and welfare of the Metro area.

Notwithstanding Metro Code Section 5.01.073(k) (which states that the term of a franchise may not exceed five years), the COO recommends that the Metro Council grant a three-year extension of WRI's franchise as provided in this staff report because it is in the public interest.

Budget Impacts

The proposed ordinance authorizes, in part, annual transfer station tonnage allocations which may result in shifting the distribution of waste tonnage in the system. The proposed amendments to WRI's transfer station franchise are based on direction from Metro's transfer system configuration policy. The budget impacts of the policy were accounted for in the 2016-17 budget adopted by the Metro Council.

Recommended Action:

Based on the information and analysis provided in this report, the COO recommends that the Metro Council adopt Ordinance No. 16-1383 and issue an amended franchise to WRI as attached to this ordinance as Exhibit A.

wj/bjl

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



SOLID WASTE FACILITY FRANCHISE

No. F-005-08~~FE~~**GF**

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

This franchise replaces and supersedes the provisions of Metro Solid Waste Facility Franchise No. F-005-08~~FE~~. Metro grants this franchise to the franchisee named above. The franchisee is authorized to operate and maintain a solid waste facility and to accept the solid wastes and perform the activities authorized by and subject to the conditions stated in this franchise.

ISSUED BY METRO:

Paul Slyman, Property and Environmental Services Director

Date



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1.0	ISSUANCE	
1.1	Franchisee	Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523
1.2	Corporate affiliation	Republic Services, Inc. 18500 North Allied Way Phoenix, AZ 85054
1.3	Contact	Jason Jordan, General Manager Phone: (503) 570-0626 ext. 228 e-mail: jjordan4@republicservices.com
1.4	Franchise number	When referring to this franchise, please cite: Metro Solid Waste Facility Franchise No. F-005-08GF.
1.5	Term	1. The franchise originally term commences on January 1, 2009, and shall with a termination date of on December 31, 2016. <u>The franchise is now extended to terminate on December 31, 2019</u> , unless amended, modified , suspended, or revoked as provided in this franchise. At any time during the term of this franchise, Metro's Chief Operating Officer (the "COO") may extend the term of the franchise up to an additional 12 months to terminate no later than December 31, 2016.
1.6	Renewal	The franchisee may apply for a franchise renewal as provided in Metro Code Chapter 5.01.
1.7	Facility name and mailing address	Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523
1.8	Operator	Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523



1.9	Facility premises description	Tax Lot Identification No. 3S102C001400 and No. 3S102C001500, City of Wilsonville, Washington County, State of Oregon
1.10	Property owner	Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523
1.11	Permission to operate	The franchisee is the property owner.

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



		claims or disputes involving subcontractors.
2.7	Binding nature	This franchise is binding on the franchisee. The franchisee is liable for all acts and omissions of the franchisee's contractors and agents.
2.8	Waivers	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 11.0 and be in writing and signed by the COO.
2.9	Effect of waiver	Waiver of a term or condition of this franchise shall <u>does</u> not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.10	Choice of law	The franchise shall <u>will</u> be construed, applied, and enforced in accordance with the laws of the State of Oregon.
2.11	Enforceability	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise shall <u>will</u> not be affected.
2.12	Franchise not a waiver	This franchise does not relieve any owner, operator, or the franchisee from the obligation to obtain all required permits, franchises, or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.13	Franchise not limiting	This franchise does not limit the power of a federal, state, or local agency to enforce any provision of law relating to the facility.
2.14	Definitions	<ol style="list-style-type: none">1. "Mixed Non-Putrescible Waste" means a mixture of more than one type of non-putrescible waste, including commingled recyclables other than residential curbside recyclable material. This category includes construction and demolition waste but excludes Cleanup Materials Contaminated by Hazardous Substances, Source-Separated Recyclable Material, special waste, land clearing debris and yard debris.2. Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.00.



3.0 AUTHORIZATIONS		
3.1	Purpose	This section of the franchise describes the wastes that the franchisee is authorized to accept at the facility and the waste-related activities the franchisee is authorized to perform at the facility.
3.2	General conditions on solid waste	The franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
3.3	General conditions on activities	The franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.
3.4	Acceptance and management of putrescible solid waste	<ol style="list-style-type: none">1. The franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 12.2 of this franchise. The franchisee also is authorized to accept putrescible waste for material recovery.2. The franchisee shall<u>must</u> receive, manage, store, reload, and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers.3. The franchisee is authorized to accept putrescible waste generated inside the Metro region only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
3.5	Acceptance and management of mixed non-putrescible solid waste	<ol style="list-style-type: none">1. The franchisee is authorized to accept mixed non-putrescible solid waste for material recovery.2. The franchisee shall<u>must</u> receive, sort, store, reload, and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover prior to processing, within 12 hours of receipt, or by the end of the business day, whichever is earlier.3. The franchisee is authorized to accept mixed non-putrescible



		waste from all customers including public self-haul.
3.6	Material recovery required	<ol style="list-style-type: none">1. The franchisee shallmust perform material recovery on mixed non-putrescible wastes. The franchisee shallmust ensure that the facility is designed and operated to assure materials are recovered in a timely manner and to protect the quality of non-putrescible waste that has not yet undergone material recovery. The franchisee must perform recovery at no less than the minimum level stipulated in Metro Code Chapter 5.01.2. The franchisee shallmust take quarterly samples of processing residual that are statistically valid and representative of the facility's residual. Each sample required by this section shallmust weigh at least 300 pounds.
3.7	Management of processing residual from material recovery	The franchisee shall must store, reload, and transfer all non-putrescible waste processing residual on an impervious surface and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers.
3.8	Acceptance of source-separated recyclable materials	<ol style="list-style-type: none">1. The franchisee shallmust provide a place for collecting source-separated recyclable materials on the facility premises.2. The franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.
3.9	Acceptance of yard debris	The franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.10	Acceptance of source-separated food waste	The franchisee is authorized to accept source-separated food waste that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The franchisee may accept source-separated food waste only for reloading to authorized facilities for composting or other useful purposes as described in an operating plan and approved



		in writing by the COO.
3.11	Acceptance of untreated wood	The franchisee is authorized to accept for processing and reloading, source-separated, untreated and unpainted wood waste, for example untreated lumber and wood pallets. The franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.12	Acceptance of painted and treated wood	The franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by the COO. The franchisee shall must not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock, or any other product unless otherwise described in an operating plan and approved in writing by the COO.
3.13	Acceptance of electronics devices	The franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer, and other similar functions related to preparing these materials for reuse, recycling, or disposal as required by the Oregon Department of Environmental Quality (DEQ).
3.14	Acceptance of inert material	The franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer, and other similar functions related to preparing these materials for useful purposes.
3.15	Acceptance of infectious waste	The franchisee is authorized to accept infectious waste for short-term storage up to 72 hours pending transport to an appropriate disposal location.
3.16	Acceptance of special waste	The franchisee is authorized to accept non-hazardous special waste for short-term storage up to 48 hours pending transport to an appropriate disposal location.
3.17	Production of hogged fuel	1. As authorized by Section 3.0 of this franchise , the franchisee is authorized to accept and process only untreated wood, painted wood, and incidental quantities of treated wood for delivery to facilities with industrial boilers for use as hogged



		<p>fuel.</p> <p>2. The franchisee is prohibited from mixing any other solid waste with the wood wastes described above in Section 3.17.1 for the production of hogged fuel.</p>
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4.0	LIMITATIONS AND PROHIBITIONS	
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4.1	Purpose	This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility.
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4.2	Tonnage authorization allocation	<p><u>1. The franchisee is authorized to accept putrescible waste generated inside the Metro region as follows:</u></p> <p><u>a) For calendar year 2017, beginning on January 1 and ending December 31, 2017, the franchisee is authorized to accept up to 77,435 tons of putrescible waste generated inside the Metro region;</u></p> <p><u>b) In October 2017, the COO will allocate tonnage for calendar year 2018 and amend Section 4.2 of this franchise as described in the staff report to Ordinance No. 16-1383; and</u></p> <p><u>c) In October 2018, the COO will allocate tonnage for calendar year 2019 and amend Section 4.2 of this franchise as described in the staff report to Ordinance No. 16-1383.</u></p> <p><u>2. Metro bases its tonnage allocations on its <i>Solid Waste Forecast</i>. Although Metro makes every effort to include accurate and reliable information in its forecast, Metro may adjust tonnage allocations based on tonnage trends and actual solid waste generation.</u></p> <p>The Franchisee is authorized to accept up to 75,000 tons of putrescible waste generated inside the Metro region within each calendar year.</p> <p>The Franchisee shall not accept solid waste generated outside the Metro region if to do so would limit the Franchisee from accepting 75,000 tons of putrescible waste, or any non-putrescible waste, generated inside the Metro region.</p>
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4.3	Waste hauler access Tonnage	<u>It is in the public's best interest that transfer stations located inside the Metro region maintain adequate capacity to</u>
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	authorization growth allowance	<p><u>accommodate solid waste generated within the region and provide adequate access to waste haulers that collect solid waste within the geographic proximity of the facility. Therefore:</u></p> <ol style="list-style-type: none"><u>1. The franchisee must not accept solid waste generated outside the Metro region if to do so would limit the franchisee from accepting any putrescible or non-putrescible waste generated inside the Metro region;</u><u>2. The franchisee should not accept solid waste collected outside of the geographic proximity of the facility if to do so would deny access to waste haulers that collect solid waste within the geographic proximity of the facility;</u><u>3. The franchisee must not deny access to any unaffiliated waste hauler without due cause or written notice 30-days in advance; and</u><u>4. The COO may require the franchisee to provide a written explanation of its rationale if the facility denies access or refuses service to a waste hauler.</u> <p>Effective January 1, 2016, the COO may amend Section 4.2 of this franchise to increase the calendar year tonnage authorization by up to an additional five percent if the COO determines that there is a sufficient public benefit and available tonnage forecasted to granting such an increase.</p>
4.4	Prohibited waste	<p>The franchisee shallmust not knowingly receive, process, reload, or dispose of any solid waste not authorized by this franchise. The franchisee shallmust not knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; radioactive waste; hazardous waste; or any waste prohibited by the DEQ.</p>
4.5	Prohibition on mixing	<ol style="list-style-type: none">1. The franchisee shallmust not mix or commingle any source-separated recyclable materials, source-separated yard debris or wood wastes brought to the facility with any unprocessed solid wastes or solid wastes destined for disposal.2. The franchisee shallmust not mix or commingle putrescible solid waste with unprocessed non-putrescible solid waste or processing residual except when such mixing is described in an operating plan and approved in writing by the COO.
4.6	Prohibition of size	<p>The franchisee shallmust not crush, grind or otherwise reduce the</p>



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

5.0	OPERATING CONDITIONS	
5.1	Purpose and general performance goals	<p>This section of the franchise describes criteria and standards for the operation of the facility. The franchisee shallmust operate in a manner that meets the following general performance goals:</p> <ul style="list-style-type: none">a) Environment. The franchisee shallmust design and operate the facility to preclude the creation ofavoid undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste, asbestos and other prohibited wastes.b) Health and safety. The franchisee shallmust design and operate the facility to preclude the creation ofavoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.c) Nuisances. The franchisee shallmust design and operate the facility to preclude the creation ofavoid nuisance conditions including, but not limited to, litter, dust, odors, and noise.



5.2	Qualified operator	<ol style="list-style-type: none">1. The franchisee shall<u>must</u>, during all hours of operation, provide an operating staff employed by the facility and qualified and competent to carry out the functions required by this franchise and to otherwise ensure compliance<u>comply</u> with Metro Code Chapter 5.01.2. Facility personnel, as relevant to their job duties and responsibilities, shall<u>must</u> be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan.3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.
5.3	Fire prevention	The franchisee shall <u>must</u> provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from processing and storage areas.
5.4	Adequate vehicle accommodation	The franchisee shall <u>must</u> : <ol style="list-style-type: none">a) Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. <u>The franchisee must maintain access roads</u> Access roads shall be maintained to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather.b) Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles shall<u>must</u> not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances.c) Post signs to inform customers not to queue on public roadways.d) Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site tarping and untarping of loads.
5.5	Managing prohibited wastes	<ol style="list-style-type: none">1. The franchisee shall<u>must</u> reject prohibited waste upon discovery and shall<u>must</u> properly manage and dispose of prohibited waste when unknowingly received.2. The franchisee shall<u>must</u> implement a load-checking program



		<p>to prevent the acceptance of accepting prohibited waste, that is prohibited by the franchise. This program must include at a minimum:</p> <ul style="list-style-type: none">a) Visual inspection. As each load is tipped, a qualified operator shall<u>must</u> visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise.b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas shall<u>must</u> be covered and enclosed to prevent leaking and contamination.c) Record maintenance. <u>The franchisee must maintain records</u> Records of the training of personnel in the recognition, proper handling, and disposition of prohibited waste shall be maintained in the operating record and <u>make those records</u> be available for review by Metro. <p>3. Upon discovery, the franchisee shall<u>must</u> remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the franchisee unknowingly receives shall<u>must</u> be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by the DEQ or local government.</p>
5.6	Storage and exterior stockpiles	<p>The franchisee shall<u>must</u>:</p> <ul style="list-style-type: none">a) Manage, contain, and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards;b) Maintain storage areas in an orderly manner and keep the areas free of litter;c) Position exterior stockpiles within footprints identified on the facility site plan or operating plan; andd) Not stockpile recovered or source-separated materials for longer than 180 days (6 months).
5.7	Dust, airborne debris and litter	<p>The franchisee shall<u>must</u> operate the facility in a manner that minimizes and mitigates the generation of dust, airborne debris and litter, and shall<u>must</u> prevent its migration beyond property</p>



		<p>boundaries. The franchisee shall<u>must</u>:</p> <ul style="list-style-type: none">a) Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit;b) Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit;c) Maintain and operate all access roads and receiving, processing, storage, and reload areas in such a manner as to minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site;d) Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility’s operation;e) Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; andf) Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, shall<u>must</u> be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Section 5.09.040 of the Metro Code.
5.8	Odor	<ul style="list-style-type: none">1. The franchisee shall<u>must</u> operate the facility in a manner that prevents the generation of odors that are detectable off-site.2. The franchisee shall<u>must</u> establish and follow procedures in the operating plan for minimizing odor at the facility.
5.9	Vectors (e.g. birds, rodents, insects)	<ul style="list-style-type: none">1. The franchisee shall<u>must</u> operate the facility in a manner that is not conducive to the harborage of<u>harboring</u> rodents, birds, insects, or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.



		<p>2. If vectors are present or detected at the facility, the franchisee shall<u>must</u> implement vector control measures.</p>
5.10	Noise	<p>The franchisee shall<u>must</u> operate the facility in a manner that prevents the creation of<u>avoids</u> noise sufficient to cause adverse off-site impacts and to the extent necessary to meet applicable regulatory standards and land-use regulations.</p>
5.11	Water contaminated by solid waste and solid waste leachate	<p>The franchisee shall<u>must</u> operate the facility consistent with an approved DEQ stormwater management plan or equivalent and shall<u>must</u>:</p> <ul style="list-style-type: none">a) Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; andb) Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state, and federal laws and regulations.
5.12	Access control	<p>1. The franchisee shall<u>must</u> control access to the facility as necessary to prevent unauthorized entry and dumping.</p> <p>2. The franchisee shall<u>must</u> maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.</p>
5.13	Signage	<p>The franchisee shall<u>must</u> post signs at all public entrances to the facility, and in conformity<u>The signs must comply</u> with local government signage regulations. These signs shall<u>must</u> be easily and readily visible, and legible from off-site during all hours and shall<u>must</u> contain at least the following information:</p> <ul style="list-style-type: none">a) Name of the facility;b) Address of the facility;c) Emergency telephone number for the facility;d) Operating hours during which the facility is open for the receipt of authorized waste;e) Fees and charges;f) Metro's name and telephone number (503) 234-3000;g) A list of authorized and prohibited wastes;h) Vehicle / traffic flow information or diagram;



		<ul style="list-style-type: none"> i) Covered load requirements; and j) Directions not to queue on public roadways.
5.14	Nuisance complaints	<p>1. The franchisee shall<u>must</u> respond to all nuisance complaints in timely manner (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), and shall<u>must</u> keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.</p> <p>2. If the facility receives a complaint, the Franchisee shall<u>must</u>:</p> <ul style="list-style-type: none"> a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); and b) Log all such complaints as provided by the operating plan. The franchisee must retain eachEach log entry shall be retainedfor one year and shall it must be available for inspection by Metro.
5.15	Access to franchise document	The franchisee shall <u>must</u> maintain a copy of this franchise on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.

6.0	OPERATING PLAN	
6.1	Purpose	This section lists the requirements associated with preparing and implementing a facility operating plan, and lists the procedures that must be included in the required facility operating plan.
6.2	Plan compliance	The franchisee must operate the facility in accordance with an operating plan approved in writing by the COO. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this franchise. The franchisee may amend or revise the operating plan from time to time, subject to written approval by the COO.
6.3	Plan maintenance	The franchisee shall submit an updated operating plan to the COO by March 1, 2013 as provided in Section 6.0 of this franchise. The franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures, and requirements. The franchisee must submit amendments and revisions of the



		operating plan to the COO for written approval prior to implementation.
6.4	Access to operating plan	The franchisee shall <u>must</u> maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
6.5	Procedures for inspecting loads	The operating plan shall <u>must</u> establish: <ul style="list-style-type: none">a) Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes;b) Procedures for identifying incoming and outgoing loads for waste classifications;c) A set of objective criteria for accepting and rejecting loads; andd) An asbestos testing protocol for all materials that appear to contain friable asbestos.
6.6	Procedures for processing and storage of loads	The operating plan shall <u>must</u> establish procedures for: <ul style="list-style-type: none">a) Processing authorized solid wastes;b) Reloading and transfer of authorized solid wastes including, but not limited to;<ul style="list-style-type: none">i. Loading waste for delivery to disposal sites; andii. Record keeping and reporting procedures for mixed outbound loads.c) Managing stockpiles to ensure that they remain within the authorized weights, volumes and pile heights;d) Storing authorized solid wastes; ande) Minimizing storage times and avoiding delay in processing of authorized solid wastes.
6.7	Procedures for managing prohibited wastes	The operating plan shall <u>must</u> establish procedures for managing, reloading, and transferring to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan shall <u>must</u> establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.
6.8	Procedures for	The operating plan shall <u>must</u> establish procedures for preventing



	odor prevention	objectionable odors generated at the facility from being detected off the premises of the facility. The plan must include: <ul style="list-style-type: none">a) A management plan that will be used to monitor and manage odors of any derivation including malodorous loads delivered to the facility; andb) Procedures for receiving and recording odor complaints, immediately investigating all odor complaints to determine the cause of odor emissions, and remedying promptly all odor problems at the facility.
6.9	Procedures for dust prevention	The operating plan shall <u>must</u> establish procedures for preventing dust from blowing off the premises of the facility. The plan must include: <ul style="list-style-type: none">a) A management plan that the franchisee will be used<u>use</u> to monitor and manage dust of any derivation; andb) Procedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions, and remedying promptly all dust problems at the facility.
6.10	Procedures for emergencies	The operating plan shall <u>must</u> establish procedures that the franchisee will follow to be followed in case of fire or other emergency.
6.11	Procedures for nuisance complaints	<ol style="list-style-type: none">1. For every nuisance complaint (for example odor, dust, vibrations, and litter) received, the franchisee shall<u>must</u> record:<ul style="list-style-type: none">a) The nature of the complaint;b) The date the complaint was received;c) The name, address and telephone number of the person or persons making the complaint; andd) Any actions taken by the operator in response to the complaint (whether successful or unsuccessful).2. The franchisee shall<u>must</u> make records of such information available to Metro upon request. The franchisee shall<u>must</u> retain each complaint record for a period of not less than one year.
6.12	Closure protocol	The franchisee shall <u>must</u> establish protocol for closure and restoration of the site in the event of a long-term cessation of



		operations as provided in Metro Code Section 5.01.072(c)(3).
6.13	Financial assurance	The franchisee shall <u>must</u> maintain financial assurance in the amount of \$25,000 for the cost of the facility's closure and maintain such financial assurance in a form approved by Metro for the term of this franchise.

7.0	FEES AND RATE SETTING	
7.1	Purpose	This section of the franchise specifies fees payable by the franchisee, and describes rate regulation by Metro.
7.2	Annual fee	The franchisee shall <u>must</u> pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
7.3	Rates not<u>regulated</u>	<p><u>1. The rates charged by the franchisee for accepting solid waste are not subject to regulation by Metro unless the Metro Council adopts an ordinance that establishes Metro's rate regulation authority.</u></p> <p><u>2. Notwithstanding the provision above, the rates charged by the franchisee must not exceed the rates posted at the facility as described in Section 5.13.</u></p> <p>The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro.</p>
7.4	<u>Rate review</u>	<p><u>1. Metro may review the franchisee's financial records for the purpose of determining whether the rates charged for the disposal of solid waste related to the costs of accepting, managing, transporting, and disposing of the waste by the franchisee are in the public interest. For purposes of this section, "costs" are defined to include general and administrative expenses including but not limited to allocated costs and normal profit for the private transfer station industry.</u></p> <p><u>2. As provided in this section, the franchisee must provide Metro access to the financial records that are sufficient to determine the information described above.</u></p>
7.54	Metro fee and tax imposed on	The franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax,



	disposal	as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.
7.65	Metro community enhancement fee imposed on waste received	Effective July 1, 2015, the The franchisee shall <u>must</u> collect and remit to Metro a community enhancement fee, as provided in Metro Code Chapter 5.06, in an amount equal to \$1.00 per ton for all putrescible waste including food waste and yard debris mixed with food waste. The franchisee shall <u>must</u> remit the community enhancement fees to Metro on a monthly basis in conjunction with fees remitted in Section 7.45.

8.0	RECORD KEEPING AND REPORTING	
8.1	Purpose	This section of the franchise describes record keeping and reporting requirements. The franchisee shall <u>must</u> effectively monitor facility operation and maintain accurate records of the information described in this section.
8.2	<u>Reporting-Record keeping requirements</u>	<p>For all solid waste and materials the franchisee is authorized to accept under Section 3.0, the franchisee must keep and maintain accurate records of the amount of authorized materials the franchisee accepts, recovers, recycles, reloads, and disposes. These records include the information specified in the Metro document titled, <i>Reporting Requirements and Data Standards for Metro Solid Waste Licenses, Franchises, and Parties to Designated Facility Agreements.</i></p> <p>1. For all solid waste and materials the franchisee is authorized to receive under Section 3.0 of this franchise, the franchisee shall keep and maintain accurate records of the amount of such materials the franchisee receives, recovers, recycles, reloads, and disposes.</p> <p>2. The franchisee shall keep and maintain complete and accurate records of the following for all transactions:</p> <ul style="list-style-type: none"> a) Ticket Number (should be the same as the ticket number on the weight slips); b) Customer account numbers identifying incoming customers and outgoing destinations; c) Description whether the load was incoming to the facility or outgoing from the facility; d) Material Category: Code designating the following types of material (more detail, such as differentiating yard



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



		account numbers used in the transaction database with the company's name and address.
8.6	Transactions based on scale weights	Except for minimum fee transactions for small, lightweight loads, the franchisee shall <u>must</u> record each inbound and outbound transaction electronically based on actual and accurate scale weights using the franchisee's on-site scales.
8.7	DEQ submittals	The franchisee shall <u>must</u> provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
8.8	Copies of enforcement actions provided to Metro	The franchisee shall <u>must</u> ensure Metro receives copies of any notice of violation or noncompliance, citation, or any other similar enforcement actions issued to the franchisee by any federal, state, or local government (other than Metro), and related to the operation of the facility.
8.9	Unusual occurrences	<ol style="list-style-type: none">1. The franchisee shall<u>must</u> keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.2. The franchisee must notify Metro within 24 hours of any if a breakdown of the franchisee's equipment if the breakdown occurs that will substantially impact the facility's ability of the facility to comply with this franchise or with Metro Coderemain in compliance, or which will create off-site impacts, the Franchisee shall notify Metro within 24 hours.3. The franchisee shall<u>must</u> report any facility fires, accidents, emergencies, and other significant incidents to Metro within 12 hours of the discovery of their occurrence.
8.10	Changes in ownership	<ol style="list-style-type: none">1. Any change in control of franchisee or the transfer of a controlling interest of franchisee shall<u>requires</u> prior written notice to Metro. "Transfer of a controlling interest of franchisee" includes without limitation the transfer of 10% or more of the ownership of franchisee to or from a single entity. Metro may amend<u>modify</u> this franchise under Section 11.3 to require the new ownership of franchisee to assume all the



		rights and obligations of this franchise. 2. The franchisee may not lease, assign, mortgage, sell, or otherwise transfer control of the franchise unless the franchisee follows the requirements of Metro Code Section 5.01.076.
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9.0	INSURANCE REQUIREMENTS	
9.1	Purpose	This section describes the types of insurance that the franchisee shall <u>must</u> purchase and maintain at the franchisee's expense, covering the franchisee, its employees, and agents. The franchisee shall <u>must</u> provide Metro with documentation demonstrating that it holds all of the required insurance coverage described in Section 9.0 of this franchise .
9.2	General liability	The franchisee shall <u>must</u> carry the most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence and \$1,000,000 aggregate. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed operations. Contractor's coverage will be primary as respects Metro.
9.3	Automobile	The franchisee shall <u>must</u> carry automobile bodily injury and property damage liability insurance.
9.4	Coverage	Insurance coverage shall <u>must</u> be a minimum of \$1,000,000 per occurrence and \$1,000,000 aggregate.



9.5	Additional insureds	Metro, its elected officials, departments, employees, and agents shall <u>must</u> be named as ADDITIONAL INSUREDS.
9.6	Worker's Compensation Insurance	The franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law shall <u>must</u> comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. The franchisee shall <u>must</u> provide Metro with certification of Workers' Compensation insurance including employer's liability. If the franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
9.7	Notification	The franchisee shall <u>must</u> give at least 30 days written notice to the COO of any lapse or proposed cancellation of insurance coverage.

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



		penalties as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation.
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11.0	AMENDMENT, MODIFICATION, SUSPENSION, AND REVOCATION	
11.1	Amendment by agreement	At any time during the term of the franchise, either the COO or the franchisee may propose amendments to this franchise. If either the COO or the franchisee proposes amendments to this franchise, both parties shall <u>will</u> make good faith efforts to arrive at consensus on the intent and implementing language of said amendments.
11.2	Amendment by Metro Council action	<p>Except as provided in Section 11.3, the provisions of this franchise shall<u>will</u> remain in effect unless the Metro Council:</p> <ul style="list-style-type: none"> a) Amends the Metro Code, amends the Regional Solid Waste Management Plan, or implements other legislation of broad applicability that affects the class of facilities of which this franchisee is a member; and b) Adopts an ordinance amending this franchise to implement the policy, code or process specified by said ordinance. <p>If, in the course of considering an ordinance amending this franchise as provided in (b) above, the franchisee provides evidence that the amendment will result in significant capital cost to the franchisee, the Metro Council will include capital cost and the ability of the franchisee to achieve a reasonable rate of return on any additional investment required as factors when considering whether to adopt the ordinance.</p>
11.3	Amendment<u>Modification</u>, suspension or revocation by Metro for cause	<p>In addition to the modifications<u>amendments</u> authorized by Sections 4.2 -1.5 and 4.3 of this franchise, the COO may, at any time before the expiration date, amend<u>modify</u>, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ul style="list-style-type: none"> a) Violation of the terms or conditions of this franchise, Metro Code, or any applicable statute, rule, or standard; b) Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this franchise;



		<p>c) Failure to disclose fully all relevant facts;</p> <p>d) A significant release into the environment from the facility;</p> <p>e) Significant change in the character of solid waste received or in the operation of the facility;</p> <p>f) Any change in ownership or control;</p> <p>g) A request from the local government stemming from impacts resulting from facility operations; and</p> <p><u>h) Compliance history of the franchisee; and</u></p> <p><u>h)i) Changes in regional tonnage trends or actual solid waste generation.</u></p>
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12.0	GENERAL OBLIGATIONS	
12.1	Compliance with law	<p>The franchisee shall<u>must</u> fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be<u>are</u> deemed part of this franchise as if specifically set forth herein. Such-These conditions and permits include those cited within or attached as exhibits to the franchise document, as well as any existing at the time the issuance of the franchise<u>franchise is issued</u> but not cited or attached, and permits or conditions issued or modified<u>amended</u> during the term of the franchise.</p>
12.2	Deliver waste to appropriate destinations	<p>The franchisee shall<u>must</u> ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.</p>
12.3	Right of inspection and audit	<p>1. Authorized representatives of Metro may take photographs, collect samples of materials, and perform such any inspection or audit as the COO deems appropriate. The franchisee must allow authorized representatives and shall be permitted access</p>



		<p>to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 12.5 4 of this franchise, Metro's right to inspect shall includes the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of franchisee that are directly related to the operation of the facility.</p> <p>2. The franchisee shall <u>must</u> permit access to the facility premises to authorized representatives of Metro, including personnel on contract to Metro, at all reasonable times during business hours with or without notice to determine whether the franchisee meets the minimum level of recovery as provided in Section 3.6 of this franchise. The franchisee shall <u>must</u> provide:</p> <ul style="list-style-type: none">a) Access to all areas where it generates, manages, stores, and reloads processing residual, including without limitation to transfer vehicles;b) Access to facility personnel and equipment to collect, segregate, contain, and weigh individual samples of processing residual; andc) A safe location away from working areas and vehicle traffic where authorized representatives of Metro may conduct an analysis of the franchisee's processing residual.
12.4	Confidential information	<p>The franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The franchisee shall <u>must</u> prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall <u>will</u> treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt of a request for disclosure of information identified by</p>



		<p>franchisee as confidential, Metro shall will provide franchisee written notice of the request. The franchisee shall will have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. The franchisee <u>is responsible for</u> shall pay any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. This Section 12.0 shall does not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such those representatives agree to continue to treat such the information as confidential and make good faith efforts not to disclose such the information</p>
12.5	Compliance by agents	The franchisee shall be is responsible for ensuring that its agents and contractors operate in compliance <u>comply</u> with this franchise.

| w:bjt

Agenda Item No. 6.4

Ordinance No. 16-1384, For the Purpose of Approving a Franchise Term Extension, Allocating Tonnage, and Authorizing the Chief Operating Officer to Issue an Amended Franchise for Pride Recycling Company and Declaring an Emergency

Ordinances (first read)

Metro Council Meeting
Thursday, October 13, 2016
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING A	)	ORDINANCE NO. 16-1384
FRANCHISE TERM EXTENSION,)	
ALLOCATING TONNAGE, AND	)	Introduced by Chief Operating Officer Martha
AUTHORIZING THE CHIEF OPERATING	)	Bennett in concurrence with Council
OFFICER TO ISSUE AN AMENDED	)	President Tom Hughes
FRANCHISE FOR PRIDE RECYCLING)	
COMPANY AND DECLARING AN)	
EMERGENCY)	

WHEREAS, Metro Code Section 5.01.070(a)(2) states that a Metro Solid Waste Facility Franchise is required for any person owning or controlling a facility that operates a Transfer Station; and

WHEREAS, Pride Recycling Company operates a Transfer Station and holds Metro Solid Waste Facility Franchise Number F-002-08E, which will expire on December 31, 2016; and

WHEREAS, Metro Code Section 5.01.073(k) establishes a franchise term as not more than five years; and

WHEREAS, Metro remains engaged in the Solid Waste Roadmap process, which is a long term effort to determine the best approach to managing the region’s solid waste and other discarded materials; and

WHEREAS, on July 21, 2016, the Metro Council adopted a transfer system configuration policy via Resolution No. 16-4716 to ensure that the regional transfer system provides maximum public benefit and that Metro maintain the current configuration of public and private transfer stations; and

WHEREAS, the transfer system configuration policy requires that Metro (1) allocate tonnage on a percentage basis to ensure flow to public stations; (2) develop by administrative rule a consistent process and framework for adjusting allocations in the future; (3) limit the amount of putrescible solid waste any one private company may transfer; and (4) ensure transfer station rate transparency; and

WHEREAS, the Chief Operating Officer recommends amending the franchise to increase the tonnage allocation authorization, but with no further tonnage allocation adjustment until the Metro Council adopts an administrative rule outlining the allocation adjustment process; and

WHEREAS, the Chief Operating Officer further recommends amending the franchise to require a franchisee to provide 30-days notice when denying waste haulers access to a facility, to add provisions designed to increase transfer station rate transparency, and other housekeeping changes to improve readability and consistency; and

WHEREAS, the Chief Operating Officer recommends that the Metro Council extend the franchise for three additional years to December 31, 2019, in order to maintain continuity in the transfer station system while the Solid Waste Roadmap process continues; and

WHEREAS, the Metro Council finds that the proposed amendments are in the public interest; and

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

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The transfer station franchise amendments for Pride Recycling Company Transfer Station are approved subject to the terms, conditions, and limitations contained in Exhibit A.
2. The Chief Operating Officer is authorized to issue to Pride Recycling Company an amended Solid Waste Facility Franchise substantially similar to the one attached as Exhibit A.
3. That this Ordinance being necessary for the health, safety, and welfare of the Metro area by ensuring that transfer stations have ongoing Metro authorization to accept putrescible waste, an emergency is declared to exist pursuant to Metro Charter Section 38 (1), and this Ordinance will take effect on January 1, 2017.

ADOPTED by the Metro Council this ____ day of October 2016.

Attest:

Tom Hughes, Council President

Approved as to Form:

Nellie Papsdorf, Recording Secretary

Alison R. Kean, Metro Attorney

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SOLID WASTE FACILITY FRANCHISE
No. F-002-08F

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

This franchise replaces and supersedes the provisions of Metro Solid Waste Facility Franchise No. F-002-08E. Metro grants this franchise to the franchisee named above. The franchisee is authorized to operate and maintain a solid waste facility and to accept the solid wastes and perform the activities authorized by and subject to the conditions stated in this franchise.

ISSUED BY METRO:

Paul Slyman, Property and Environmental Services Director

Date



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1.0	ISSUANCE	
1.1	Franchisee	Pride Recycling Company 13910 SW Tualatin-Sherwood Road Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179
1.2	Corporate affiliation	Pride Recycling Company 13910 SW Tualatin-Sherwood Road Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179
1.3	Contact	Mike Leichner, Tel. (503) 625-0725 Fax. (503) 625-6179 e-mail: mike@pridedisposal.com
1.4	Franchise number	When referring to this franchise, please cite: Metro Solid Waste Facility Franchise No. F-002-08F.
1.5	Term	The franchise originally commenced on January 1, 2009, with a termination date of December 31, 2016. The franchise is now extended to terminate on December 31, 2019, unless amended, suspended, or revoked as provided in this franchise.
1.6	Renewal	The franchisee may apply for a franchise renewal as provided in Metro Code Chapter 5.01.
1.7	Facility name and mailing address	Pride Recycling Company PO Box 1150 Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179
1.8	Operator	Pride Recycling Company 13910 SW Tualatin-Sherwood Road Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179
1.9	Facility premises description	Tax Lot Identification No. 2S128C000101 and No. 2S128C000105, City of Sherwood, Washington County, State of Oregon



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

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



		and agents.
2.8	Waivers	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 11.0 and be in writing and signed by the COO.
2.9	Effect of waiver	Waiver of a term or condition of this franchise does not waive nor prejudice Metro’s right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.10	Choice of law	The franchise will be construed, applied, and enforced in accordance with the laws of the State of Oregon.
2.11	Enforceability	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise will not be affected.
2.12	Franchise not a waiver	This franchise does not relieve any owner, operator, or the franchisee from the obligation to obtain all required permits, franchises, or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.13	Franchise not limiting	This franchise does not limit the power of a federal, state, or local agency to enforce any provision of law relating to the facility.
2.14	Definitions	<ol style="list-style-type: none"> 1. “Mixed Non-Putrescible Waste” means a mixture of more than one type of non-putrescible waste, including commingled recyclables other than residential curbside recyclable material. This category includes construction and demolition waste but excludes Cleanup Materials Contaminated by Hazardous Substances, Source-Separated Recyclable Material, special waste, land clearing debris and yard debris. 2. Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.00.

3.0	AUTHORIZATIONS	
3.1	Purpose	This section of the franchise describes the wastes that the franchisee is authorized to accept at the facility and the waste-



		related activities the franchisee is authorized to perform at the facility.
3.2	General conditions on solid waste	The franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
3.3	General conditions on activities	The franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.
3.4	Acceptance and management of putrescible solid waste	<ol style="list-style-type: none">1. The franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 12.2. The franchisee also is authorized to accept putrescible waste for material recovery.2. The franchisee must receive, manage, store, reload, and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers.3. The franchisee is authorized to accept putrescible waste generated inside the Metro region only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
3.5	Acceptance and management of mixed non-putrescible solid waste	<ol style="list-style-type: none">1. The franchisee is authorized to accept mixed non-putrescible solid waste for material recovery.2. The franchisee must receive, sort, store, reload, and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover prior to processing, within 12 hours of receipt, or by the end of the business day, whichever is earlier.3. The franchisee is authorized to accept mixed non-putrescible waste from all customers including public self-haul.
3.6	Material recovery required	<ol style="list-style-type: none">1. The franchisee must perform material recovery on mixed non-putrescible wastes. The franchisee must ensure that the



		<p>facility is designed and operated to assure materials are recovered in a timely manner and to protect the quality of non-putrescible waste that has not yet undergone material recovery. The franchisee must perform recovery at no less than the minimum level stipulated in Metro Code Chapter 5.01.</p> <p>2. The franchisee must take quarterly samples of processing residual that are statistically valid and representative of the facility's residual. Each sample required by this section must weigh at least 300 pounds.</p>
3.7	Management of processing residual from material recovery	<p>The franchisee must store, reload, and transfer all non-putrescible waste processing residual on an impervious surface and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers.</p>
3.8	Acceptance of source-separated recyclable materials	<p>1. The franchisee must provide a place for collecting source-separated recyclable materials on the facility premises.</p> <p>2. The franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.</p>
3.9	Acceptance of yard debris	<p>The franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.</p>
3.10	Acceptance of source-separated food waste	<p>The franchisee is authorized to accept source-separated food waste that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The franchisee may accept source-separated food waste only for reloading to authorized facilities for composting or other useful purposes as described in an operating plan and approved in writing by the COO.</p>
3.11	Acceptance of untreated wood	<p>The franchisee is authorized to accept for processing and reloading, source-separated, untreated and unpainted wood</p>



		waste, for example untreated lumber and wood pallets. The franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.12	Acceptance of painted and treated wood	The franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by the COO. The franchisee must not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock, or any other product unless otherwise described in an operating plan and approved in writing by the COO.
3.13	Acceptance of electronics devices	The franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer, and other similar functions related to preparing these materials for reuse, recycling, or disposal as required by the Oregon Department of Environmental Quality (DEQ).
3.14	Acceptance of inert material	The franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer, and other similar functions related to preparing these materials for useful purposes.
3.15	Production of hogged fuel	<ol style="list-style-type: none"> 1. As authorized by Section 3.0, the franchisee is authorized to accept and process only untreated wood, painted wood, and incidental quantities of treated wood for delivery to facilities with industrial boilers for use as hogged fuel. 2. The franchisee is prohibited from mixing any other solid waste with the wood wastes described above in Section 3.15.1 for the production of hogged fuel.

4.0	LIMITATIONS AND PROHIBITIONS	
4.1	Purpose	This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility.



4.2	Tonnage allocation	<ol style="list-style-type: none">1. The franchisee is authorized to accept putrescible waste generated inside the Metro region as follows:<ol style="list-style-type: none">a) For calendar year 2017, beginning on January 1 and ending December 31, 2017, the franchisee is authorized to accept up to 77,435 tons of putrescible waste generated inside the Metro region;b) In October 2017, the COO will allocate tonnage for calendar year 2018 and amend Section 4.2 of this franchise as described in the staff report to Ordinance No. 16-1384; andc) In October 2018, the COO will allocate tonnage for calendar year 2019 and amend Section 4.2 of this franchise as described in the staff report to Ordinance No. 16-1384.2. Metro bases its tonnage allocations on its <i>Solid Waste Forecast</i>. Although Metro makes every effort to include accurate and reliable information in its forecast, Metro may adjust tonnage allocations based on tonnage trends and actual solid waste generation.
4.3	Waste hauler access	<p>It is in the public’s best interest that transfer stations located inside the Metro region maintain adequate capacity to accommodate solid waste generated within the region and provide adequate access to waste haulers that collect solid waste within the geographic proximity of the facility. Therefore:</p> <ol style="list-style-type: none">a) The franchisee must not accept solid waste generated outside the Metro region if to do so would limit the franchisee from accepting any putrescible or non-putrescible waste generated inside the Metro region;b) The franchisee should not accept solid waste collected outside of the geographic proximity of the facility if to do so would deny access to waste haulers that collect solid waste within the geographic proximity of the facility;c) The franchisee must not deny access to any unaffiliated waste hauler without due cause or written notice 30-days in advance; andd) The COO may require the franchisee to provide a written explanation of its rationale if the facility denies access or refuses service to a waste hauler.



4.4	Prohibited waste	The franchisee must not knowingly receive, process, reload, or dispose of any solid waste not authorized by this franchise. The franchisee must not knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the DEQ.
4.5	Prohibition on mixing	<ol style="list-style-type: none">1. The franchisee must not mix or commingle any source-separated recyclable materials, source-separated yard debris or wood wastes brought to the facility with any unprocessed solid wastes or solid wastes destined for disposal.2. The franchisee must not mix or commingle putrescible solid waste with non-putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.3. The franchisee must not mix or commingle non-putrescible solid waste with putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.
4.6	Prohibition of size reduction on non-putrescible waste	The franchisee must not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, or processing residual consolidation or loading operations, and such size reduction is described in an operating plan and approved by the COO.
4.7	No disposal of recyclable materials	The franchisee must not transfer source-separated recyclable materials to a disposal site, including without limitation landfills and incineration facilities.
4.8	Composting prohibited	The franchisee must not keep yard debris on site long enough for more than negligible biological decomposition to begin.
4.9	Limits not exclusive	This franchise will not be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.



5.0	OPERATING CONDITIONS	
5.1	Purpose and general performance goals	<p>This section of the franchise describes criteria and standards for the operation of the facility. The franchisee must operate in a manner that meets the following general performance goals:</p> <ul style="list-style-type: none">a) Environment. The franchisee must design and operate the facility to avoid undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste, asbestos and other prohibited wastes.b) Health and safety. The franchisee must design and operate the facility to avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.c) Nuisances. The franchisee must design and operate the facility to avoid nuisance conditions including, but not limited to, litter, dust, odors, and noise.
5.2	Qualified operator	<ol style="list-style-type: none">1. The franchisee must, during all hours of operation, provide an operating staff employed by the facility and qualified and competent to carry out the functions required by this franchise and to otherwise comply with Metro Code Chapter 5.01.2. Facility personnel, as relevant to their job duties and responsibilities, must be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan.3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.
5.3	Fire prevention	<p>The franchisee must provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from processing and storage areas.</p>
5.4	Adequate vehicle accommodation	<p>The franchisee must:</p> <ul style="list-style-type: none">a) Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. The franchisee



		<p>must maintain access roads to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather.</p> <ul style="list-style-type: none">b) Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles must not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances.c) Post signs to inform customers not to queue on public roadways.d) Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site tarping and untarping of loads.
<p>5.5</p>	<p>Managing prohibited wastes</p>	<ul style="list-style-type: none">1. The franchisee must reject prohibited waste upon discovery and must properly manage and dispose of prohibited waste when unknowingly received.2. The franchisee must implement a load-checking program to prevent accepting prohibited waste. This program must include at a minimum:<ul style="list-style-type: none">a) Visual inspection. As each load is tipped, a qualified operator must visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise.b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas must be covered and enclosed to prevent leaking and contamination.c) Record maintenance. The franchisee must maintain records of the training of personnel in the recognition, proper handling, and disposition of prohibited waste and make those records available for review by Metro.d) Upon discovery, the franchisee must remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the franchisee unknowingly receives must be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by the DEQ or local government.



5.6	Storage and exterior stockpiles	<p>The franchisee must:</p> <ul style="list-style-type: none">a) Manage, contain, and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards;b) Maintain storage areas in an orderly manner and keep the areas free of litter;c) Position exterior stockpiles within footprints identified on the facility site plan or operating plan; andd) Not stockpile recovered or source-separated materials for longer than 180 days (6 months).
5.7	Dust, airborne debris and litter	<p>The franchisee must operate the facility in a manner that minimizes and mitigates the generation of dust, airborne debris and litter, and must prevent its migration beyond property boundaries. The franchisee must:</p> <ul style="list-style-type: none">a) Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit;b) Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit;c) Maintain and operate all access roads and receiving, processing, storage, and reload areas in such a manner as to minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site;d) Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation;e) Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; andf) Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted,



		authorized representatives of Metro, including law enforcement personnel on contract to Metro, must be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Section 5.09.040 of the Metro Code.
5.8	Odor	<ol style="list-style-type: none">1. The franchisee must operate the facility in a manner that prevents the generation of odors that are detectable off-site.2. The franchisee must establish and follow procedures in the operating plan for minimizing odor at the facility.
5.9	Vectors (e.g. birds, rodents, insects)	<ol style="list-style-type: none">1. The franchisee must operate the facility in a manner that is not conducive to harboring rodents, birds, insects, or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.2. If vectors are present or detected at the facility, the franchisee must implement vector control measures.
5.10	Noise	The franchisee must operate the facility in a manner that avoids noise sufficient to cause adverse off-site impacts and to the extent necessary to meet applicable regulatory standards and land-use regulations.
5.11	Water contaminated by solid waste and solid waste leachate	The franchisee must operate the facility consistent with an approved DEQ stormwater management plan or equivalent and must: <ol style="list-style-type: none">a) Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; andb) Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state, and federal laws and regulations.
5.12	Access control	<ol style="list-style-type: none">1. The franchisee must control access to the facility as necessary to prevent unauthorized entry and dumping.2. The franchisee must maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.



5.13	Signage	<p>The franchisee must post signs at all public entrances to the facility. The signs must comply with local government signage regulations. These signs must be easily and readily visible, and legible from off-site during all hours and must contain at least the following information:</p> <ul style="list-style-type: none">a) Name of the facility;b) Address of the facility;c) Emergency telephone number for the facility;d) Operating hours during which the facility is open for the receipt of authorized waste;e) Fees and charges;f) Metro's name and telephone number (503) 234-3000;g) A list of authorized and prohibited wastes;h) Vehicle / traffic flow information or diagram;i) Covered load requirements; andj) Directions not to queue on public roadways.
5.14	Nuisance complaints	<ol style="list-style-type: none">1. The franchisee must respond to all nuisance complaints in timely manner (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), and must keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.2. If the facility receives a complaint, the Franchisee must:<ul style="list-style-type: none">a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); andb) Log all such complaints as provided by the operating plan. The franchisee must retain each log entry for one year and it must be available for inspection by Metro.
5.15	Access to franchise document	<p>The franchisee must maintain a copy of this franchise on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.</p>



6.0	OPERATING PLAN	
6.1	Purpose	This section lists the requirements associated with preparing and implementing a facility operating plan, and lists the procedures that must be included in the required facility operating plan.
6.2	Plan compliance	The franchisee must operate the facility in accordance with an operating plan approved in writing by the COO. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this franchise. The franchisee may amend or revise the operating plan from time to time, subject to written approval by the COO.
6.3	Plan maintenance	The franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures, and requirements. The franchisee must submit amendments and revisions of the operating plan to the COO for written approval prior to implementation.
6.4	Access to operating plan	The franchisee must maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
6.5	Procedures for inspecting loads	The operating plan must establish: <ul style="list-style-type: none">a) Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes;b) Procedures for identifying incoming and outgoing loads for waste classifications;c) A set of objective criteria for accepting and rejecting loads; andd) An asbestos testing protocol for all materials that appear to contain friable asbestos.
6.6	Procedures for processing and storage of loads	The operating plan must establish procedures for: <ul style="list-style-type: none">a) Processing authorized solid wastes;b) Reloading and transfer of authorized solid wastes;c) Managing stockpiles to ensure that they remain within the authorized weights, volumes and pile heights;d) Storing authorized solid wastes; ande) Minimizing storage times and avoiding delay in



		processing of authorized solid wastes.
6.7	Procedures for managing prohibited wastes	The operating plan must establish procedures for managing, reloading, and transferring to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan must establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.
6.8	Procedures for odor prevention	The operating plan must establish procedures for preventing objectionable odors generated at the facility from being detected off the premises of the facility. The plan must include: <ul style="list-style-type: none">a) A management plan that will be used to monitor and manage odors of any derivation including malodorous loads delivered to the facility; andb) Procedures for receiving and recording odor complaints, immediately investigating all odor complaints to determine the cause of odor emissions, and remedying promptly all odor problems at the facility.
6.9	Procedures for dust prevention	The operating plan must establish procedures for preventing dust from blowing off the premises of the facility. The plan must include: <ul style="list-style-type: none">a) A management plan that the franchisee will use to monitor and manage dust of any derivation; andb) Procedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions, and remedying promptly all dust problems at the facility.
6.10	Procedures for emergencies	The operating plan must establish procedures that the franchisee will follow in case of fire or other emergency.
6.11	Procedures for nuisance complaints	<ol style="list-style-type: none">1. For every nuisance complaint (for example odor, dust, vibrations, and litter) received, the franchisee must record:<ul style="list-style-type: none">a) The nature of the complaint;b) The date the complaint was received;c) The name, address and telephone number of the person or persons making the complaint; andd) Any actions taken by the operator in response to the



		<p>complaint (whether successful or unsuccessful).</p> <p>2. The franchisee must make records of such information available to Metro upon request. The franchisee must retain each complaint record for a period of not less than one year.</p>
6.12	Closure protocol	The franchisee must establish protocol for closure and restoration of the site in the event of a long-term cessation of operations as provided in Metro Code Section 5.01.072(c)(3).
6.13	Financial assurance	The franchisee must maintain financial assurance in the amount of \$25,000 for the cost of the facility's closure and maintain such financial assurance in a form approved by Metro for the term of this franchise.

7.0	FEES AND RATE SETTING	
7.1	Purpose	This section of the franchise specifies fees payable by the franchisee, and describes rate regulation by Metro.
7.2	Annual fee	The franchisee must pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
7.3	Rates	<p>1. The rates charged by the franchisee for accepting solid waste are not subject to regulation by Metro unless the Metro Council adopts an ordinance that establishes Metro's rate regulation authority.</p> <p>2. Notwithstanding the provision above, the rates charged by the franchisee must not exceed the rates posted at the facility as described in Section 5.13.</p>
7.4	Rate review	<p>1. Metro may review the franchisee's financial records for the purpose of determining whether the rates charged for the disposal of solid waste related to the costs of accepting, managing, transporting, and disposing of the waste by the franchisee are in the public interest. For purposes of this section, "costs" are defined to include general and administrative expenses including but not limited to allocated costs and normal profit for the private transfer station industry.</p> <p>2. As provided in this section, the franchisee must provide Metro access to the financial records that are sufficient to</p>



		determine the information described above.
7.5	Metro fee and tax imposed on disposal	The franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.
7.6	Metro community enhancement fee imposed on waste received	The franchisee must collect and remit to Metro a community enhancement fee, as provided in Metro Code Chapter 5.06, in an amount equal to \$1.00 per ton for all putrescible waste including food waste and residential yard debris mixed with food waste. The franchisee must remit the community enhancement fees to Metro on a monthly basis in conjunction with fees remitted in Section 7.5.

8.0	RECORD KEEPING AND REPORTING	
8.1	Purpose	This section of the franchise describes record keeping and reporting requirements. The franchisee must effectively monitor facility operation and maintain accurate records of the information described in this section.
8.2	Record keeping requirements	For all solid waste and materials the franchisee is authorized to accept under Section 3.0, the franchisee must keep and maintain accurate records of the amount of authorized materials the franchisee accepts, recovers, recycles, reloads, and disposes. These records include the information specified in the Metro document titled, <u>Reporting Requirements and Data Standards for Metro Solid Waste Licenses, Franchises, and Parties to Designated Facility Agreements</u> .
8.3	Reporting requirements	The franchisee must transmit to Metro records required under Section 8.0 no later than fifteen days following the end of each month in a format prescribed by Metro.
8.4	Material recovery reporting	The franchisee must provide the results of its quarterly sampling of processing residual, as provided in Section 3.6, to Metro as a component of its monthly report no later than fifteen days following the end of the each quarter in a format prescribed by Metro.
8.5	Account number listing	Within five business days of Metro's request, franchisee must provide Metro with a listing that cross-references the account



		numbers used in the transaction database with the company's name and address.
8.6	Transactions based on scale weights	Except for minimum fee transactions for small, lightweight loads, the franchisee must record each inbound and outbound transaction electronically based on actual and accurate scale weights using the franchisee's on-site scales.
8.7	DEQ submittals	The franchisee must provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
8.8	Copies of enforcement actions provided to Metro	The franchisee must ensure Metro receives copies of any notice of violation or noncompliance, citation, or any other similar enforcement actions issued to the franchisee by any federal, state, or local government (other than Metro) related to the operation of the facility.
8.9	Unusual occurrences	<ol style="list-style-type: none">1. The franchisee must keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.2. The franchisee must notify Metro within 24 hours of any breakdown of the franchisee's equipment if the breakdown will substantially impact the facility's ability to comply with this franchise or with Metro Code, or which will create off-site impacts.3. The franchisee must report any facility fires, accidents, emergencies, and other significant incidents to Metro within 12 hours of the discovery of their occurrence.
8.10	Changes in ownership	<ol style="list-style-type: none">1. Any change in control of franchisee or the transfer of a controlling interest of franchisee requires prior written notice to Metro. "Transfer of a controlling interest of franchisee" includes without limitation the transfer of 10% or more of the ownership of franchisee to or from a single entity. Metro may amend this franchise under Section 11.3 to require the new ownership of franchisee to assume all the rights and obligations of this franchise.



		2. The franchisee may not lease, assign, mortgage, sell, or otherwise transfer control of the franchise unless the franchisee follows the requirements of Metro Code Section 5.01.076.
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9.0	INSURANCE REQUIREMENTS	
9.1	Purpose	This section describes the types of insurance that the franchisee must purchase and maintain at the franchisee's expense, covering the franchisee, its employees, and agents. The franchisee must provide Metro with documentation demonstrating that it holds all of the required insurance coverage described in Section 9.0.
9.2	General liability	The franchisee must carry the most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence and \$1,000,000 aggregate. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed operations. Contractor's coverage will be primary as respects Metro.
9.3	Automobile	The franchisee must carry automobile bodily injury and property damage liability insurance.
9.4	Coverage	Insurance coverage must be a minimum of \$1,000,000 per occurrence and \$1,000,000 aggregate.
9.5	Additional insureds	Metro, its elected officials, departments, employees, and agents must be named as ADDITIONAL INSURED.
9.6	Worker's Compensation Insurance	The franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law must comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. The franchisee must provide Metro with certification of Workers' Compensation insurance including employer's liability. If the franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
9.7	Notification	The franchisee must give at least 30 days written notice to the



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

11.0	AMENDMENT, SUSPENSION, AND REVOCATION	
11.1	Amendment by agreement	At any time during the term of the franchise, either the COO or the franchisee may propose amendments to this franchise. If either the COO or the franchisee proposes amendments to this franchise, both parties will make good faith efforts to arrive at consensus on the intent and implementing language of said amendments.
11.2	Amendment by Metro Council action	Except as provided in Section 11.3, the provisions of this franchise will remain in effect unless the Metro Council: <ul style="list-style-type: none">a) Amends the Metro Code, amends the Regional Solid Waste Management Plan, or implements other legislation



		<p>of broad applicability that affects the class of facilities of which this franchisee is a member; and</p> <p>b) Adopts an ordinance amending this franchise to implement the policy, code or process specified by said ordinance.</p> <p>If, in the course of considering an ordinance amending this franchise as provided in (b) above, the franchisee provides evidence that the amendment will result in significant capital cost to the franchisee, the Metro Council will include capital cost and the ability of the franchisee to achieve a reasonable rate of return on any additional investment required as factors when considering whether to adopt the ordinance.</p>
11.3	Amendment, suspension or revocation by Metro for cause	<p>In addition to the amendments authorized by Section 4.2 , the COO may, at any time before the expiration date, amend, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ul style="list-style-type: none">a) Violation of the terms or conditions of this franchise, Metro Code, or any applicable statute, rule, or standard;b) Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this franchise;c) Failure to disclose fully all relevant facts;d) A significant release into the environment from the facility;e) Significant change in the character of solid waste received or in the operation of the facility;f) Any change in ownership or control;g) A request from the local government stemming from impacts resulting from facility operations;h) Compliance history of the franchisee; andi) Changes in regional tonnage trends or actual solid waste generation.



12.0	GENERAL OBLIGATIONS	
12.1	Compliance with law	The franchisee must fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility are deemed part of this franchise as if specifically set forth herein. These conditions and permits include those cited within or attached as exhibits to the franchise document, as well as any existing at the time the franchise is issued but not cited or attached, and permits or conditions issued or amended during the term of the franchise.
12.2	Deliver waste to appropriate destinations	The franchisee must ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.
12.3	Right of inspection and audit	<ol style="list-style-type: none"><li data-bbox="605 1123 1464 1780">1. Authorized representatives of Metro may take photographs, collect samples of materials, and perform any inspection or audit as the COO deems appropriate. The franchisee must allow authorized representatives access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 12.4, Metro's right to inspect includes the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of franchisee that are directly related to the operation of the facility.<li data-bbox="605 1785 1464 1938">2. The franchisee must permit access to the facility premises to authorized representatives of Metro, including personnel on contract to Metro, at all reasonable times during business hours with or without notice to determine whether the



		<p>franchisee meets the minimum level of recovery as provided in Section 3.6. The franchisee must provide:</p> <ul style="list-style-type: none">a) Access to all areas where it generates, manages, stores, and reloads processing residual, including without limitation to transfer vehicles;b) Access to facility personnel and equipment to collect, segregate, contain, and weigh individual samples of processing residual; andc) A safe, covered location away from working areas and vehicle traffic where authorized representatives of Metro may conduct an analysis of the franchisee's processing residual.
12.4	Confidential information	<p>The franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The franchisee must prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro will treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five days of Metro's receipt of a request for disclosure of information identified by franchisee as confidential, Metro will provide franchisee written notice of the request. The franchisee will have three days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. The franchisee is responsible for any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. This Section 12.0 does not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, those representatives agree to continue to treat the information as confidential and make good faith efforts not to disclose the information</p>



12.5	Compliance by agents	The franchisee is responsible for ensuring that its agents and contractors comply with this franchise.
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wj/bjl

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 16-1384, FOR THE PURPOSE OF APPROVING A FRANCHISE TERM EXTENSION, ALLOCATING TONNAGE, AND AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE AN AMENDED FRANCHISE FOR PRIDE RECYCLING COMPANY AND DECLARING AN EMERGENCY

October 7, 2016

Prepared by: Warren Johnson
503-797-1836

EXECUTIVE SUMMARY

Adoption of Ordinance No. 16-1384 authorizes a three-year franchise term extension and establishes a 2017 tonnage allocation of 77,435 tons for Pride Recycling Company (Pride). The ordinance also authorizes the Chief Operating Officer (COO) to establish subsequent annual tonnage allocations for the remainder of the franchise term, clarifies rate review and hauler access conditions, and incorporates various other non-substantive technical amendments in the franchise as described in this staff report. In addition, the ordinance establishes that an emergency exists and the proposed franchise will take effect on January 1, 2017, to ensure that the franchisee has ongoing authorization to accept putrescible waste for the health, safety, and welfare of the Metro area.

This proposed ordinance is an initial step in implementing Metro's transfer system configuration policy, adopted by the Metro Council on July 21, 2016.¹ In addition to this action for Pride, the Metro Council will consider similar ordinances to renew franchises for Forest Grove Transfer Station (Ord. No. 16-1381), Willamette Resources, Inc. (Ord. No. 16-1383), and Troutdale Transfer Station (Ord. No. 16-1382) at its meetings on October 20 and 27, 2016. The Metro Council will also consider an ordinance for a new franchise for Gresham Sanitary Service, Inc. (dba GSS Transfer LLC.) at its meetings on December 1 and 8, 2016. Gresham Sanitary seeks authority to operate a new transfer station at its existing solid waste reload site.

The COO recommends coordinating these franchise decisions to provide a clear and consistent approach to allocating tonnage for the privately-owned transfer stations. This coordinated approach also allows time for Metro to develop an administrative rule to further implement the configuration policy without causing undue disruption to the solid waste system in the interim. The administrative rule describing the tonnage allocation process will be developed and proposed to Metro Council during 2017.

¹ Resolution No. 16-4716

BACKGROUND

Metro's major solid waste contracts (operations,² transport, and disposal) will expire at the end of 2019. In an effort to shape the future solid waste system to better attain public benefits and improved sustainability, Metro has undertaken a major planning effort (known as the Solid Waste Roadmap) to set the future direction of the region's solid waste system for the next several years. A major component of this effort is to take a broad look at the role, configuration, and services offered by publicly and privately-owned transfer stations.

In 2013, Metro Council approved a two-year franchise term extension for Pride,³ to provide a period of stability and continuity until work on the transfer system configuration policy was completed. In 2015, the COO also administratively granted a one-year franchise term extension to allow additional time for Metro to work on the configuration policy.⁴ Pride's current franchise originally commenced on January 1, 2009, and was initially set to expire on December 31, 2013. As explained above, the franchise was subsequently extended for an additional three years and is now scheduled to expire on December 31, 2016.

On July 21, 2016, the Metro Council adopted a transfer system configuration policy. The purposes of the policy are to: 1) ensure that the region's transfer system provides maximum public benefit, 2) maintain the current configuration of publicly and privately-owned transfer stations, 3) ensure that an adequate amount of putrescible waste flows to publicly-owned stations (at least 40 percent of the region's putrescible tons), 4) limit the amount of putrescible waste that any one company may accept for transfer within the region (no more than 40 percent), and 5) improve rate transparency. In particular, the configuration policy shifts Metro away from its current "tonnage cap" system, in which the Metro Council establishes annual facility tonnage limits, to a new "tonnage allocation" system in which tonnage authority is proportionally allocated to privately-owned stations each year. Further details of the 2017 allocation methodology are described below.

Proposed franchise amendments for Pride:

The COO recommends that the Metro Council approve a franchise extension for Pride subject to the requirements listed in Metro Code Chapter 5.01 and further subject to the special conditions and technical updates described below. These changes are consistent with the transfer system configuration policy and are similarly included in the proposed franchises for the other privately-owned transfer stations identified in this report. All of the proposed changes to Pride's franchise are shown in the "redline" document attached to this staff report as Attachment 1.

² Metro's transfer station operations contracts expire in March 2017, but can be extended until the end of 2019.

³ Pride was granted a five-year franchise (Franchise No. F-002-08) in 2008 by Ordinance No. 08-1193. The original franchise term was January 1, 2009 through December 31, 2013. In 2013, Pride's franchise was extended by two years by Ordinance No. 13-1308.

⁴ Pride's current franchise (Franchise No. F-002-08E) includes a provision that authorized the COO to administratively extend the term of the franchise by up to one additional year to expire on December 31, 2016.

The proposed franchise for Pride includes the following amendments:

1. Franchise Term Extension (Section 1.5)

The COO recommends extending the term of the proposed franchise by an additional three years to expire on December 31, 2019.

This proposed change will allow time for Metro to develop a detailed administrative rule to further implement the configuration policy without causing undue disruption to the solid waste system in the interim.

2. Tonnage Allocation (Section 4.2)

The COO recommends establishing an initial tonnage allocation of 77,435 tons of putrescible waste for calendar year 2017 as described in this report and authorizing the COO to subsequently use the same allocation methodology (or as otherwise described in an administrative rule adopted by the COO or Metro Council) to establish annual tonnage allocations for the remainder of the franchise term (2018 and 2019).

A franchisee's tonnage allocation for 2017 is based on two factors: 1) its percentage of the region's putrescible waste in 2015 (as authorized by its franchise), and 2) the total allocable putrescible waste tonnage available in calendar year 2017 based on Metro's latest "Solid Waste Forecast." In short, a franchisee is authorized to accept the same *percentage* of waste in 2017 that it was authorized to accept in 2015, relative to the region's total amount of putrescible waste to allocate. This same process was used to determine the 2017 tonnage allocations for all of the franchised transfer stations except for the Forest Grove Transfer Station.

In 2015, Pride was authorized to accept 70,000 tons of putrescible waste. That was about 10.69 percent of the region's total putrescible waste that year. In 2017, Metro forecasts that the region will generate 724,649 tons of putrescible waste.⁵ Accordingly, Pride will receive an allocation of about 10.69 percent of the forecasted 724,649 tons for calendar year 2017 (which equals 77,435 tons).

Additionally, the proposed franchise states that each October the COO will amend the franchise to establish an annual tonnage allocation for the following calendar year throughout the term of the franchise. This allows the COO to administratively adjust the annual tonnage allocation as necessary to meet the transfer system configuration policy objectives. By adopting this ordinance, the Metro Council authorizes the COO to determine the franchisee's tonnage allocations for calendar years 2018 and 2019 using the same methodology described above or as otherwise adopted by the COO or Metro Council. In

⁵ FY 2017-18 Solid Waste Forecast dated September 15, 2016.

2017, staff will develop an administrative rule for Metro Council consideration that sets forth a detailed process for determining and adjusting future tonnage allocations. The COO recommends that Metro Council not allow any additional tonnage adjustments for the franchisee until an administrative rule has been adopted.

3. Waste Hauler Access (Section 4.3)

The COO recommends that the franchisee be required to comply with its annual tonnage allocation and: 1) maintain capacity to accept waste generated within the region, 2) accommodate haulers that collect waste within the geographic proximity of the facility, 3) not deny service to any unaffiliated waste hauler without due cause or without 30-day written notice, and 4) provide Metro with a written explanation if the franchisee denies service to a waste hauler.

Publicly and privately-owned transfer stations play an important role in the region's solid waste system. These stations provide public benefits to the region and they should serve the needs of customers located within proximity to their facilities. One public benefit of having public and private stations in different geographic locations is reduced vehicle miles traveled for haulers. This lowers costs to ratepayers and lowers hauler emissions into the environment. Accordingly, the COO recommends a new franchise condition for Pride that states that the franchisee should not refuse access to haulers that collect waste near the facility in order to accept other haulers that are located farther away. The COO recommends the proposed conditions to: 1) ensure that the franchisee considers time and vehicle miles traveled before refusing access to any unaffiliated haulers, 2) ensure that the public has adequate access to the region's transfer system, and 3) promote efficient off-route travel.

The proposed franchise also includes a new condition that prohibits the franchisee from denying access to an unaffiliated hauler without due cause or without providing written notice at least 30 days in advance. Denial of access for "due cause" could include a variety of legitimate reasons such as load contamination, failure to pay, or risk of exceeding the franchise tonnage allocation. This new notice requirement is intended to encourage open communication among parties, improve business planning, and minimize disruption to the system.

Additionally, the COO recommends including another new condition in this section whereby Metro may require the franchisee to provide a written explanation if the facility denies access to a waste hauler. This requirement would be triggered if the COO determines it to be necessary, such as in a case in which Metro receives a complaint about the facility from a local government or nearby waste hauler.

4. Rates (Section 7.3)

The COO recommends prohibiting the franchisee from charging any rates that exceed the amounts posted at the facility. The COO also recommends explaining that Metro will not otherwise regulate the facility's rates unless Metro Council adopts an ordinance that establishes Metro's rate regulation authority at the facility.

Metro Code Section 5.01.170 states that the Metro Council may establish facility rates if it is in the public interest as a matter of regional concern.⁶ However, as part of the recent configuration policy, Metro Council supported a progressive approach to achieve rate transparency at publicly and privately-owned transfer stations. As a first step in that approach, Metro will make its own rates more transparent to the public and local government rate-makers. In addition, the COO has added a franchise condition to explain that the Metro Council may also set facility rates or require the franchisee to provide access to its financial records to determine costs when there is a public benefit to doing so. These are not new conditions because Metro already has the authority to access the financial records of a regulated facility.

Although Metro will not establish rates at privately-owned facilities without approval of the Metro Council, the COO recommends including a condition in the proposed franchise specifying that the franchisee may not charge its customers higher rates than those posted at the facility. This provision provides some measure of protection to an unaffiliated customer from discriminatory pricing.

5. Non-Substantive Amendments (various sections throughout franchise)

The COO recommends various non-substantive, technical amendments to improve clarity, consistency, and ease of reading, but which do not change or add new requirements. These non-substantive changes include using active voice, general formatting, grammatical changes, and other housekeeping improvements.

ANALYSIS / INFORMATION

Known Opposition

There is no known opposition to the proposed term extension and general housekeeping changes in the amended franchise. The facility operator may disagree with some of the proposed conditions that address tonnage allocations, rate regulation, rate transparency, and hauler access requirements at the facility. However, the COO finds that the proposed conditions are consistent with the Metro Council's transfer system configuration policy.

Legal Antecedents

1. Metro Code Chapter 5.01, entitled "Solid Waste Facility Regulation." In particular:

⁶ Likewise, the Oregon legislature has authorized Metro to regulate rates. ORS 268.317(5).

- A. Metro Code Section 5.01.070 which states that a solid waste facility franchise is required for a operating a transfer station.
 - B. Metro Code Section 5.01.073 which states that the Metro Council determines whether to grant a solid waste facility franchise and the conditions to include in a franchise.
2. Metro's transfer system configuration policy adopted by Metro Council via Resolution 16-4716 on July 21, 2016.

Anticipated Effects

Adoption of Ordinance No. 16-1384 will authorize a three-year term extension, establish annual tonnage allocations, explain rate review and hauler access conditions, and incorporate various other non-substantive technical amendments for Pride's franchise. These changes are an initial step in the implementation of Metro's transfer system configuration policy while maintaining the stability and continuity of the region's solid waste system. In addition, this ordinance establishes that an emergency exists and the proposed franchise will take effect on January 1, 2017, to ensure that the franchisee has ongoing authorization to accept putrescible waste for the health, safety, and welfare of the Metro area.

Notwithstanding Metro Code Section 5.01.073(k) (which states that the term of a franchise may not exceed five years), the COO recommends that the Metro Council grant a three-year extension of Pride's franchise as provided in this staff report because it is in the public interest.

Budget Impacts

The proposed ordinance authorizes, in part, annual transfer station tonnage allocations which may result in shifting the distribution of waste tonnage in the system. The proposed amendments to Pride's transfer station franchise are based on direction from Metro's transfer system configuration policy. The budget impacts of the policy were accounted for in the 2016-17 budget adopted by the Metro Council.

Recommended Action:

Based on the information and analysis provided in this report, the COO recommends that the Metro Council adopt Ordinance No. 16-1384 and issue an amended franchise to Pride as attached to this ordinance as Exhibit A.

wj/bjl



SOLID WASTE FACILITY FRANCHISE

No. F-002-08~~FE~~

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

This franchise replaces and supersedes the provisions of Metro Solid Waste Facility Franchise No. F-002-08~~ED~~. Metro grants this franchise to the franchisee named above. The franchisee is authorized to operate and maintain a solid waste facility and to accept the solid wastes and perform the activities authorized by and subject to the conditions stated in this franchise.

ISSUED BY METRO:

Paul Slyman, Property and Environmental Services Director

Date



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1.0	ISSUANCE	
1.1	Franchisee	Pride Recycling Company 13910 SW Tualatin-Sherwood Road Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179
1.2	Corporate affiliation	Pride Recycling Company 13910 SW Tualatin-Sherwood Road Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179
1.3	Contact	Mike Lechner, Tel. (503) 625-0725 Fax. (503) 625-6179 e-mail: mike@pridedisposal.com
1.4	Franchise number	When referring to this franchise, please cite: Metro Solid Waste Facility Franchise No. F-002-08 EE .
1.5	Term	<p>1. The franchise originally term commences ds on January 1, 2009, and shall with a termination date of on December 31, 2016. The franchise is now extended to terminate on December 31, 2019, unless amended, modified, suspended, or revoked as provided in this franchise.</p> <p>At any time during the term of this franchise, Metro's Chief Operating Officer (the "COO") may extend the term of the franchise up to an additional 12 months to terminate no later than December 31, 2016.</p>
1.6	Renewal	The franchisee may apply for a franchise renewal as provided in Metro Code Chapter 5.01.
1.7	Facility name and mailing address	Pride Recycling Company PO Box 1150 Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179
1.8	Operator	Pride Recycling Company 13910 SW Tualatin-Sherwood Road



		Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179
1.9	Facility premises description	Tax Lot Identification No. 2S128C000101 and No. 2S128C000105, City of Sherwood, Washington County, State of Oregon
1.10	Property owner	Mike and Cindy Leichner PO Box 1150 Sherwood, Oregon 97140 Tel. (503) 625-0725 Fax. (503) 625-6179
1.11	Permission to operate	Franchisee warrants that it has obtained the property owner's consent to operate the facility as specified in this franchise.

2.0	CONDITIONS AND DISCLAIMERS	
2.1	Guarantees	This franchise shall <u>does</u> not vest any right or privilege in the franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise.
2.2	Non-exclusive franchise	This franchise shall <u>does</u> not in any way limit Metro from granting other solid waste franchises within Metro's boundaries.
2.3	Property rights	This franchise does not convey any property rights in either real or personal property.
2.4	Amendment and modification	Except as provided in Section 11.0 of this franchise , no amendment or modification shall <u>will</u> be effective unless approved by the Metro Council.
2.5	No recourse	The franchisee shall <u>will</u> have no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement of the franchise or in the event Metro determines that the franchise or any part thereof is invalid.
2.6	Indemnification	The franchisee shall <u>must</u> indemnify Metro, the Council, the COO, and any of their employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the granting of this



		franchise or the franchisee's performance of or failure to perform any of its obligations under the franchise or Metro Code Chapter 5.01, including without limitation patent infringement and any claims or disputes involving subcontractors.
2.7	Binding nature	This franchise is binding on the franchisee. The franchisee is liable for all acts and omissions of the franchisee's contractors and agents.
2.8	Waivers	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 11.0 and be in writing and signed by the COO.
2.9	Effect of waiver	Waiver of a term or condition of this franchise shall <u>does</u> not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.10	Choice of law	The franchise shall <u>will</u> be construed, applied, and enforced in accordance with the laws of the State of Oregon.
2.11	Enforceability	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise shall <u>will</u> not be affected.
2.12	Franchise not a waiver	This franchise does not relieve any owner, operator, or the franchisee from the obligation to obtain all required permits, franchises, or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.13	Franchise not limiting	This franchise does not limit the power of a federal, state, or local agency to enforce any provision of law relating to the facility.
2.14	Definitions	<p><u>1. "Mixed Non-Putrescible Waste" means a mixture of more than one type of non-putrescible waste, including commingled recyclables other than residential curbside recyclable material. This category includes construction and demolition waste but excludes Cleanup Materials Contaminated by Hazardous Substances, Source-Separated Recyclable Material, special waste, land clearing debris and yard debris.</u></p> <p>1-2. Unless otherwise specified, all other terms are as defined in</p>



Metro Code Chapter 5.00.

3.0		AUTHORIZATIONS
3.1	Purpose	This section of the franchise describes the wastes that the franchisee is authorized to accept at the facility and the waste-related activities the franchisee is authorized to perform at the facility.
3.2	General conditions on solid waste	The franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
3.3	General conditions on activities	The franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.
3.4	Acceptance and management of putrescible solid waste	<ol style="list-style-type: none">1. The franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 12.2of this franchise. The franchisee also is authorized to accept putrescible waste for material recovery.2. The franchisee shall<u>must</u> receive, manage, store, reload, and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers.3. The franchisee is authorized to accept putrescible waste generated inside the Metro region only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
3.5	Acceptance and management of mixed non-putrescible solid waste	<ol style="list-style-type: none">1. The franchisee is authorized to accept mixed non-putrescible solid waste for material recovery.2. The franchisee shall<u>must</u> receive, sort, store, reload, and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover



		<p>prior to processing, within 12 hours of receipt, or by the end of the business day, whichever is earlier.</p> <p>3. The franchisee is authorized to accept mixed non-putrescible waste from all customers including public self-haul.</p>
3.6	Material recovery required	<p>1. The franchisee shall<u>must</u> perform material recovery on mixed non-putrescible wastes. The franchisee shall<u>must</u> ensure that the facility is designed and operated to assure materials are recovered in a timely manner and to protect the quality of non-putrescible waste that has not yet undergone material recovery. The franchisee must perform recovery at no less than the minimum level stipulated in Metro Code Chapter 5.01.</p> <p>2. The franchisee shall<u>must</u> take quarterly samples of processing residual that are statistically valid and representative of the facility's residual. Each sample required by this section shall<u>must</u> weigh at least 300 pounds.</p>
3.7	Management of processing residual from material recovery	<p>The franchisee shall<u>must</u> store, reload, and transfer all non-putrescible waste processing residual on an impervious surface and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight covered or tarped containers or within covered or tarped transport trailers.</p>
3.8	Acceptance of source-separated recyclable materials	<p>1. The franchisee shall<u>must</u> provide a place for collecting source-separated recyclable materials on the facility premises.</p> <p>2. The franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.</p>
3.9	Acceptance of yard debris	<p>The franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. The franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.</p>
3.10	Acceptance of source-separated food waste	<p>The franchisee is authorized to accept source-separated food waste that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the</p>



		facility. The franchisee may accept source-separated food waste only for reloading to authorized facilities for composting or other useful purposes as described in an operating plan and approved in writing by the COO.
3.11	Acceptance of untreated wood	The franchisee is authorized to accept for processing and reloading, source-separated, untreated and unpainted wood waste, for example untreated lumber and wood pallets. The franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by the COO.
3.12	Acceptance of painted and treated wood	The franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by the COO. The franchisee shall <u>must</u> not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock, or any other product unless otherwise described in an operating plan and approved in writing by the COO.
3.13	Acceptance of electronics devices	The franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer, and other similar functions related to preparing these materials for reuse, recycling, or disposal as required by the Oregon Department of Environmental Quality (DEQ).
3.14	Acceptance of inert material	The franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer, and other similar functions related to preparing these materials for useful purposes.
3.15	<u>Production of hogged fuel</u>	<ol style="list-style-type: none"><u>1. As authorized by Section 3.0, the franchisee is authorized to accept and process only untreated wood, painted wood, and incidental quantities of treated wood for delivery to facilities with industrial boilers for use as hogged fuel.</u><u>2. The franchisee is prohibited from mixing any other solid waste with the wood wastes described above in Section 3.15.1 for the production of hogged fuel.</u>



4.0	LIMITATIONS AND PROHIBITIONS	
4.1	Purpose	This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility.
4.2	Tonnage authorization allocation	<p><u>1. The franchisee is authorized to accept putrescible waste generated inside the Metro region as follows:</u></p> <p><u>a) For calendar year 2017, beginning on January 1 and ending December 31, 2017, the franchisee is authorized to accept up to 77,435 tons of putrescible waste generated inside the Metro region;</u></p> <p><u>b) In October 2017, the COO will allocate tonnage for calendar year 2018 and amend Section 4.2 of this franchise as described in the staff report to Ordinance No. 16-1384; and</u></p> <p><u>c) In October 2018, the COO will allocate tonnage for calendar year 2019 and amend Section 4.2 of this franchise as described in the staff report to Ordinance No. 16-1384.</u></p> <p><u>2. Metro bases its tonnage allocations on its <i>Solid Waste Forecast</i>. Although Metro makes every effort to include accurate and reliable information in its forecast, Metro may adjust tonnage allocations based on tonnage trends and actual solid waste generation.</u></p> <p>The Franchisee is authorized to accept up to 75,000 tons of putrescible waste generated inside the Metro region within each calendar year.</p> <p>The Franchisee shall not accept solid waste generated outside the Metro region if to do so would limit the Franchisee from accepting 75,000 tons of putrescible waste, or any non-putrescible waste, generated inside the Metro region.</p>
4.3	Waste hauler access Tonnage authorization growth allowance	<p><u>It is in the public’s best interest that transfer stations located inside the Metro region maintain adequate capacity to accommodate solid waste generated within the region and provide adequate access to waste haulers that collect solid waste within the geographic proximity of the facility. Therefore:</u></p> <p><u>1. The franchisee must not accept solid waste generated outside the Metro region if to do so would limit the</u></p>



		<p><u>franchisee from accepting any putrescible or non-putrescible waste generated inside the Metro region;</u></p> <p><u>2. The franchisee should not accept solid waste collected outside of the geographic proximity of the facility if to do so would deny access to waste haulers that collect solid waste within the geographic proximity of the facility;</u></p> <p><u>3. The franchisee must not deny access to any unaffiliated waste hauler without due cause or written notice 30-days in advance; and</u></p> <p><u>4. The COO may require the franchisee to provide a written explanation of its rationale if the facility denies access or refuses service to a waste hauler.</u></p> <p>Effective January 1, 2016, the COO may amend Section 4.2 of this franchise to increase the calendar year tonnage authorization by up to an additional five percent if the COO determines that there is a sufficient public benefit and available tonnage forecasted to granting such an increase.</p>
4.4	Prohibited waste	<p>The franchisee shall<u>must</u> not knowingly receive, process, reload, or dispose of any solid waste not authorized by this franchise. The franchisee shall<u>must</u> not knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the DEQ.</p>
4.5	Prohibition on mixing	<p>1. The franchisee shall<u>must</u> not mix or commingle any source-separated recyclable materials, source-separated yard debris or wood wastes brought to the facility with any unprocessed solid wastes or solid wastes destined for disposal.</p> <p>2. The franchisee shall<u>must</u> not mix or commingle putrescible solid waste with non-putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.</p> <p>3. The franchisee shall<u>must</u> not mix or commingle non-putrescible solid waste with putrescible solid waste or source-separated recyclable materials, including without limitation wood waste and yard debris.</p>
4.6	Prohibition of size	<p>The franchisee shall<u>must</u> not crush, grind or otherwise reduce the</p>



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

5.0	OPERATING CONDITIONS	
5.1	Purpose and general performance goals	<p>This section of the franchise describes criteria and standards for the operation of the facility. The franchisee shall<u>must</u> operate in a manner that meets the following general performance goals:</p> <ul style="list-style-type: none">a) Environment. The franchisee shall<u>must</u> design and operate the facility to preclude the creation of<u>avoid</u> undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste, asbestos and other prohibited wastes.b) Health and safety. The franchisee shall<u>must</u> design and operate the facility to preclude the creation of<u>avoid</u> conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.c) Nuisances. The franchisee shall<u>must</u> design and operate the facility to preclude the creation of<u>avoid</u> nuisance conditions including, but not limited to, litter, dust, odors, and noise.



5.2	Qualified operator	<ol style="list-style-type: none">1. The franchisee shall<u>must</u>, during all hours of operation, provide an operating staff employed by the facility and qualified and competent to carry out the functions required by this franchise and to otherwise ensure compliance<u>comply</u> with Metro Code Chapter 5.01.2. Facility personnel, as relevant to their job duties and responsibilities, shall<u>must</u> be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan.3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.
5.3	Fire prevention	The franchisee shall <u>must</u> provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from processing and storage areas.
5.4	Adequate vehicle accommodation	The franchisee shall <u>must</u> : <ol style="list-style-type: none">a) Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. <u>The franchisee must maintain access roads</u> Access roads shall be maintained to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather.b) Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles shall<u>must</u> not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances.c) Post signs to inform customers not to queue on public roadways.d) Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site tarping and untarping of loads.
5.5	Managing prohibited wastes	<ol style="list-style-type: none">1. The franchisee shall<u>must</u> reject prohibited waste upon discovery and shall<u>must</u> properly manage and dispose of prohibited waste when unknowingly received.2. The franchisee shall<u>must</u> implement a load-checking program



		<p>to prevent the acceptance of accepting prohibited waste, that is prohibited by the franchise. This program must include at a minimum:</p> <ul style="list-style-type: none">a) Visual inspection. As each load is tipped, a qualified operator shall<u>must</u> visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise.b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas shall<u>must</u> be covered and enclosed to prevent leaking and contamination.c) Record maintenance. <u>The franchisee must maintain records</u> Records of the training of personnel in the recognition, proper handling, and disposition of prohibited waste shall be maintained in the operating record and <u>make those records</u> be available for review by Metro. <p>3. Upon discovery, the franchisee shall<u>must</u> remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the franchisee unknowingly receives shall<u>must</u> be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by the DEQ or local government.</p>
5.6	Storage and exterior stockpiles	<p>The franchisee shall<u>must</u>:</p> <ul style="list-style-type: none">a) Manage, contain, and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards;b) Maintain storage areas in an orderly manner and keep the areas free of litter;c) Position exterior stockpiles within footprints identified on the facility site plan or operating plan; andd) Not stockpile recovered or source-separated materials for longer than 180 days (6 months).
5.7	Dust, airborne debris and litter	<p>The franchisee shall<u>must</u> operate the facility in a manner that minimizes and mitigates the generation of dust, airborne debris and litter, and shall<u>must</u> prevent its migration beyond property</p>



		<p>boundaries. The franchisee shall<u>must</u>:</p> <ul style="list-style-type: none">a) Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit;b) Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit;c) Maintain and operate all access roads and receiving, processing, storage, and reload areas in such a manner as to minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site;d) Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation;e) Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; andf) Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, shall<u>must</u> be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Section 5.09.040 of the Metro Code.
5.8	Odor	<ul style="list-style-type: none">1. The franchisee shall<u>must</u> operate the facility in a manner that prevents the generation of odors that are detectable off-site.2. The franchisee shall<u>must</u> establish and follow procedures in the operating plan for minimizing odor at the facility.
5.9	Vectors (e.g. birds, rodents, insects)	<ul style="list-style-type: none">1. The franchisee shall<u>must</u> operate the facility in a manner that is not conducive to the harborage of<u>harboring</u> rodents, birds, insects, or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.



		<p>2. If vectors are present or detected at the facility, the franchisee shall<u>must</u> implement vector control measures.</p>
5.10	Noise	<p>The franchisee shall<u>must</u> operate the facility in a manner that prevents the creation of<u>avoids</u> noise sufficient to cause adverse off-site impacts and to the extent necessary to meet applicable regulatory standards and land-use regulations.</p>
5.11	Water contaminated by solid waste and solid waste leachate	<p>The franchisee shall<u>must</u> operate the facility consistent with an approved DEQ stormwater management plan or equivalent and shall<u>must</u>:</p> <ol style="list-style-type: none">Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; andDispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state, and federal laws and regulations.
5.12	Access control	<ol style="list-style-type: none">The franchisee shall<u>must</u> control access to the facility as necessary to prevent unauthorized entry and dumping.The franchisee shall<u>must</u> maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.
5.13	Signage	<p>The franchisee shall<u>must</u> post signs at all public entrances to the facility, and in conformity<u>The signs must comply</u> with local government signage regulations. These signs shall<u>must</u> be easily and readily visible, and legible from off-site during all hours and shall<u>must</u> contain at least the following information:</p> <ol style="list-style-type: none">Name of the facility;Address of the facility;Emergency telephone number for the facility;Operating hours during which the facility is open for the receipt of authorized waste;Fees and charges;Metro's name and telephone number (503) 234-3000;A list of authorized and prohibited wastes;Vehicle / traffic flow information or diagram;



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

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



6.4	Access to operating plan	The franchisee shall must maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
6.5	Procedures for inspecting loads	The operating plan shall must establish: <ul style="list-style-type: none">a) Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes;b) Procedures for identifying incoming and outgoing loads for waste classifications;c) A set of objective criteria for accepting and rejecting loads; andd) An asbestos testing protocol for all materials that appear to contain friable asbestos.
6.6	Procedures for processing and storage of loads	The operating plan shall must establish procedures for: <ul style="list-style-type: none">a) Processing authorized solid wastes;b) Reloading and transfer of authorized solid wastes;c) Managing stockpiles to ensure that they remain within the authorized weights, volumes and pile heights;d) Storing authorized solid wastes; ande) Minimizing storage times and avoiding delay in processing of authorized solid wastes.
6.7	Procedures for managing prohibited wastes	The operating plan shall must establish procedures for managing, reloading, and transferring to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan shall must establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.
6.8	Procedures for odor prevention	The operating plan shall must establish procedures for preventing objectionable odors generated at the facility from being detected off the premises of the facility. The plan must include: <ul style="list-style-type: none">a) A management plan that will be used to monitor and manage odors of any derivation including malodorous loads delivered to the facility; andb) Procedures for receiving and recording odor complaints,



		immediately investigating all odor complaints to determine the cause of odor emissions, and remedying promptly all odor problems at the facility.
6.9	Procedures for dust prevention	<p>The operating plan shall<u>must</u> establish procedures for preventing dust from blowing off the premises of the facility. The plan must include:</p> <ol style="list-style-type: none">A management plan that <u>the franchisee will be used</u> to monitor and manage dust of any derivation; andProcedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions, and remedying promptly all dust problems at the facility.
6.10	Procedures for emergencies	<p>The operating plan shall<u>must</u> establish procedures <u>that the franchisee will follow to be followed</u> in case of fire or other emergency.</p>
6.11	Procedures for nuisance complaints	<ol style="list-style-type: none">For every nuisance complaint (for example odor, dust, vibrations, and litter) received, the franchisee shall<u>must</u> record:<ol style="list-style-type: none">The nature of the complaint;The date the complaint was received;The name, address and telephone number of the person or persons making the complaint; andAny actions taken by the operator in response to the complaint (whether successful or unsuccessful).The franchisee shall<u>must</u> make records of such information available to Metro upon request. The franchisee shall<u>must</u> retain each complaint record for a period of not less than one year.
6.12	Closure protocol	<p>The franchisee shall<u>must</u> establish protocol for closure and restoration of the site in the event of a long-term cessation of operations as provided in Metro Code Section 5.01.072(c)(3).</p>
6.13	Financial assurance	<p>The franchisee shall<u>must</u> maintain financial assurance in the amount of \$25,000 for the cost of the facility's closure and maintain such financial assurance in a form approved by Metro for the term of this franchise.</p>



7.0	FEES AND RATE SETTING	
7.1	Purpose	This section of the franchise specifies fees payable by the franchisee, and describes rate regulation by Metro.
7.2	Annual fee	The franchisee shall must pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
7.3	Rates not regulated	<p><u>1. The rates charged by the franchisee for accepting solid waste are not subject to regulation by Metro unless the Metro Council adopts an ordinance that establishes Metro's rate regulation authority.</u></p> <p><u>2. Notwithstanding the provision above, the rates charged by the franchisee must not exceed the rates posted at the facility as described in Section 5.13.</u></p> <p>The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro.</p>
7.4	Rate review	<p><u>1. Metro may review the franchisee's financial records for the purpose of determining whether the rates charged for the disposal of solid waste related to the costs of accepting, managing, transporting, and disposing of the waste by the franchisee are in the public interest. For purposes of this section, "costs" are defined to include general and administrative expenses including but not limited to allocated costs and normal profit for the private transfer station industry.</u></p> <p><u>2. As provided in this section, the franchisee must provide Metro access to the financial records that are sufficient to determine the information described above.</u></p>
7.54	Metro fee and tax imposed on disposal	The franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.
7.65	Metro community enhancement fee imposed on waste received	Effective July 1, 2015, the The franchisee shall must collect and remit to Metro a community enhancement fee, as provided in Metro Code Chapter 5.06, in an amount equal to \$1.00 per ton for all putrescible waste including food waste and residential yard



		debris mixed with food waste. The franchisee shall must remit the community enhancement fees to Metro on a monthly basis in conjunction with fees remitted in Section 7.4 5 .
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8.0	RECORD KEEPING AND REPORTING	
8.1	Purpose	This section of the franchise describes record keeping and reporting requirements. The franchisee shall must effectively monitor facility operation and maintain accurate records of the information described in this section.
8.2	<u>Reporting-Record keeping requirements</u>	<p>For all solid waste and materials the franchisee is authorized to accept under Section 3.0, the franchisee must keep and maintain accurate records of the amount of authorized materials the franchisee accepts, recovers, recycles, reloads, and disposes. These records include the information specified in the Metro document titled, <i>Reporting Requirements and Data Standards for Metro Solid Waste Licenses, Franchises, and Parties to Designated Facility Agreements.</i></p> <p>1. For all solid waste and materials the franchisee is authorized to receive under Section 3.0 of this franchise, the franchisee shall keep and maintain accurate records of the amount of such materials the franchisee receives, recovers, recycles, reloads, and disposes.</p> <p>2. The franchisee shall keep and maintain complete and accurate records of the following for all transactions:</p> <ul style="list-style-type: none"> a) Ticket Number (should be the same as the ticket number on the weight slips); b) Customer account numbers identifying incoming customers and outgoing destinations; c) Description whether the load was incoming to the facility or outgoing from the facility; d) Material Category: Code designating the following types of material (more detail, such as differentiating yard debris, is acceptable): (1) incoming source-separated recyclable materials by type; (2) incoming non-putrescible waste; (3) incoming putrescible waste (4) outgoing recyclable materials by type; (5) outgoing non-putrescible waste; (6) outgoing putrescible waste; e) Origin: Code designating the following origin of material:



		<p>(1) from inside Metro boundaries; (2) from within Multnomah, Clackamas and Washington Counties but outside Metro boundaries; and (3) from another location outside Metro boundaries:</p> <p>i. Any load containing any amount of waste from within the Metro region shall be reported as if the entire load was generated from inside the Metro region.</p> <p>ii. If the Franchisee elects to report all loads delivered to the facility as being generated from inside the Metro region, then the Franchisee is not required to designate the origin of loads as described above in Subsections (c)(2) and (c)(3).</p> <p>f) Date the load was received at, transferred within, or transmitted from the facility;</p> <p>g) Time the load was received at, transferred within, or transmitted from the facility;</p> <p>h) Indicate whether Franchisee accepted or rejected the load;</p> <p>i) Net weight of the load; and</p> <p>The fee charged to the generator of the load.</p>
8.3	<u>Record transmittals</u> <u>Reporting requirements</u>	The franchisee shall must transmit to Metro records required under Section 8.0 and the corresponding summary report derived from such records no later than fifteen days following the end of each month in a format prescribed by Metro.
8.4	Material recovery reporting	The franchisee shall must provide the results of its quarterly sampling of processing residual, as provided in Section 3.6 of this franchise , to Metro as a component of its monthly report no later than fifteen days following the end of the each quarter in a format prescribed by Metro.
8.5	Account number listing	Within five business days of Metro's request, franchisee shall must provide Metro with a listing that cross-references the account numbers used in the transaction database with the company's name and address.
8.6	Transactions based on scale weights	Except for minimum fee transactions for small, lightweight loads, the franchisee shall must record each inbound and outbound transaction electronically based on actual and accurate scale



		weights using the franchisee's on-site scales.
8.7	DEQ submittals	The franchisee shall <u>must</u> provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
8.8	Copies of enforcement actions provided to Metro	The franchisee shall <u>must</u> ensure Metro receives copies of any notice of violation or noncompliance, citation, or any other similar enforcement actions issued to the franchisee by any federal, state, or local government (other than Metro), and related to the operation of the facility.
8.9	Unusual occurrences	<ol style="list-style-type: none">1. The franchisee shall<u>must</u> keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.2. The franchisee must notify Metro within 24 hours of any if a breakdown of the franchisee's equipment if the breakdown occurs that will substantially impact the facility's ability of the facility to comply with this franchise or with Metro Code remain in compliance, or which will create off-site impacts, the Franchisee shall notify Metro within 24 hours.3. The franchisee shall<u>must</u> report any facility fires, accidents, emergencies, and other significant incidents to Metro within 12 hours of the discovery of their occurrence.
8.10	Changes in ownership	<ol style="list-style-type: none">1. Any change in control of franchisee or the transfer of a controlling interest of franchisee shall<u>requires</u> prior written notice to Metro. "Transfer of a controlling interest of franchisee" includes without limitation the transfer of 10% or more of the ownership of franchisee to or from a single entity. Metro may amend<u>modify</u> this franchise under Section 11.3 to require the new ownership of franchisee to assume all the rights and obligations of this franchise.2. The franchisee may not lease, assign, mortgage, sell, or otherwise transfer control of the franchise unless the franchisee follows the requirements of Metro Code Section 5.01.076.



9.0	INSURANCE REQUIREMENTS	
9.1	Purpose	This section describes the types of insurance that the franchisee shall must purchase and maintain at the franchisee's expense, covering the franchisee, its employees, and agents. The franchisee shall must provide Metro with documentation demonstrating that it holds all of the required insurance coverage described in Section 9.0 of this franchise.
9.2	General liability	The franchisee shall must carry the most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence and \$1,000,000 aggregate. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed operations. Contractor's coverage will be primary as respects Metro.
9.3	Automobile	The franchisee shall must carry automobile bodily injury and property damage liability insurance.
9.4	Coverage	Insurance coverage shall must be a minimum of \$1,000,000 per occurrence and \$1,000,000 aggregate.



9.5	Additional insureds	Metro, its elected officials, departments, employees, and agents shall <u>must</u> be named as ADDITIONAL INSUREDS.
9.6	Worker's Compensation Insurance	The franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law shall <u>must</u> comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. The franchisee shall <u>must</u> provide Metro with certification of Workers' Compensation insurance including employer's liability. If the franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
9.7	Notification	The franchisee shall <u>must</u> give at least 30 days written notice to the COO of any lapse or proposed cancellation of insurance coverage.

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



	penalties as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation.
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11.0	AMENDMENT, MODIFICATION, SUSPENSION, AND REVOCATION	
11.1	Amendment by agreement	At any time during the term of the franchise, either the COO or the franchisee may propose amendments to this franchise. If either the COO or the franchisee proposes amendments to this franchise, both parties shall <u>will</u> make good faith efforts to arrive at consensus on the intent and implementing language of said amendments.
11.2	Amendment by Metro Council action	<p>Except as provided in Section 11.3, the provisions of this franchise shall<u>will</u> remain in effect unless the Metro Council:</p> <ul style="list-style-type: none"> a) Amends the Metro Code, amends the Regional Solid Waste Management Plan, or implements other legislation of broad applicability that affects the class of facilities of which this franchisee is a member; and b) Adopts an ordinance amending this franchise to implement the policy, code or process specified by said ordinance. <p>If, in the course of considering an ordinance amending this franchise as provided in (b) above, the franchisee provides evidence that the amendment will result in significant capital cost to the franchisee, the Metro Council will include capital cost and the ability of the franchisee to achieve a reasonable rate of return on any additional investment required as factors when considering whether to adopt the ordinance.</p>
11.3	Amendment<u>Modification</u>, suspension or revocation by Metro for cause	<p>In addition to the modifications<u>amendments</u> authorized by Sections 4.2 -1.5 and 4.3 of this franchise, the COO may, at any time before the expiration date, amend<u>modify</u>, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ul style="list-style-type: none"> a) Violation of the terms or conditions of this franchise, Metro Code, or any applicable statute, rule, or standard; b) Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this franchise;



		<p>c) Failure to disclose fully all relevant facts;</p> <p>d) A significant release into the environment from the facility;</p> <p>e) Significant change in the character of solid waste received or in the operation of the facility;</p> <p>f) Any change in ownership or control;</p> <p>g) A request from the local government stemming from impacts resulting from facility operations; and</p> <p><u>h) Compliance history of the franchisee; and</u></p> <p><u>h)i) Changes in regional tonnage trends or actual solid waste generation.</u></p>
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12.0	GENERAL OBLIGATIONS	
12.1	Compliance with law	<p>The franchisee shall<u>must</u> fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be<u>are</u> deemed part of this franchise as if specifically set forth herein. Such-These conditions and permits include those cited within or attached as exhibits to the franchise document, as well as any existing at the time the issuance of the franchise<u>franchise is issued</u> but not cited or attached, and permits or conditions issued or modified<u>amended</u> during the term of the franchise.</p>
12.2	Deliver waste to appropriate destinations	<p>The franchisee shall<u>must</u> ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.</p>
12.3	Right of inspection and audit	<p>1. Authorized representatives of Metro may take photographs, collect samples of materials, and perform such<u>any</u> inspection or audit as the COO deems appropriate. The franchisee must allow authorized representatives and shall be permitted access</p>



		<p>to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 12.54of this franchise, Metro's right to inspect shall includes the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of franchisee that are directly related to the operation of the facility.</p> <p>2. The franchisee shall<u>must</u> permit access to the facility premises to authorized representatives of Metro, including personnel on contract to Metro, at all reasonable times during business hours with or without notice to determine whether the franchisee meets the minimum level of recovery as provided in Section 3.6of this franchise. The franchisee shall<u>must</u> provide:</p> <ul style="list-style-type: none">a) Access to all areas where it generates, manages, stores, and reloads processing residual, including without limitation to transfer vehicles;b) Access to facility personnel and equipment to collect, segregate, contain, and weigh individual samples of processing residual; andc) A safe, covered location away from working areas and vehicle traffic where authorized representatives of Metro may conduct an analysis of the franchisee's processing residual.
12.4	Confidential information	<p>The franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The franchisee shall<u>must</u> prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall<u>will</u> treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt of a request for disclosure of information identified by</p>



		<p>franchisee as confidential, Metro shall will provide franchisee written notice of the request. The franchisee shall will have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. The franchisee <u>is responsible for</u> shall pay any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. This Section 12.0 shall does not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such those representatives agree to continue to treat such the information as confidential and make good faith efforts not to disclose such the information</p>
12.5	Compliance by agents	The franchisee shall be is responsible for ensuring that its agents and contractors operate in compliance <u>comply</u> with this franchise.

| w:bjt

Agenda Item No. 7.1

Ordinance No. 16-1385, For the Purpose of Annexing to the Metro District Boundary Approximately 1.62 Acres Located South of SW Scholls Ferry Road and West of SW Roy Rogers Road in the River Terrace Area of Tigard

Ordinances (second read)

Metro Council Meeting
Thursday, October 13, 2016
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ANNEXING TO THE) ORDINANCE NO. 16-1385
METRO DISTRICT BOUNDARY APPROXIMATELY)
1.62 ACRES LOCATED SOUTH OF SW SCHOLLS) Introduced by Chief Operating Officer
FERRY ROAD AND WEST OF SW ROY ROGERS) Martha J. Bennett with the Concurrence of
ROAD IN THE RIVER TERRACE AREA OF TIGARD) Council President Tom Hughes
)

WHEREAS, Polygon WLH LLC has submitted a complete application for annexation of 1.62 acres (“the territory”) located south of SW Scholls Ferry Road and west of SW Roy Rogers Road in the River Terrace area to the Metro District; and

WHEREAS, the Metro Council added the River Terrace area to the UGB, including the territory, by Ordinance No. 02-969B on December 5, 2002; and

WHEREAS, Title 11 (Planning for New Urban Areas) of the Urban Growth Management Functional Plan requires annexation to the district prior to application of land use regulations intended to allow urbanization of the territory; and

WHEREAS, Metro has received consent to the annexation from the owner of the land in the territory; and

WHEREAS, the proposed annexation complies with Metro Code 3.09.070; and

WHEREAS, the Council held a public hearing on the proposed amendment on October 13, 2016; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The Metro District Boundary Map is hereby amended, as indicated in Exhibit A, attached and incorporated into this ordinance.
2. The proposed annexation meets the criteria in section 3.09.070 of the Metro Code, as demonstrated in the Staff Report dated September 22, 2016, attached and incorporated into this ordinance.

ADOPTED by the Metro Council this ____ day of October 2016.

Tom Hughes, Council President

Attest:

Approved as to form:

Nellie Papsdorf, Recording Secretary

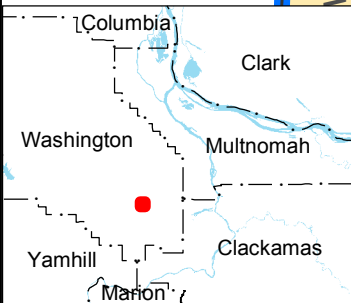
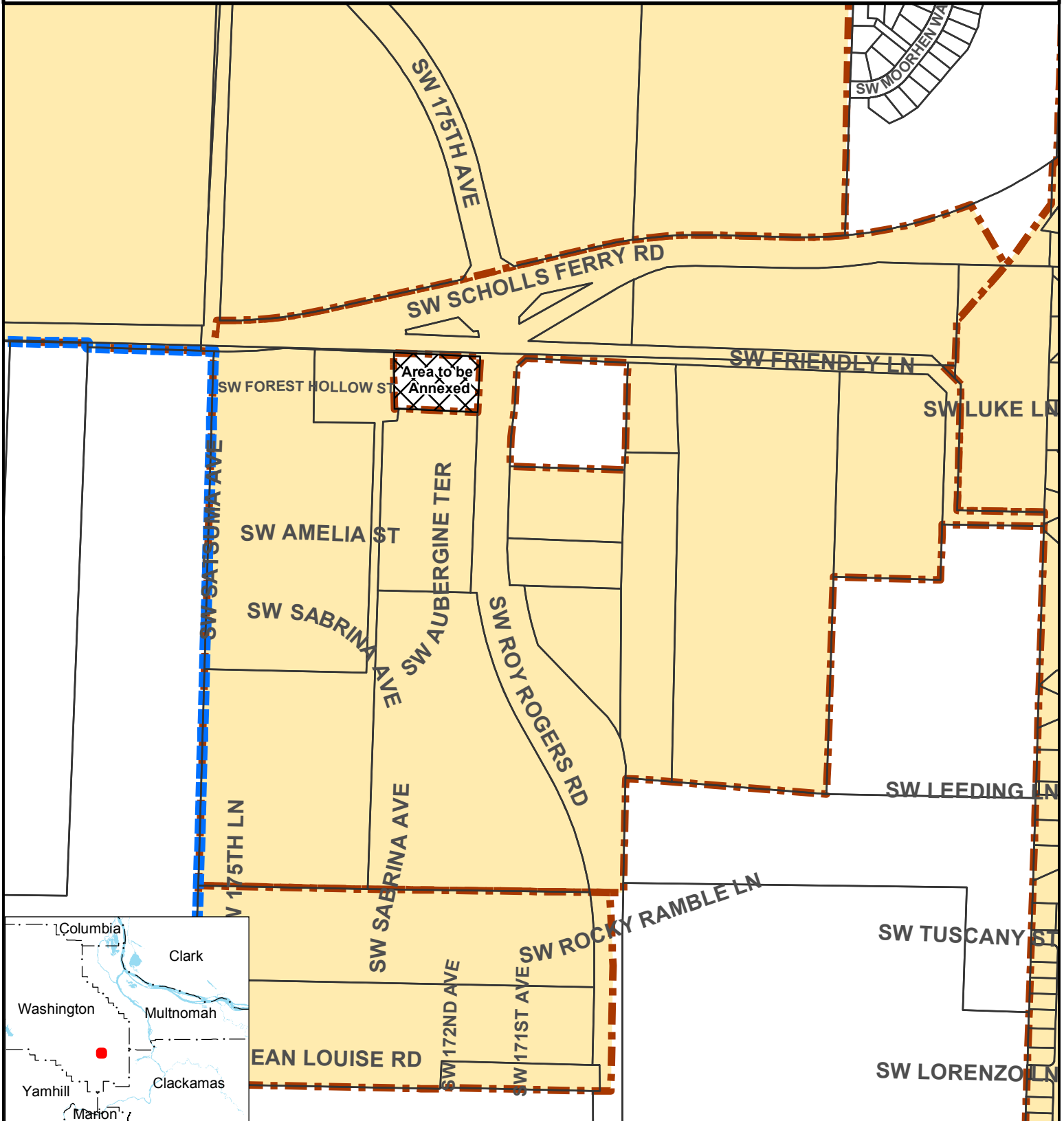
Alison R. Kean, Metro Attorney

Proposal No. AN-0816





2S1W06

Annexation to the Metro District Boundary

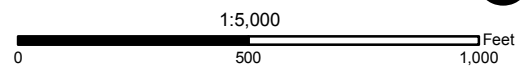
Washington County



Research Center
 600 NE Grand Ave
 Portland, OR 97232-2736
 (503) 797-1742
<http://www.oregonmetro.gov/drc>

-  Area to be annexed
-  Taxlots
-  Urban growth boundary
-  Metro District Boundary

Proposal No. AN-0816 Metro District Boundary



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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 16-1385, FOR THE PURPOSE OF ANNEXING TO THE METRO BOUNDARY APPROXIMATELY 1.62 ACRES LOCATED SOUTH OF SW SCHOLLS FERRY ROAD AND WEST OF SW ROY ROGERS ROAD IN THE RIVER TERRACE AREA OF TIGARD

Date: September 22, 2016

Prepared by: Tim O'Brien
Principal Regional Planner

BACKGROUND

CASE: AN-0816, Annexation to Metro District Boundary

PETITIONER: Polygon WLH LLC
109 E. 13th Street
Vancouver, WA 98660

PROPOSAL: The petitioner requests annexation of one parcel to the Metro District boundary. The parcel is within the City of Tigard.

LOCATION: The parcel is located south of SW Scholls Ferry Road and west of SW Roy Rogers Road in the River Terrace area of Tigard and is approximately 1.62 acres in size. A map of the area can be seen in Attachment 1.

ZONING: The property is zoned for residential use (R-12) by City of Tigard.

The land was added to the UGB in 2002 and is part of the River Terrace Community Plan that was adopted by Tigard. The land must be annexed into the Metro District for urbanization to occur.

APPLICABLE REVIEW CRITERIA

The criteria for an expedited annexation to the Metro District Boundary are contained in Metro Code Section 3.09.070.

3.09.070 Changes to Metro's Boundary

(E) The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions to demonstrate that:

- 1. The affected territory lies within the UGB;*

Staff Response:

The subject parcel was brought into the UGB in 2002 through the Metro Council's adoption of Ordinance No. 02-969B.

- 2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services; and*

Staff Response:

The conditions of approval for Ordinance No. 02-969B include a requirement that Washington County apply interim protection measures for areas added to the UGB as outlined in Urban Growth Management Functional Plan Title 11: Planning for New Urban Areas. Title 11 requires that new urban areas be annexed into the Metro District Boundary prior to urbanization of the area. Washington County applied the Future Development 20 (FD-20) zone to the expansion area. The subject property was annexed to Tigard in August 2011 and the River Terrace Community Plan was adopted in 2014. The applicant is currently moving forward with annexation to Clean Water Services. These measures ensured that urbanization would occur only after annexation to the necessary service districts is completed.

3. *The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS Chapter 195 and any concept plan.*

Staff Response:

The parcel proposed for annexation is part of Tigard's River Terrace Community Plan Area, adopted by the City of Tigard in 2014. The proposed annexation is consistent with the community plan and is required by Tigard as part of a land use application. The inclusion of the property within the Metro District is consistent with applicable cooperative urban service agreements.

ANALYSIS/INFORMATION

Known Opposition: There is no known opposition to this application.

Legal Antecedents: Metro Code 3.09.070 allows for annexation to the Metro District boundary.

Anticipated Effects: This amendment will add approximately 1.62 acres to the Metro District. The land is currently within the UGB and within the City of Tigard. Approval of this request will allow for the urbanization of the parcel to occur consistent with the River Terrace Community Plan.

Budget Impacts: The applicant was required to file an application fee to cover all costs of processing this annexation request, thus there is no budget impact.

RECOMMENDED ACTION

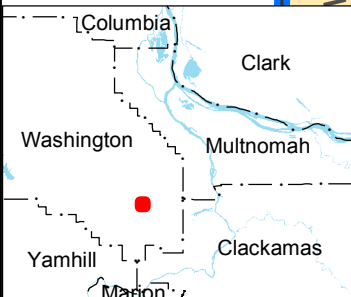
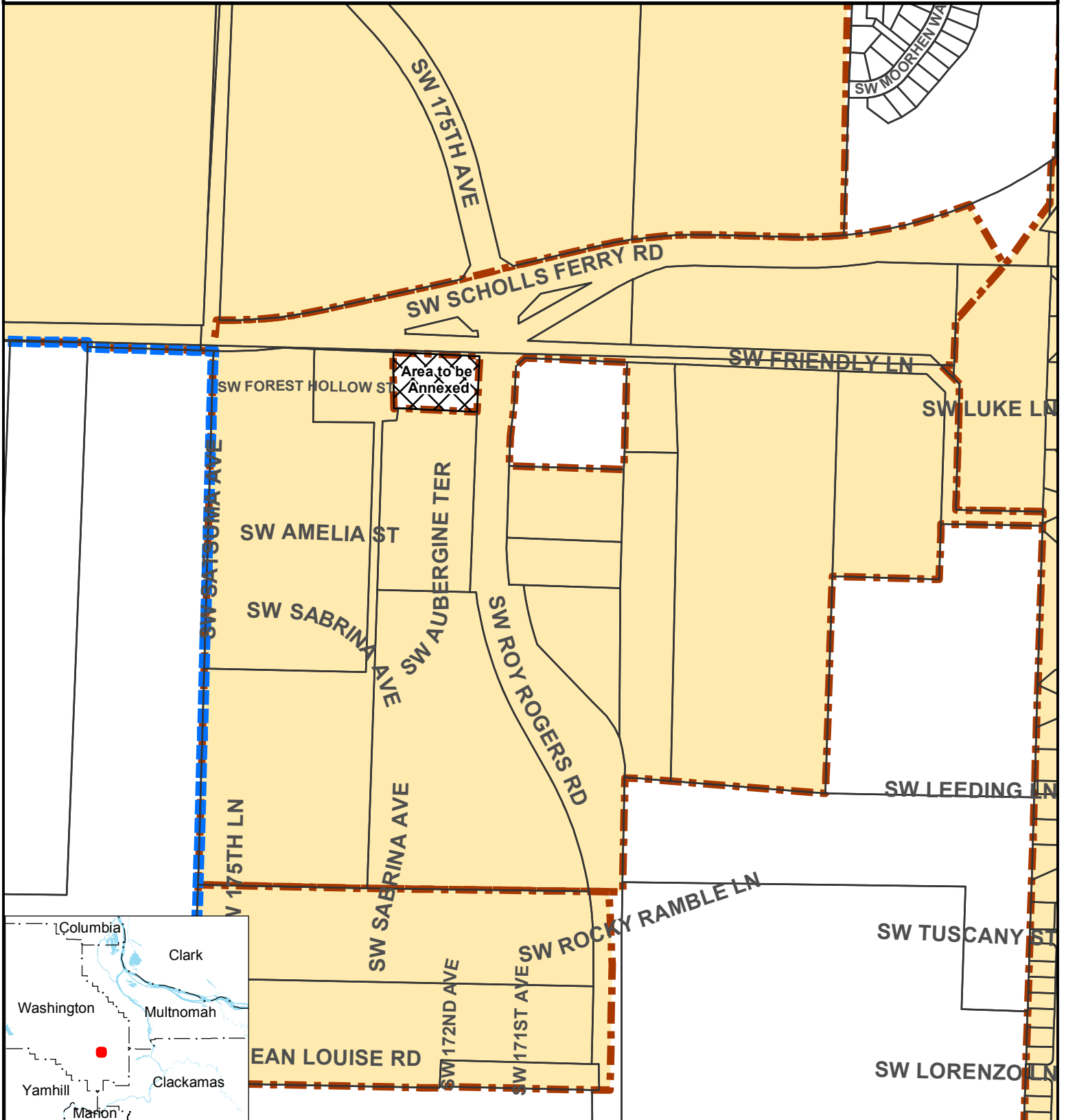
Staff recommends adoption of Ordinance No. 16-1385.

Proposal No. AN-0816





2S1W06

Annexation to the Metro District Boundary

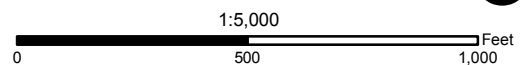
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-  Area to be annexed
-  Taxlots
-  Urban growth boundary
-  Metro District Boundary

Proposal No. AN-0816 Metro District Boundary



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Materials following this page were distributed at the meeting.

TRANSPORTATION MANAGEMENT PLAN:

A Guide for Transportation
Access to Washington Park

Adopted - 10/13/16

Explore 
WASHINGTON PARK

EWP Partner Missions



At Hoyt Arboretum, every tree has a story to tell and is a promise to future generations. Our mission is to maintain and improve Hoyt Arboretum and its collection for all people through advocacy, resources, awareness and education.



The Oregon Zoo inspires the community to respect animals and take action on behalf of the natural world. We do this by creating engaging experiences and advancing the highest level of animal welfare, environmental literacy and conservation science.



Portland Children's Museum believes that children are interested in things worth knowing about. We are dedicated to making visible the ways children think, imagine, design, invent, and create when given intelligent materials including the tools of the arts and sciences.



The purpose of the Portland Japanese Garden is to create, maintain, improve, and administer an authentic, world-class Japanese garden in the city of Portland and to offer compatible educational, cultural, artistic, horticultural, environmental, and charitable activities.



The mission of Portland Parks & Recreation is to help Portlanders play - providing the safe places, facilities, and programs which promote physical, mental, and social activity. We get people, especially kids, outside, active, and connected to the community. As we do this, there will be an increase in the wellness of our residents and the livability of our city.



The WFC provides critical programs in convening and professional development of global leaders and practitioners in forestry and related fields. Through its World Forest Institute Program, the WFC has hosted public and private forest professionals from over 33 countries to advance research, networking, and knowledge exchange.

EXPLORE WASHINGTON PARK WAS CREATED TO HELP PEOPLE MAKE DECISIONS ABOUT HOW THEY GET TO AND AROUND THE PARK, AND MAKE SURE THEY HAVE WHAT THEY NEED TO MAKE THEIR VISIT ENJOYABLE.

Explore Washington Park (EWP) works in coordination with venues in Washington Park and Portland Parks and Recreation to improve access to the park. Venue leadership sits on the EWP board and guides staff in implementation of this plan. EWP supports the mission of all of our partner venues.












This plan incorporates key portions of several existing plans, including the Transportation and Parking Management Plan, a plan completed in 2011 as part of the Oregon Zoo Master Plan update. It both highlights the work that has been completed to date and identifies those things that still need doing. It also includes new ideas to provide a fresh look at what EWP hopes to accomplish over the next five years.

At it's highest level, this plan is organized into four **focus areas** that describe the major themes of EWP's work. The heart of the plan are the **goals, objectives, and strategies**, which are weighed against specific **targets** that we hope to achieve over the next five years. It also identifies **performance measures** to evaluate and monitor progress and help keep us on track. The agreed upon goals will be the cornerstone of EWP's work in the near term.

- **Focus Areas** are the major themes of EWP's work.
- **Goals** are broad, longer-term aims that define accomplishment of our five-year plan. The broad nature of the goals allows for flexibility as changing circumstances dictate.
- **Objectives** are more narrowly focused aims that support the long term goals.
- **Strategies** are specific actions that will help us achieve the goals and objectives of this plan. The plan identifies the timeframe for completing the action (unless it is an ongoing action) and the status of the strategy at the time the plan was written.
- **Targets** are measurable, quantifiable, and realistic benchmarks that measure the accomplishment of a goal over a period of time.
- **Performance Measures** are the yardsticks we use to evaluate our progress.

GOALS













To guide us in our work, it's important to articulate the areas EWP should focus on and the goals that we hope EWP can achieve. In identifying these, we sought to answer the question, "What are we trying to do for Washington Park?". These goals relate to the following sections of the plan as the guiding principles that underlie all of our work.

Focus Area		Goal	
Improved Access	Access Management (AM)		Provide safe, convenient, and affordable transportation options for current and future Washington Park users
	Parking Management (PM)		Manage Washington Park parking resources in a way that reflects its value as a finite resource while also providing convenient and efficient parking for visitors
	Equitable Access (EQ)		Provide affordable transportation options for underserved* populations to access Washington Park
Positive Guest Experience	Customer Experience (CE)		Provide a safe and positive customer experience
	Communication (COMM)		Clearly and broadly communicate to the public the EWP message for transportation options, parking management, cultural and recreational resources, and parking meter revenue allocation
Venue Support	Venue Success (VS)		Support the Washington Park venues in their mission vitality and financial strength
	Coordination (COOR)		Coordinate with neighbors and other stakeholders to minimize negative off-site impacts and with internal stakeholders to curb conflicts over park access
	Stakeholder Engagement (SE)		Act as a convening body and a clearinghouse of information for stakeholders
Sustainability	Environmental Sustainability (ENV)		Create a parking and access management program that contributes to environmental well-being and proactively anticipates environmental change
	Organizational Sustainability (OS)		Maintain a robust and financially responsible organization to support parking and transportation options programs
	Plan Sustainability (PS)		Ensure transportation options and parking management programs are effective through meaningful, useful, and routine measurement, evaluation, and reporting

**Underserved populations are currently and historically underserved populations, including people of color, people experiencing poverty, people with disabilities, and people who experience language barriers.*

TARGETS

The targets are specific measures that we aim to achieve over the next five years. They are easily articulated measures that get at the work of our goals. The plan spans 2016 through 2020, with 2015 as the baseline year, unless otherwise noted. These targets assume a 10% increase in park-wide attendance through 2020.

	Target	Goals Met
Mode Split	15% decrease in visitor private vehicle trips	   
EWP Free Shuttle	20% increase in shuttle ridership	   
GHG Emissions	15% decrease in Greenhouse Gas (GHG) emissions from vehicles driving around the Park	
User Experience*	10% increase in user satisfaction	 
Equitable Access*	10% increase in visitors from underserved populations	

*2016 baseline year data.

Get Around the Park

Ride the Bus (TriMet Line 63)

Take Line 63 from Kings Hill or Washington Park MAX light rail station to park attractions.

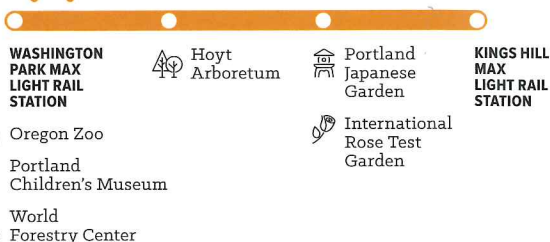
Runs about every hour, 7 a.m. – 6 p.m., 7 days a week

GET MORE INFO AT TRIMET.ORG

FARES:

- Valid for bus and MAX light rail
- \$2.50 for a 2.5-hour ticket
- \$5.00 for a day pass
- Children under 7 ride free

TRIMET LINE 63



Walk from Washington Park MAX Station to the Rose Garden or Japanese Garden.

Follow trail signs for a 45-minute walk through Hoyt Arboretum to the gardens.

Taxi/Lyft/Uber

Use ride services to get from Washington Park MAX Station to the gardens.

Estimated cost: \$8-15

PARK ADVISORY NOTICE

Parking and road access are limited near the Rose and Japanese Gardens due to Portland Water Bureau project. See map (other side) for detailed information. Prepare for congestion.

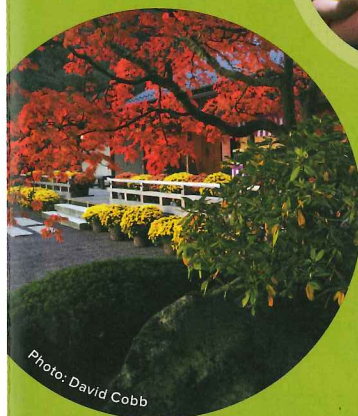


Photo: David Cobb



In Partnership with



PORTLAND PARKS & RECREATION

Healthy Parks, Healthy Portland

Portland Parks & Recreation is the proud land steward of Washington Park.

Park hours:
5 a.m. – 10 p.m.

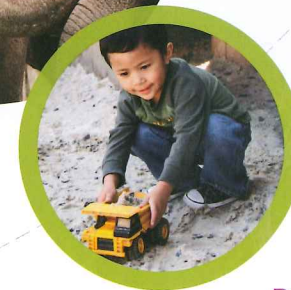
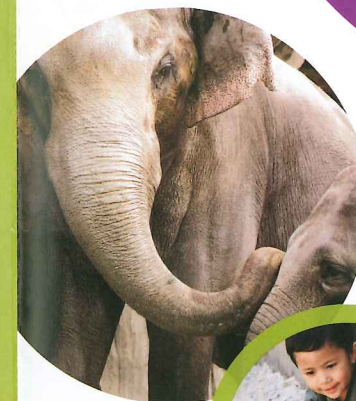
Customer Service:
503-823-2538
portlandparks.org

Explore 
WASHINGTON PARK

This map and brochure are provided through Washington Park parking revenues.

Explore

WASHINGTON PARK



A case for underground light rail

Jim Howell's Sept. 13 My View commentary, "MAX still growing into a mature system," reminded me of fellow AORTA member Ray Polani's similar article "It's time for Underground MAX" from several years ago and my rebuttal "Subways have no place in Portland," whose main point was that an Express MAX subway creates a commute pattern that directs development away from suburbs that need it to diversify their economy and thus reduce long-distance commuting by creating jobs and occupations closer to home.

Expensive subways also direct funds away from basic MAX expansion such as converting WES to a MAX corridor and extensions of the Blue Line to MHCC, the Green Line to Milwaukie, the Orange Line to Oregon City, the Yellow Line to a Jantzen Beach Junction to C-tran BRT.

Following principles established in Portland's 2040 Regional Plan, I'm able to support only a "least length" subway proposal whose east portal is at Northeast Sixth on Holladay and its west portal at the rail low point beneath the Morrison westside bridgehead, about 1.3 miles, half the length of the

AORTA proposal. Blue/Red/Green Lines enter the subway. Yellow/Orange lines remain on the Steel Bridge without the bottleneck. A Convention Center/Rose Quarter subway station vastly improves access to all venues. The only other station at Saturday Market narrowly squeezes in below Naito Parkway to form a soil-stabilizing wall that could save downtown buildings from worst damage predicted in earthquakes.

In principle, this shortest, least disruptive, least expensive subway proposal improves transit specifically for the central city and does not detract from my confidence that the current building boom is balanced with complementary regional development plans necessary to reduce cross-county commuting and driving for all purposes within the entire maturing metropolitan area Portland becomes.

Art Lewellan

10-6-16 Northwest Portland
TAB.

Light rail: ideal vs. practical

Through my years supporting light rail, I've learned to make distinctions between the ideal and the practical. Last September, the Tribune published a My View commentary about why a Bus Rapid Transit bus system for Barbur Boulevard is more ideal than MAX ("Light rail, BRT best for sustainable future"). So I was disheartened to read the July 14 editorial, "Tigard should vote 'yes' on light rail," because it was less informative in its endorsement.

Campaign rhetoric such as "critics are loud" and "elected officials, business leaders and residents favor light rail" divisively misinforms and leaves readers uninformed.

Those who regularly ride bus lines on Barbur or between Tualatin, Tigard, Lake Oswego and Beaverton can rightly call the service "better than average" rather than "lousy."

Among opponents of the 1990s South/North MAX expansion plan were advocates like myself who rightly believed better plans were possible and would readily generate support, even as proponents sternly warned that voter rejection would "stop light rail in its tracks."

Better MAX light-rail expansion projects are possible and needed. However, the Barbur corridor is clearly more suitable for BRT if only in the sense that political posturing will make it as clear as mud.

Art Lewellan

Northwest Portland

8-16
tribune

Light rail, BRT best for sustainable future

Jim Redden's Sept. 1 article (*Light rail connects city's past and future*) posed the question whether another MAX line ever will be built in the region. To answer, we ought to place the question of funding lower on a list of concerns, lower than reducing the hazards of traffic, lower than what we could call its egregious impacts, lower than the anxiety of political bickering that divides and misinforms, lower than whether a modern economy so utterly dependent on long-distance travel and transport is sustainable.

We might ask first whether a future higher quality of life and livelihood are possible without light rail.

That said, bus rapid transit on the Southwest Corridor avoids tunnels and the high impact of widening Barbur Boulevard. A MAX line replacing WES from Beaverton to Tualatin instead offers more transit-oriented development potential. An extension of the MAX Yellow Line to Jantzen Beach would increase patronage, yet from there, BRT would reach Vancouver Mall more productively in its first phase.

An extension of the Blue Line from Gresham to Mt. Hood Community College would increase patronage. An extension of the Green Line from Clackamas

Town Center to Milwaukie and an extension of the Orange Line to Oregon City can in the broadest sense of directing transit-oriented development, reduce car dependency, enable convenient walking and safe bicycling while preserving residential neighborhoods.

BRT is likely the most appropriate use of the current fleet of 40-foot buses whose chassis are configured to handle full capacity plus standees, maintain higher speeds with the least stop/start operation and limited maneuverability. Municipal transit agencies are long overdue to replace paratransit vans with easy boarding low-floor, ideally low-emission plug-in hybrid models especially important for seniors, disabled and all transit patrons. These vans could replace many jostling/jolting shuddering/shaking rattletap buses operating less than half full most of the time, many on circuitous start/stop routes. Private organizations could operate these low-maintenance vans and make connections to streamlined municipal transit systems that must incorporate convenient transfers. Though these vans may fill that need capably, no other component of Portland's transit system has done more than MAX light rail to offer a vision of a sustainable future.

Art Lewellan

Northwest Portland

9-13-15

Rethink suburbs, transit

Randy Gragg's final article, "Running on Empty" (May 20), could have depicted Portland's future brighter than doom and gloom. Big picture planning here could surpass successes of the big-ticket efforts of Houston, Denver and Phoenix.

The idea that most needs should be met closer to home and neighborhood is not an anachronism.

Another Sunday article, "Mess transit: A two-hour slog," decries the woeful condition of suburb-to-suburb commuting by transit. Within the framework of Portland's 2040 Regional Plan is the impetus for the development of regional centers and townships. This planning goal creates more opportunities for suburban residents to secure their occupations and livelihoods closer to home.

Poorly developed suburban communities force residents to travel afar, no matter what transit system or freeway is put in place. Tackling this most fundamental development problem is Portland's leading objective.

MAY 26, 07
OREGONIAN

ART LEWELLAN
Northwest Portland

Subways have no place in Portland

I appreciate Ray Polani's call for improved transit for Portland (*It's time for underground MAX*, June 15), but I cannot agree that there should ever be a time for an underground MAX.

There is a persistent complaint that MAX is too slow from the Rose Quarter through downtown. His answer to this complaint is a subway to speed cross-town travel. My answer is, there is no better place for MAX to run slow than downtown.

MAX-type systems run in two directions. Many MAX riders are commuters who want MAX to provide service in one direction but not in the other. They can accept the morning ride downtown but do not accept that suburban station area development must occur to build ridership so trains do not run empty in the reverse direction, that is, except for their afternoon return. This kind of thinking limits suburban station area development to park-and-rides and also can prevent a rapid transit line from leaving the drawing board.

A lack of suburban station area development does an even more harmful thing — it limits development to fewer areas. In Portland, this means development mostly occurs downtown. What's wrong with that? Plenty. MAX trains become overloaded during rush hours and less full during nonrush hours in both directions. This development pattern creates a demand for travel during rush hours that MAX cannot handle. Worst of all, neither can the roads and highways handle the demand.

2004?
Tribune
Original rejection
of SUBWAY PROPOSALS,
see "A case for
underground rail."

Rapid Transit via Subway encourages that same development pattern that commuters think works for them. The difference is, the distances become even farther from home and community. Halting a regional transit system speed encourages suburban areas to develop, diversify, improve their economies and create jobs closer to home. Unless this occurs, no transit system can live up to its potential to reduce traffic volumes and congestion.

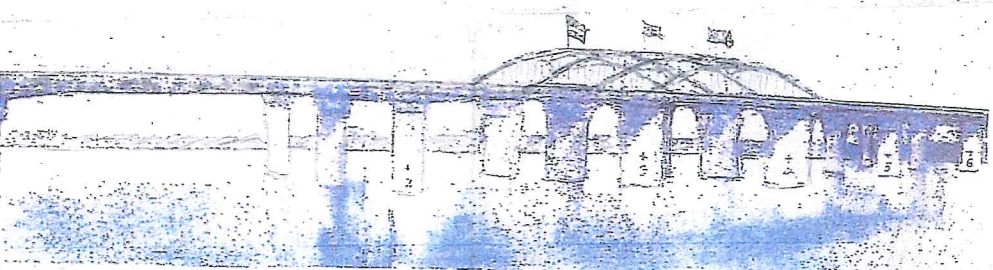
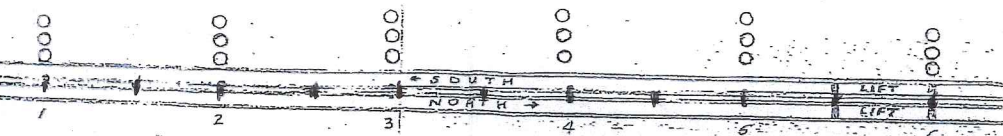
The other main drawback to a subway is, it competes with expansions of regional MAX lines. Improved MAX expansion plans are receiving renewed support in Vancouver, in Milwaukie and in Clackamas. These lines will total around 20 miles. They will average a far lower cost than a subway.

There are few U.S. cities that have created as fine an urban experience as downtown Portland. The variety and scale of development and the attention to pedestrian amenities and public parks are outstanding.

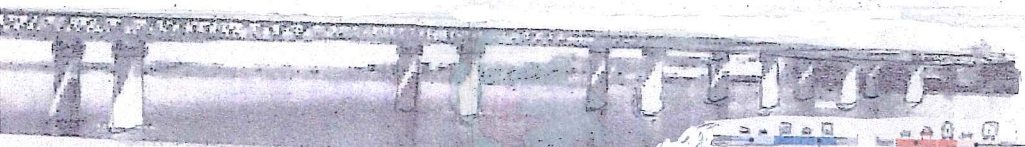
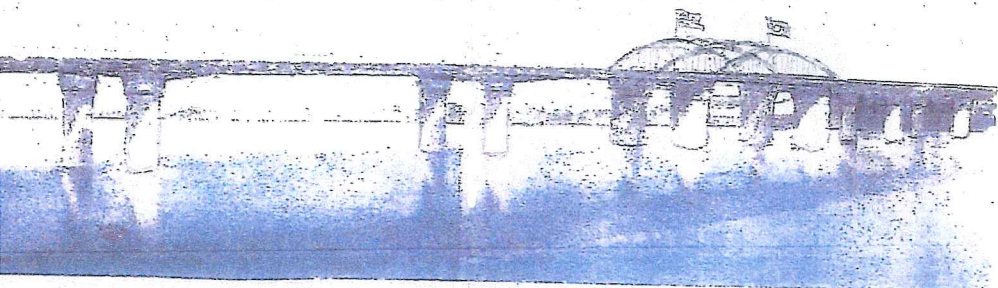
However, access to downtown will be increased more with regional MAX expansion instead of a subway. It's even possible to build a MAX line to Tigard without the need for a subway.

Forget a subway. Without regional MAX line expansion, car and bus traffic will overwhelm the urban experience and be detrimental to the downtown economy.

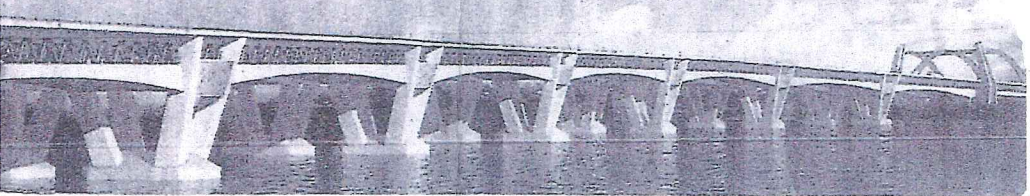
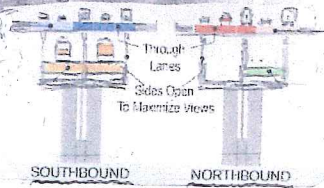
Art Lewellan
Southeast Portland



SINGLE-DECK



DOUBLE-DECK FUTURE



OTI PROJECT

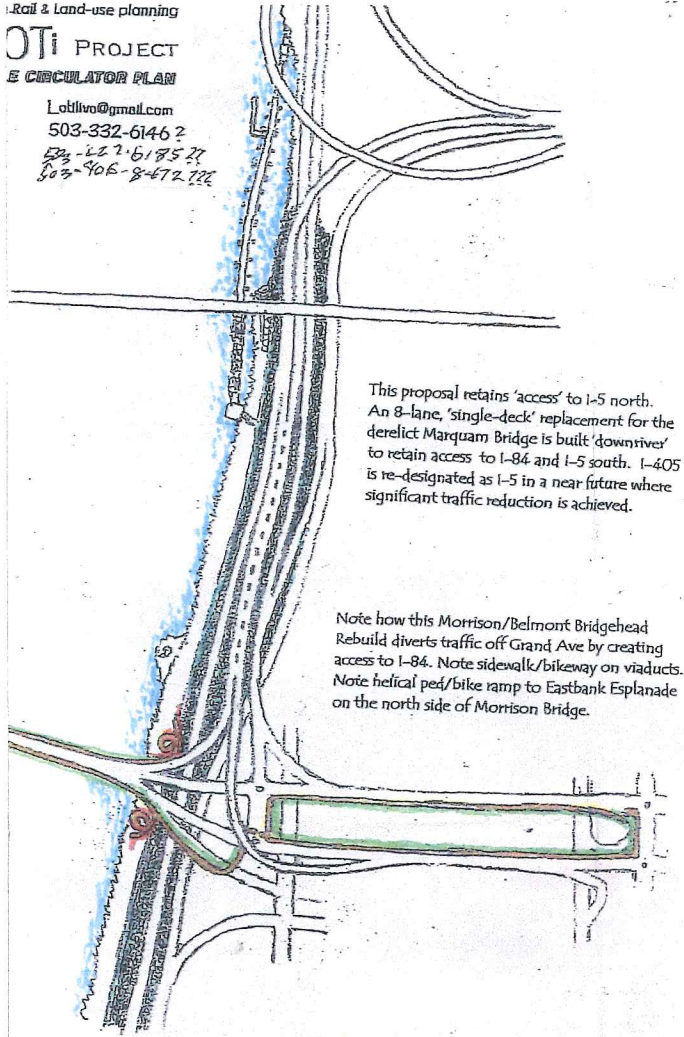
E CIRCULATOR PLAN

Loblivo@gmail.com

503-332-6146 ?

503-222-6185??

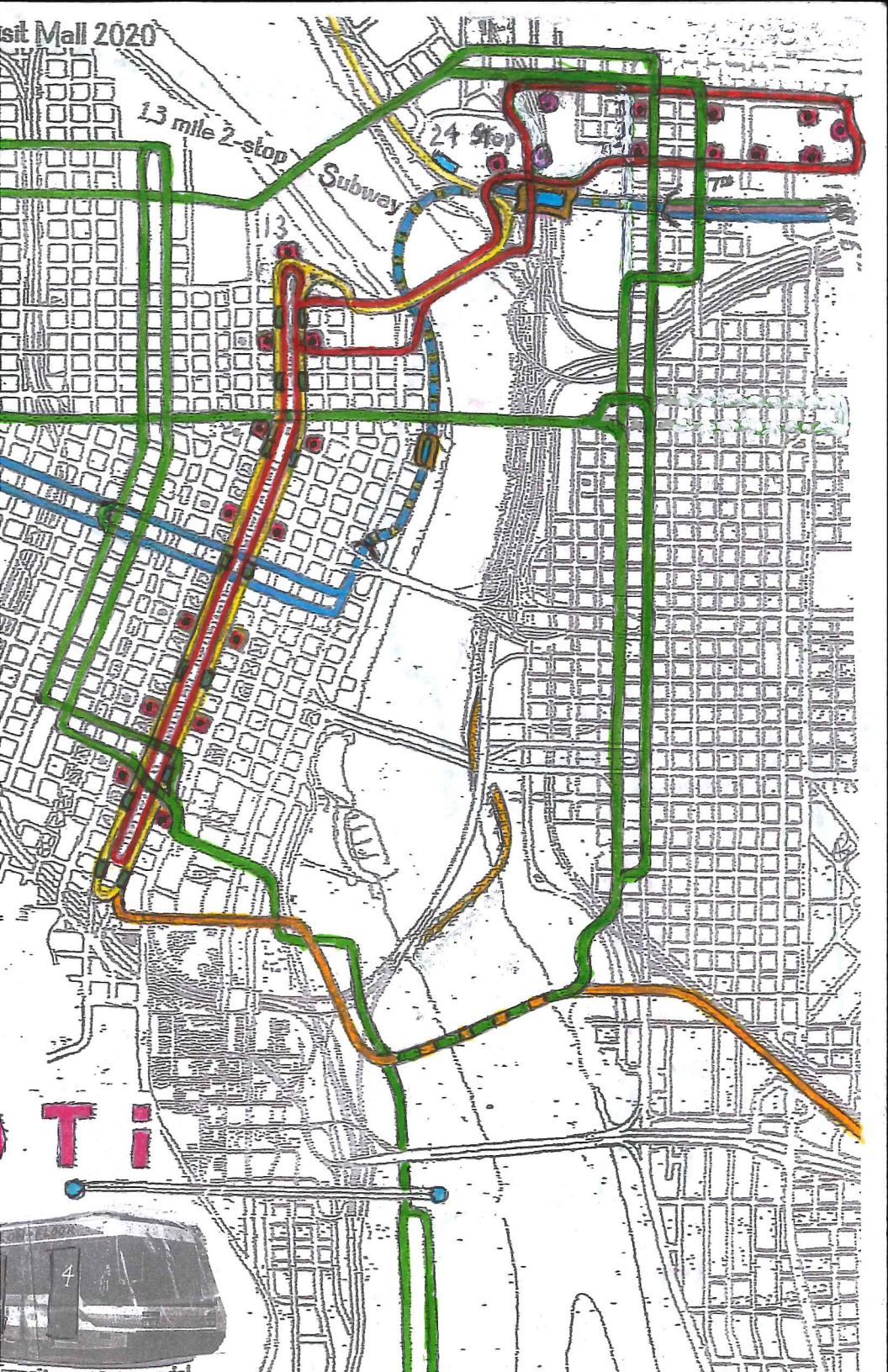
503-906-8472??



This proposal retains 'access' to I-5 north. An 8-lane, 'single-deck' replacement for the derelict Marquam Bridge is built 'downriver' to retain access to I-84 and I-5 south. I-405 is re-designated as I-5 in a near future where significant traffic reduction is achieved.

Note how this Morrison/Belmont Bridgehead Rebuild diverts traffic off Grand Ave by creating access to I-84. Note sidewalk/bikeway on viaducts. Note helical ped/bike ramp to Eastbank Esplanade on the north side of Morrison Bridge.





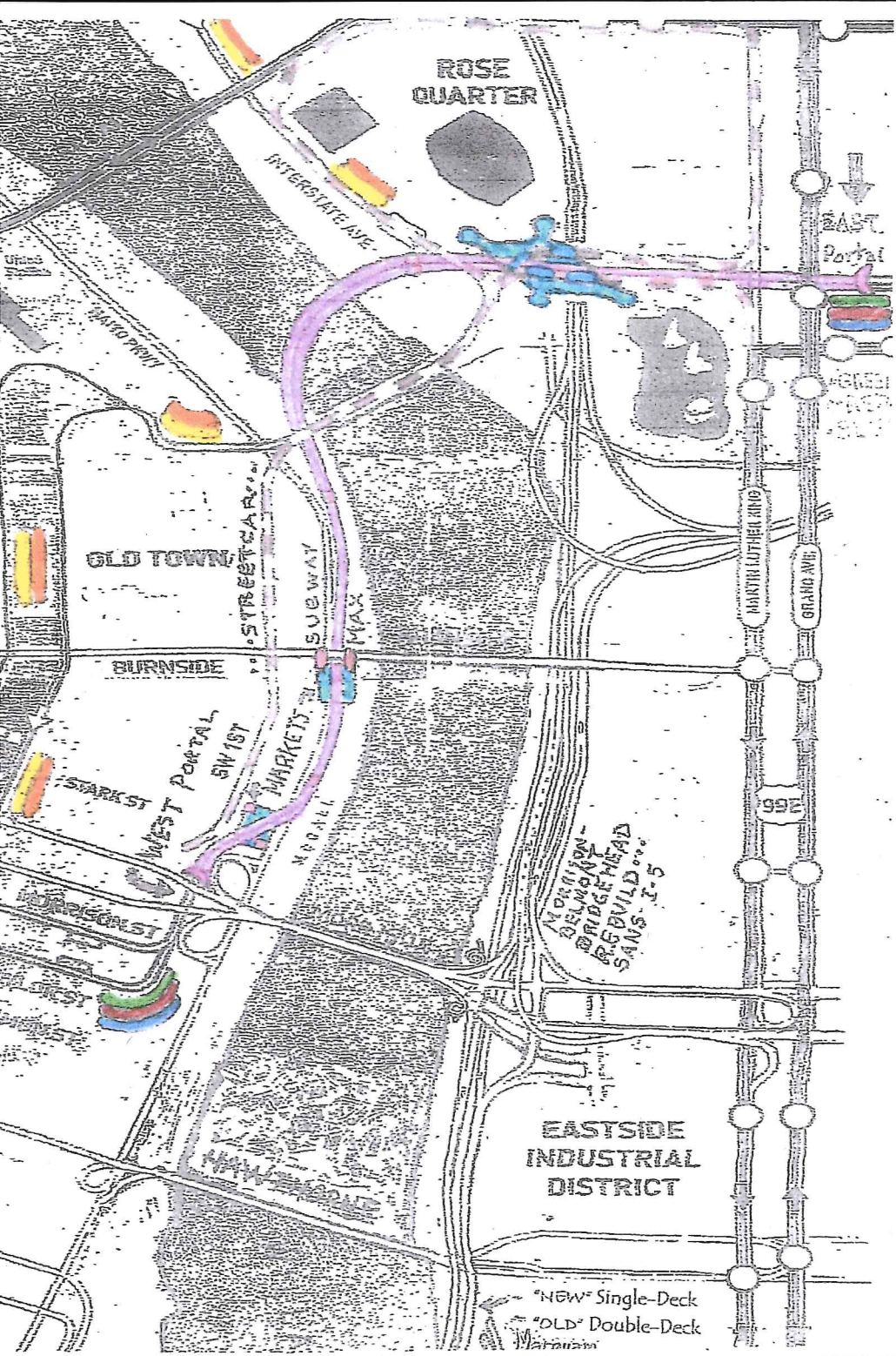
13 mile 2-stop

24 Stop

Subway

T





ROSE QUARTER

INTERSTATE AVE

OLD TOWN

BURNSIDE

WEST PORTAL
SW 1ST

STARKST

MORRISON-BELMONT
BRIDGEHEAD
SANS. 3-5

EASTSIDE INDUSTRIAL DISTRICT

EAST Portal

STREETCAR
SUBWAY
MAX

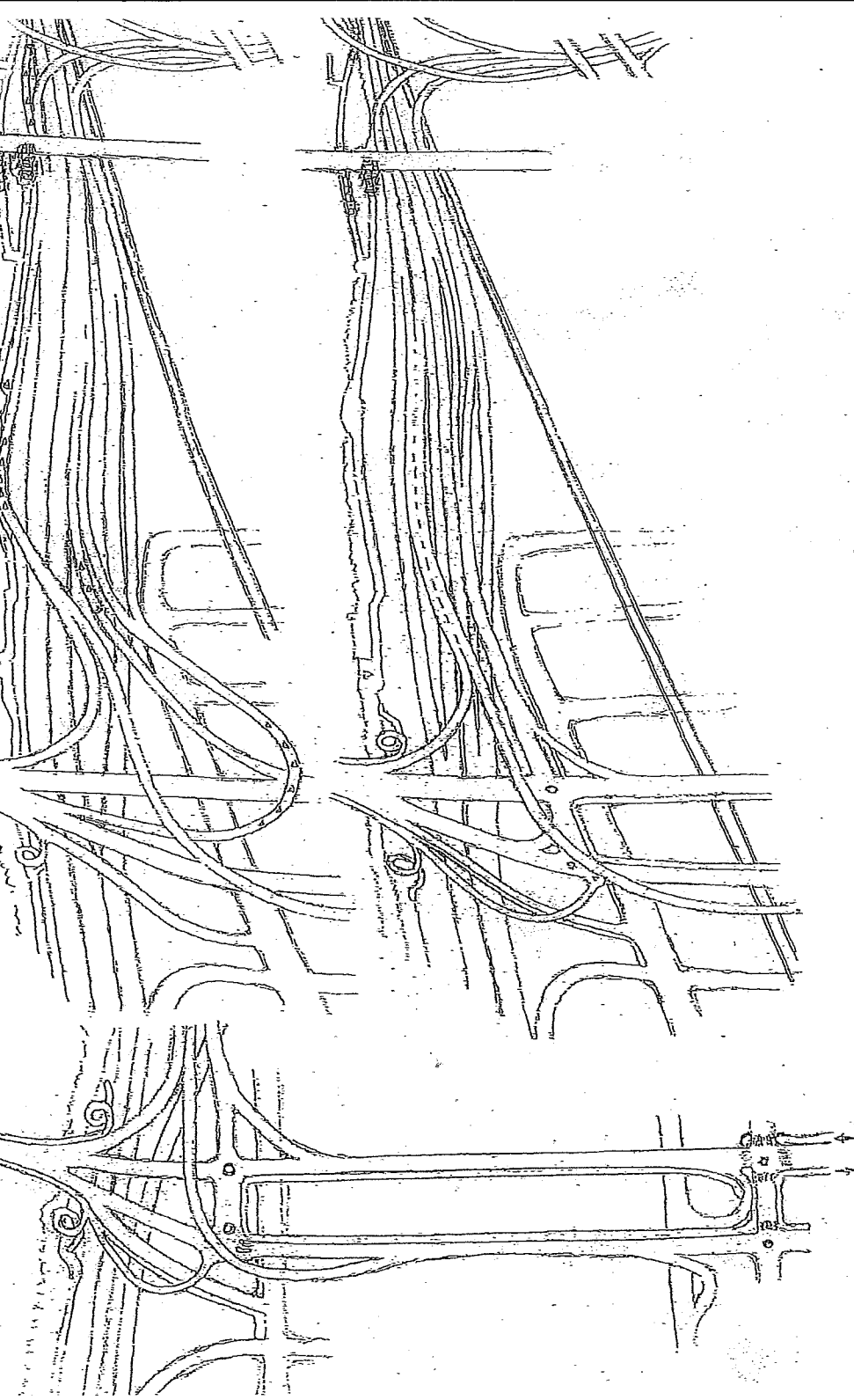
HUNTER LUTHER KING

GRAND AVE

99E

"NEW" Single-Deck
"OLD" Double-Deck

Maparium





10295 SW Ridder Road Wilsonville, OR 97070
o 503.570.0626 f 503.682.9505 republicservices.com

COMMENTS BEFORE METRO COUNCIL
ORDINANCE No. 16-1383
FIRST READING AND PUBLIC HEARING

October 20, 2016

Good afternoon Council President Hughes and members of the Metro Council. My name is Jason Jordan. I serve as the General Manager for Republic Services. I have responsibility for the Operations of three hauling divisions and two post collection divisions (Metro South Operations and Willamette Resources, Inc., which I will refer to as (WRI)).

My purpose for being here today is to speak on behalf of our company regarding the first reading of the proposed Ordinance No. 16-1383. Among the many items this ordinance seeks to establish such as WRI's a Franchise Term Extension, allocation of tonnage, and authorizes the Chief Operating Officer to issue the amended Franchise.

Having had the privilege to work with the Metro staff over this last 16 months, I applaud staff's efforts and respect the difficult task before staff to balance the needs of the public, local governments, and private businesses.

The proposed "three-year franchise term extension" and 2017 tonnage allocation to WRI is an example of the Staff's work towards proactive solutions and avenues for the waste shed of the Metro Region.

While these steps are in the right direction, we feel there are several substantial changes listed in the amended extension, specifically those aimed to incorporate elements of Metro's Transfer Station Configuration Policy. Reviewing and processing these changes take time for our Corporate Counsel and significant changes to the future of the management of waste in our region should also not be rushed.

When Metro Council adopted the Transfer Station Configuration Policy on July 21, 2016, I had submitted a letter on behalf of Republic Services of non-support for certain items listed in the policy. I was unable to physically be present on that date due to a prior commitment, but have followed up with staff since then. This letter was not meant to derail progress Metro made toward aligning the objectives of the Solid Waste Roadmap, but was intended to highlight key areas that my company believes warrant further stakeholder input and exploration with the Metro staff before being fully adopted

Consistent with my initial concerns, and speaking on behalf of Republic Services, I would respectfully ask Metro Council to allow more time for my company to evaluate the Franchise extension that we had only received as of October 7, 2016. The amount of changes within this extension require significant due diligence by our Corporate Counsel to ensure we fully understand the changes presented. I believe it is a reasonable request to ask for more time with significant changes being pushed for adoption with only a 15 business day window.

As a company we still have several unanswered questions and points of clarification. Our initial review with our Corporate Counsel concluded with numerous questions/requests still to discuss with Metro Staff.

I do understand that progress is crucial given the many key challenges and projects underway regarding the Solid Waste Roadmap. I would propose that Metro Council provide direction to extend, for three years, the current franchise agreement and have staff engage with Republic Services to develop and create a common understanding for an amended version in the future to align with the transfer station configuration policy. This future version could very likely be exactly what is proposed today, but without the time to fully evaluate the impact before adoption, in my opinion, is not the most responsible way to foster transparency and partnership amongst Metro, the hauling companies and the communities affected by these changes.

In closing, on behalf of Republic Services, I want to thank the Metro Council and staff for your focus and commitment to "ensuring that the region's transfer system provides maximum public benefit." We will continue to support your efforts in this endeavor. We just ask for your consideration to extend the current franchise and give us more time to understand what this new proposal signifies for our operations in Oregon. Thank you very much for your time.

Respectfully

A handwritten signature in black ink, appearing to read "Jason Jordan", written over the word "Respectfully".

Jason Jordan
General Manager
Republic Services

October 20, 2016

Testimony of Eric Wentland before Metro Council
Greenway Recycling

Re: Resolutions 16-1381, 1382, 1383 and 1384

Council Members,

As well as being employed by Greenway Recycling, I am also a registered lobbyist with Metro and have spoken to most of you in the past on issues regarding Solid Waste and Metro's roll in the management of the Solid Waste System. I have also participated in several committees and attended most of the meetings and hearings revolving around this subject.

Although I am before you today to testify regarding 4 Solid Waste Transfer Station franchises, I actually have no direct issue with any of them. Rather, I am concerned about the process that has emerged in the last 18-24 months regarding Metro's roll in the regulation of Solid Waste and the appearance of a Trojan Horse embedded within these 4 Transfer Station Franchises.

Something has gone very wrong in the Transfer Station System regulation and how it deals with the owners and operators of the facilities regulated. Committees are formed, studies are studied, input is offered, reasonable suggestions are made and when Metro Staff comes back with what is to be the compilation of all that effort and energy, far too often the stew that is offered up bares little resemblance to the ingredients that were put in.

One example of this unpalatable stew is the whole notion of Rate Regulation that has shown up in Staff Reports and is embedded in the Franchise Documents. I sat in the room as close to a dozen representatives of what amounts to 95% of the total Solid Waste volume for the Metro Region, made it very clear that Rate Regulation without substantial negotiation with all the affected parties, was a total non-starter.

So how is it that it has shown up here, buried in the red-lines of 4 resolutions? Staff reports make it clear that these are the first moves in a larger plan, supposedly the initial moves to implement the Transfer System Configuration Policy that Counsel approved in July 2016. It appears to me that Staff is taking extreme liberties with that Policy. It also appears that Staff is taking your approval of the Policy to mean that they can interpret that policy, even in areas where there is no agreement.

A year ago, when Staff attempted to make sweeping changes to Chapter 5 of the Metro Code, Counsel responded by directing them to get more involved with those of us who were to be the targets of the changes. As of this moment, I see no sign that there has been substantive forward movement in getting agreement with the very people who are critical in making changes to the Metro Transfer System, as well as making those changes functional.

Unless these existing licenses are renewed under the exact conditions that are currently in effect, I urge the Counsel to delay these 4 Ordinances until after further study and changes are made to Chapter 5.




October 20, 2016
Metro Council

Metro President, Councilors, my name is Mike Leichner, owner of Pride Recycling Company. We operate the transfer station located in Sherwood, Oregon. We are here to discuss the new franchise proposal. Although this has been described as an extension of the existing franchise, in reality it contains new language which we have not agreed to, or even been able to negotiate on. It is therefore a new franchise agreement presented to us without notice or opportunity to comment or negotiate. At this time, the main area of concern for us is the section number 7.

Under this section, Metro is proposing the ability to review financial records and possibly set tipping rates, all in the name of rate fairness. In fact, rate transparency is already happening. Every solid waste collection hauler who uses our transfer station must submit in March of every year a detailed cost report to the local jurisdictions for rate review. These reports are checked for accuracy to ensure that all revenues and expenses are accounted for. Disposal fees and tonnage are checked to make sure that the actual rate per ton is appropriate. The appropriate rate per ton that is used in comparison is the rate per ton at the Metro transfer stations. If the hauler's rate per ton is different, then the hauler must justify why it is so, and may have their disposal expenses adjusted. The result is that the hauler has the choice of absorbing the additional cost or using a different transfer station. If the hauler can justify to the local jurisdiction using the transfer station with a higher tipping fee rate because of distance from the next closer facility, then the local jurisdiction may allow it. This process by the local jurisdictions guarantees that the rate-payer receives the lowest rates for the solid waste services they are using.

Section 7 does not describe in any detail how the financial information would be collected, who would have access to it, how any proprietary information would be protected. It does not determine how Metro would balance its regulatory authority in the market place with Metro's competition for tonnage and customers in that same market place. It allows Metro to set rates for its competitors giving Metro an unfair advantage in the market place.

It seems to me that the best way forward it to remove Section 7 and extend the franchises. During the next three years, the parameters of Section 7 could be discussed and hopefully be resolved to meet the many changes we are facing in 2020. Section 7 is not necessary for this interim period.

Respectively,

Mike Leichner
Pride Recycling Company



13910 SW Tualatin Sherwood Road, (P.O. Box 1150) Sherwood, OR 97140
Phone (503) 625-0725 Fax: 503-625-6179

October 20, 2016
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For example, there are no details to describe the method that financial information would be collected, who would have access to it, and how any proprietary information would be protected. It does not explain how Metro would balance its regulatory authority in the market place with Metro's competition for tonnage and customers in that same market place. It allows Metro to set rates for its competitors giving Metro an unfair advantage in the market place.

Another example is the section referring to rate transparency. The local jurisdiction already reviews the disposal costs as part of the annual rate review process. This ensures that they are not paying more than what is appropriate.

We received this document on October 7. That is not enough time for us to review this franchise proposal, either by our legal representatives or by us for operational impacts. It seems to me that the best way forward is to slow this process down, extend the current franchises with the existing language, and allow Metro and the industry to sit down and discuss in further detail what type of an agreement is best for the solid waste system in the future.

Respectively,

Mike Leichner
Pride Recycling Company