

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING A SOLID WASTE FACILITY) ORDINANCE NO. 17-1393
FRANCHISE APPLICATION AND AUTHORIZING THE CHIEF)
OPERATING OFFICER TO ISSUE A NEW FRANCHISE TO SORT) Introduced by Chief Operating
BIOENERGY, LLC, TO OPERATE AN ANAEROBIC DIGESTION) Officer Martha Bennett in
AND ENERGY RECOVERY FACILITY IN WILSONVILLE, OREGON.) concurrence with Council President
) Tom Hughes

WHEREAS, Metro Code Section 5.01.150 requires a Metro solid waste franchise for any person owning or controlling a facility that processes putrescible waste other than yard debris, including energy recovery facilities; and

WHEREAS, on September 6, 2016, SORT Bioenergy, LLC (SORT Bioenergy) applied for a solid waste franchise; and

WHEREAS, Metro Code Section 5.01.180 provides that the Chief Operating Officer must review a franchise application and that the application is subject to approval or denial by the Metro Council; and

WHEREAS, SORT Bioenergy has complied with all requirements for applications for a franchise found in Metro Code Section 5.01.170, including obtaining from DEQ all necessary permits for a solid waste facility; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

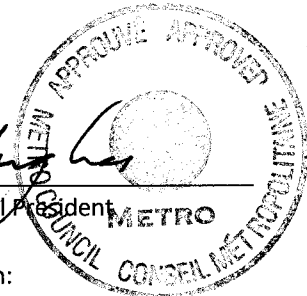
WHEREAS, the Chief Operating Officer recommends that a new solid waste franchise be issued to SORT Bioenergy, together with specific conditions as provided in Exhibit A to this Ordinance; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The solid waste franchise application of SORT Bioenergy is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Ordinance.
2. The Chief Operating Officer is authorized to issue to a new solid waste franchise to SORT Bioenergy substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 23 day of February, 2017.



Tom Hughes, Council President



Attest:


Nellie Papsdorf, Recording Secretary

Approved, as to Form:


Alison R. Kean, Metro Attorney



600 NE Grand Ave.
 Portland, OR 97232-2736
 oregonmetro.gov

**SOLID WASTE FACILITY FRANCHISE
 No. F-173-17**

FRANCHISEE:	FACILITY NAME AND LOCATION:
SORT Bioenergy, LLC 3668 LaFontana Way Boise, Idaho 83702 Tel. (208) 859-8257	SORT Bioenergy 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523
OPERATOR:	PROPERTY OWNER:
SORT Bioenergy, LLC 3668 LaFontana Way Boise, Idaho 83702 Tel. (208) 859-8257	Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523

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

TABLE OF CONTENTS

SECTION	TITLE	PAGE
1.0	Issuance	1
2.0	Conditions and Disclaimers	2
3.0	Completion of Facility Construction	3
4.0	Authorizations	4
5.0	Limitations and Prohibitions	5
6.0	Operating Conditions	6
7.0	Operating Plan	11
8.0	Fees and Rates	13
9.0	Record Keeping and Reporting	14
10.0	Insurance Requirements	15
11.0	Enforcement	16
12.0	Amendment, Suspension, and Revocation	17
13.0	General Obligations	18

1.0	ISSUANCE	
1.1	Franchisee	SORT Bioenergy, LLC 3668 LaFontana Way Boise, Idaho 83702 Tel. (208) 859-8257
1.2	Corporate affiliation	SORT Bioenergy, LLC 3668 LaFontana Way Boise, Idaho 83702 Tel. (208) 859-8257
1.3	Contact	Paul Woods Tel: (208) 859-8257 e-mail: paul@sortbioenergy.com
1.4	Franchise number	When referring to this franchise, please cite: Metro Solid Waste Facility Franchise No. F-173-17.
1.5	Term	The franchise term is from July 1, 2017 to December 31, 2021, unless amended, suspended, or revoked under Section 12.0 of 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	SORT Bioenergy 10295 SW Ridder Road Wilsonville, Oregon 97070 Tel. (503) 570-0626 Fax. (503) 570-0523
1.8	Operator	SORT Bioenergy, LLC 3668 LaFontana Way Boise, Idaho 83702 Tel. (208) 859-8257 paul@sortbioenergy.com
1.9	Facility legal description	Tax Lot Identification No. 600, Section 2C, Township 3 N, Range 1 W, 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 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 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 12.0, 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 defend and indemnify Metro, the Council, the Chief Operating Officer (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 12.0 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 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	Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.00.

3.0	COMPLETION OF FACILITY CONSTRUCTION	
3.1	COO's certification of the completion of facility construction	Franchisee may not accept any solid waste at the facility unless the COO has certified, in writing, that facility construction is complete according to plans submitted by franchisee and approved by Oregon Department of Environmental Quality (DEQ) and Metro. The COO will base the certification upon the franchisee's compliance with the provisions of Section 3.0 of this franchise, including the COO's inspection of the facility and the

		documents submitted to the COO by the franchisee.
3.2	Facility design	Franchisee must design and construct the facility in accordance with the plans it submits to Metro and DEQ. The COO must approve in writing any amendments or alterations to the plans.
3.3	“As constructed” documents	Within 30 days of the substantial completion of the facility, the franchisee must submit to the COO “as constructed” facility plans which note any changes from the original DEQ and Metro approved plans.
3.4	Pre-operating inspection	<ol style="list-style-type: none"> 1. The franchisee must notify the COO when construction of the facility is nearly complete in order to schedule a pre-operating inspection. 2. The franchisee must provide the COO with “as constructed” facility plans before the time of the pre-operating inspection. 3. The franchisee must receive a pre-operating inspection and obtain a certification of completion from the COO as provided in Section 3.1 before the facility may accept or process any solid waste. If the COO finds that the construction is not complete or that the facility has been constructed in a way that is materially inconsistent with the plans approved by the COO, the franchisee may not begin operations.

4.0	AUTHORIZATIONS	
4.1	General conditions on solid waste	The franchisee is authorized to accept at the facility only the solid wastes described in Section 4.0. The franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
4.2	General conditions on activities	The franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 4.0 of this franchise.
4.3	Acceptance and management of source-separated food waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept source-separated food waste from commercial and industrial sources for on-site processing and anaerobic digestion. Examples of food waste that franchisee may accept include commercial food scraps, grease trap waste, brewery waste and bakery waste, FOG (fats,

		<p>oils and grease) and liquids associated with food processing.</p> <p>2. The franchisee must receive, manage, store, reload, and transfer all source-separated food waste in accordance with the facility building plans, odor control plan and operating plan submitted and approved by Metro as part of the franchise application.</p>
4.4	Management of processing residual and byproducts	The franchisee must store, reload, and transfer all putrescible and non-putrescible processing residual and byproducts inside a roofed, enclosed building, or other in-vessel system in accordance with the facility design plans, odor control plan and operating plan approved by Metro as part of the franchise application.
4.5	Byproducts from anaerobic digestion process for agricultural use	The franchisee may provide its liquid, semi-solid or solid byproducts from the anaerobic digestion process to authorized horticultural, agricultural, landscape and nursery operations for use as a fertilizer or agricultural amendment at agronomic application rates or to distributors that resell the byproducts for such uses, or other useful purposes as described in an operating plan and approved in writing by the COO.

5.0	LIMITATIONS AND PROHIBITIONS	
5.1	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: putrescible waste not authorized in Section 4.0 including yard debris; non-putrescible waste; materials contaminated with or containing asbestos; lead acid batteries; liquid waste not authorized in Section 4.0; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by DEQ or the City of Wilsonville.
5.2	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.
5.3	Limits not exclusive	This franchise does not 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.
5.4	Tonnage authorization	The franchisee may accept up to 65,000 tons of source-separated food waste from commercial and industrial sources per calendar year.

6.0	OPERATING CONDITIONS	
6.1	General performance goals	<p>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.
6.2	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 who are 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.
6.3	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.
6.4	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 road access 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.
6.5	Managing prohibited wastes	<ol 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

		<p>make those records available for review by Metro.</p> <p>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.</p>
6.6	Storage and 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) Store all waste and processing residual inside an enclosed, roofed building; c) Maintain storage areas in an orderly manner and free of litter; and d) Position stockpiles within footprints and within the storage volume limits identified on the facility site plan or operating plan.
6.7	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-

		<p>site;</p> <p>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;</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 Metro Code Chapter 5.09.</p>
6.8	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. Detectable off-site odors will be evaluated based on, but not limited to: intensity, character, frequency, and duration. 2. The franchisee must establish and follow procedures in the operating plan for minimizing odors at the facility and preventing off-site odors.
6.9	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.
6.10	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>
6.11	Water quality	<p>The franchisee must operate the facility consistent with an approved DEQ stormwater management plan or equivalent and</p>

		<p>must:</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; and b) Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state, and federal laws and regulations.
6.12	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.
6.13	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; and j) Directions not to queue on public roadways.
6.14	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.

		<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); and b) Log all such complaints as provided by the operating plan. The franchisee must maintain each log entry for one year and it must be available for inspection by Metro.
6.15	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.

7.0	OPERATING PLAN	
7.1	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.
7.2	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.
7.3	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.
7.4	Procedures for inspecting loads	<p>The operating plan must establish:</p> <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; and c) A set of objective criteria for accepting and rejecting loads.

7.5	Procedures for processing and storage of loads	<p>The operating plan must establish procedures for:</p> <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; and e) Minimizing storage times and avoiding delay in processing of authorized solid wastes.
7.6	Procedures for managing prohibited wastes	<p>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.</p>
7.7	Procedures for odor prevention	<p>The operating plan must establish procedures for preventing all 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 the franchisee will use to monitor and manage all odors of any derivation including malodorous loads delivered to the facility; and b) Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility.
7.8	Procedures for dust prevention	<p>The operating plan must 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 the franchisee will use to monitor and manage dust of any derivation; and b) Procedures for receiving and recording dust complaints, immediately investigating any dust complaints to determine the cause of dust emissions, and remedying promptly any dust problem at the facility.

7.9	Procedures for emergencies	The operating plan must establish procedures that the franchisee will follow in case of fire or other emergency.
7.10	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.
7.11	Closure protocol	<p>The franchisee must establish protocol for closure and restoration of the site in the event of a cessation of operations as provided in Metro Code Chapter 5.01. The plan must include procedures for:</p> <ol style="list-style-type: none"> a) Short term closure (duration of time that is more than seven consecutive days but less than 30 consecutive days in length); and b) Long term closure (duration of time that is 30 consecutive days or more in length).

8.0	FEES AND RATES	
8.1	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.
8.2	Rates not regulated	<ol style="list-style-type: none"> 1. The rates charged by the franchisee for accepting solid waste are not regulated 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 6.13.

8.3	Metro fee and tax imposed on disposal	The franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.
8.4	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 food waste received. The franchisee must remit the community enhancement fees to Metro on a monthly basis in conjunction with the record keeping and reporting requirements of Section 9.0.

9.0	RECORD KEEPING AND REPORTING	
9.1	Record keeping requirements	For all solid waste and materials the franchisee is authorized to receive under Section 4.0, the franchisee must keep and maintain accurate records of the amount of such materials the franchisee receives, recovers, recycles, reloads and disposes. These records include the information specified in the Metro document titled, <u><i>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements.</i></u>
9.2	Reporting requirements	The franchisee must transmit to Metro the records required under Section 9.0 no later than fifteen days following the end of each month in the form and format prescribed by Metro.
9.3	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.
9.4	Transactions based on scale weights	Except for minimum fee transactions for small, lightweight loads, the franchisee must record each transaction electronically based on actual and accurate scale weights using the franchisee's scales.
9.5	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.
9.6	Copies of enforcement actions provided to Metro	The franchisee must send to Metro, upon receipt, 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.
9.7	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.
9.8	Transfer of ownership or control of franchise	<ol style="list-style-type: none"> 1. The franchisee must notify Metro within 10 days if the franchisee leases, assigns, mortgages, sells or otherwise transfers the control of the franchise to another person, whether whole or in part. 2. The term for any transferred franchise is for the remainder of the original term unless Metro Council establishes a different term.

10.0	INSURANCE REQUIREMENTS	
10.1	General liability	Upon meeting the requirements of Section 3.0, 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. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed

		operations. Franchisee's coverage will be primary as respects Metro.
10.2	Automobile	Upon meeting the requirements of Section 3.0, the franchisee must carry automobile bodily injury and property damage liability insurance with a combined single limit of \$1,000,000.
10.3	Additional insureds	Metro, its elected officials, departments, employees, and agents must be named as ADDITIONAL INSUREDS on the Commercial Liability and automotive insurance policies.
10.4	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 and 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.
10.5	Notification	The franchisee must give at least 30 days written notice to Metro of any lapse or proposed cancellation of insurance coverage.

11.0	ENFORCEMENT	
11.1	Generally	Metro will enforce this franchise as specified in Metro Code Chapter 5.01.
11.2	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.
11.3	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 region, notwithstanding any incidental impact that such ordinances may have upon the terms of this franchise or the franchisee’s operation of the facility.
11.4	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.

12.0	AMENDMENT, SUSPENSION, AND REVOCATION	
12.1	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.
12.2	Amendment by Metro Council action	<p>Except as provided in Section 12.0, 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 Waste 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>

12.3	Amendment, suspension or revocation by Metro for cause	<p>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) Generation of odors detectable off-site; f) Significant change in the character of solid waste received or in the operation of the facility; g) Any change in ownership or control; h) A request from the local government stemming from impacts resulting from facility operations; and i) Compliance history of the franchisee.
-------------	---	--

13.0	GENERAL OBLIGATIONS	
13.1	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 of the franchise is issued but not cited or attached, and permits or conditions issued or amended during the term of the franchise.</p>

13.2	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>
13.3	Right of inspection and audit	<p>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 13.0 of this franchise, 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.</p>
13.4	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 must pay 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. Nothing in this Section 13.0 will 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>
<p>13.5</p>	<p>Compliance by agents</p>	<p>The franchisee is responsible for ensuring that its agents and contractors comply with this franchise.</p>

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 17-1393 FOR THE PURPOSE OF APPROVING A SOLID WASTE FACILITY FRANCHISE APPLICATION AND AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW FRANCHISE TO SORT BIOENERGY,LLC, TO OPERATE AN ANAEROBIC DIGESTION AND ENERGY RECOVERY FACILITY IN WILSONVILLE, OREGON.

February 16, 2017

Prepared by: Will Ennis (503) 797-1667

EXECUTIVE SUMMARY

Adoption of Ordinance No. 17-1393 will authorize the Chief Operating Officer (COO) to issue a new solid waste facility franchise to SORT Bioenergy, LLC (SORT) to operate an anaerobic digestion and energy recovery facility to be co-located with Willamette Resources, Inc., at 10295 SW Ridder Road in Wilsonville, Oregon (Metro Council District 3).

BACKGROUND

Overview

On September 6, 2016, in accordance with Metro Code Section 5.01.170¹, SORT submitted an application to Metro seeking a solid waste facility franchise to construct and operate an anaerobic digestion and energy recovery facility that will process commercial food waste into biogas for the production of renewable energy and transportation fuel. The facility will be known as SORT Bioenergy (Sustainable Organics Recycling Technology). A franchise is needed because the facility seeks to accept and process putrescible waste (i.e. food waste). Anaerobic digestion is a type of conversion technology that relies on a controlled and enclosed biological process that breaks down organic matter in the absence of oxygen and can produce biogas for energy production.



Site of proposed facility at 10295 SW Ridder Road in Wilsonville

¹ All Metro Code Chapter 5.01 citations in this staff report reference those adopted by Metro Council through Ordinance No. 16-1386 on November 10, 2016. The new Code citations became effective on February 8, 2017.

The applicant proposes to construct the facility at a site co-located with Willamette Resources, Inc. (WRI), a Metro-authorized solid waste transfer station located at 10295 SW Ridder Road in Wilsonville. WRI is a wholly owned subsidiary of Republic Services (Republic), which is headquartered in Phoenix, Arizona. SORT proposes to construct the facility on a 3.5 acre parcel that will be leased from WRI. SORT will own and operate the proposed facility which will also have cross access and operating agreements with WRI.

The land upon which the facility is to be sited is zoned as a Planned Development Industrial – Regionally Significant Industrial Area (PDI-RSIA) and the proposed use is conditionally allowed. The city of Wilsonville annexed this parcel into the city boundary on June 20, 2016. The applicant provided a copy of a Land Use Compatibility Statement (LUCS) signed by the city of Wilsonville. According to the LUCS, the proposed anaerobic digestion facility qualifies as a composting operation under Oregon Revised Statutes 277.600 and all notification requirements have been met.²

According to the applicant, all commercial food waste received at the facility will be accepted and assessed a fee at WRI’s scale house and then directed to the proposed facility. Billing and tracking of loads will be the responsibility of WRI. Once the food waste is directed to the facility, SORT will manage all processing and reporting of operations. The proposed facility is expected to have processing capacity for 65,000 tons of commercial food waste per year. If the capacity is unmet, the applicant proposes to supplement the operation with fats, oils, grease (FOG) and other liquids associated with food processing. The facility will not accept septage and all liquid waste entering the facility will require certification that demonstrates the material characteristics.

The primary product of the proposed facility will be methane-rich gas (biogas) that will be used as fuel in two on-site internal combustion engines. The engines will convert the biogas into mechanical energy which will be converted into electricity. The applicant plans to generate about 2.4 megawatts of electricity continuously (equivalent to 21,000 megawatts annually); equivalent to meeting the annual power demand of about 1,900 homes. As additional byproducts, the facility will produce post-digestion separated liquids and solids also known as digestates. These by-products may be used for agricultural purposes such as composting or land application. Once in operation, the facility is expected to employ ten people (further details about the proposed operation are provided in the Proposed Facility Systems section of this report).

THE PROPOSED FACILITY SYSTEMS

The following information provides background about the SORT Bioenergy anaerobic digestion facility systems, as described in the franchise application submitted to Metro.

Overview

SORT proposes to construct and operate a food waste recovery facility for processing source-separated food waste generated from local government-managed commercial sector waste collection programs. In addition, SORT will selectively process difficult to manage semi-solid and liquid food waste such as

² ORS 277.600 requires cities and counties to hold a pre-application conference before an applicant can submit an application for land use approval. Also, after the conference, the applicant must hold a community meeting prior to submitting an application for land use approval. Both actions took place in 2015.

dairy products, spent grains, beverage products, food preparation FOG and other liquid food products that have limited energy recovery options. The facility will not accept yard debris or yard debris mixed with food waste as these feedstocks do not support the efficient production of biogas. The facility also will not accept manure or rendering waste.

The primary facility components will include an enclosed negative air receiving and processing building, proprietary de-packaging equipment, a bio-filter for odor control, processing equipment and tanks, a biogas holding sphere, byproduct storage, energy generation equipment and a gas flare.



Concept drawing for SORT Bioenergy

According to the applicant, the primary energy product of the proposed facility will be a methane-rich biogas that will be used to fuel two on-site engines that will generate approximately 2.4 megawatts of energy continuously (equivalent to 21,000 megawatts annually) and supply Portland General Electric’s power grid through a power purchase agreement. This is enough electricity to supply the annual demand for about 1,900 homes. The facility also has the ability to turn the biogas into renewable natural gas that can fuel the onsite fleet of CNG³ collection trucks for Republic Services. Because the trucks fuel at nighttime, the facility can generate much needed “on-peak” electricity during daytime hours and fuel the CNG fleet at night during the “off-peak” period.

A secondary product of the anaerobic digestion process is digestate, a nutrient-rich fibrous material that may be used as a fertilizer or soil amendment product. The applicant is proposing to partner with a nearby (1/2 mile) producer of soil amendment products to create a market-specific product. Liquid generated from dewatering of the digestate material is another byproduct with beneficial re-use potential. This liquid contains nitrogen and phosphorus that are suitable nutrients for agricultural

³ Compressed natural gas.

production. SORT has identified seasonal re-use applications and will seek to develop opportunities for off-season storage. In the event that off-season storage is not economical, SORT has incorporated the ability to pre-treat and discharge the liquids to the city of Wilsonville's publicly owned treatment works (POTW) located about five miles away from the facility. The applicant estimates that byproducts will consist of about 15,000 tons of post-digestion solids and up to 50,000 tons of post-digestion liquids annually.

Vehicles hauling food waste will enter the facility through WRI's existing entrance and use that facility's scale for transactions. Vehicles will then be directed to SORT's enclosed receiving building. Prior to emptying, vehicles will be visually inspected and once they pass inspection, contents may be tipped on the floor of the building for a second visual inspection of the waste. The applicant estimates that about 17 commercial vehicles will be directed to SORT daily. Loads containing more than 25 percent of contamination will be isolated and the material moved to WRI for disposal. Loads that are rejected due to contamination will be photo documented and charged the wet waste rate plus a special handling fee. WRI will assist in timely notification of reject loads to the generator.

SORT will accept food waste including food packaging. When food and packaging is received, the material will be shredded and conveyed to packaging removal equipment to capture the food component for processing into a "clean" slurry. All material will be processed from the tipping floor on the day it is received; there will be no storage of material on the tipping floor over night. The clean slurry will be pumped into a pre-digestion holding tank that will provide a continuous feeding to the facility's two anaerobic digesters. Both digesters will be continuous flow stirred tank reactors and will maintain the slurry at a mesophylic temperature regime of 98 degrees Fahrenheit for 18 – 22 days. Biogas generated during this time collects in the headspace of the digesters and continuously conveyed to a low-pressure storage sphere that equilibrates delivery for energy use.

The processed slurry material will be continuously pumped from the digesters. The material will be stored in a post-digestion tank before being dewatered through on-site centrifuges inside the operations building. The resulting solid digestate will be used for agricultural purposes (i.e. composted or used as fertilizer). Waste water (liquid digestate) will be directed to beneficial re-use as land application for fertilizer. The land application of the liquid would be managed by Agri-Tech, a wholly owned subsidiary of Republic that specializes in land application of liquids for agricultural purposes. In the event that year-round beneficial re-use is not feasible, the facility will pre-treat the liquids on-site and discharge to the local POTW. The pretreatment system would operate in accordance with an Industrial Pretreatment Permit to be issued by the city of Wilsonville.

SORT's proposed primary use of the biogas generated during anaerobic digestion is fuel to generate renewable electricity. Two internal combustion engines at the facility will convert the biogas to mechanical energy that will generate electricity. The operator has already entered into an agreement with Portland General Electric to purchase the electricity generated at SORT. The engines will operate under the authority of a DEQ-issued Air Contaminant Discharge Permit.⁴ Heat is also a byproduct of the engines and will be used to maintain a constant temperature of the slurry and heat the facility.

Another proposed use of the biogas would be to upgrade the gas for use as transportation fuel. WRI

⁴ DEQ Air Contaminant Discharge Permit No. 34-0179-ST-01 issued on December 30, 2016.

maintains an on-site CNG filling station for its fleet vehicles. Upgraded biogas could be directed to the filling station for use as transportation fuel.



Site of compressed natural gas filling station at WRI.

Odor Control

In its required compost risk screening application evaluation, DEQ determined that the facility's operation poses a risk for odors due to the nature and amount of feedstocks the facility proposes to accept.⁵ In the operations plan submitted to Metro as part of the application, the applicant detailed the odor control methods the facility will employ. All food waste delivered to SORT will be tipped in a fully enclosed receiving building with an air handling system that will maintain a negative pressure environment. Fast acting receiving bay doors will open and close for deliveries. Loads will be tipped at the far end of the building away from the bay doors. Air ducting will be focused over the tipping floor to prevent the escape of odorous compounds during deliveries. All food waste will be processed on the day that it is received and placed in enclosed containers. The tipping floor will be washed down at the end of each work day.

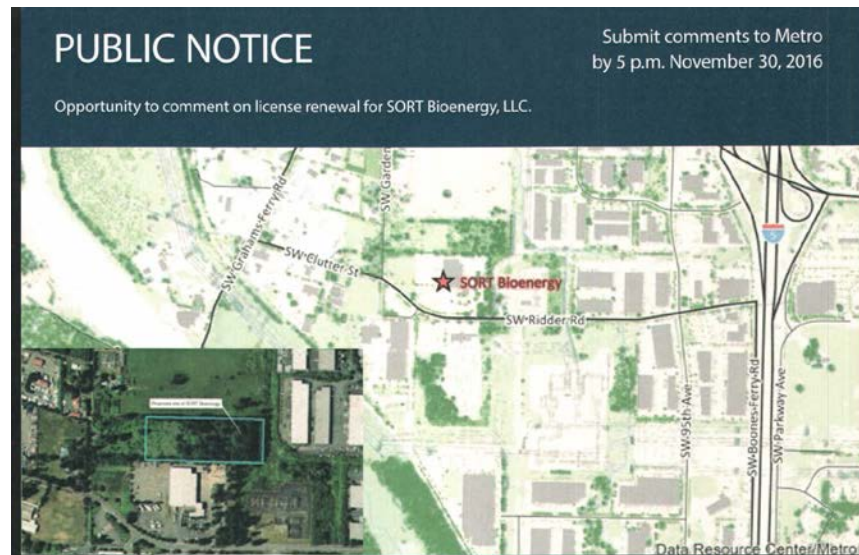
Air drawn from the receiving building will be vacuumed through duct work and discharged into a bio-filter for the removal of odorous compounds. The bio-filter medium will be a sand/soil blend containing microorganisms that consume odorous gas molecules. The operations plan indicates that the provider of the bio-filter technology has provided bio-filter installations for several waste water treatment facilities in and near the Metro region. The facility operator will measure the operation of the bio-filter on a daily basis using a handheld gas analyzer around the boundary of the site. The results of the monitoring will be made available to regulatory agencies including Metro.

The proposed franchise includes provisions to minimize the generation of odors on site including a requirement for the facility to establish an odor control plan and procedures for responding to odor complaints. Additionally the facility will be routinely monitored for compliance by Metro and DEQ inspection staff. The facility must also comply with the city of Wilsonville's odor ordinance.

⁵ Although SORT will not operate as a composting facility, anaerobic digestion facilities are subject to the same risk screening evaluation by DEQ under Oregon Administrative Rules (OAR) 340-096-0001 and 0080.

ANALYSIS / INFORMATION

Public Notice and Opportunity to Comment



Public notice and opportunity to comment cards were sent to nearby residents and businesses

On October 26, 2016, Metro issued notice of the proposed franchise application and provided the public with an opportunity to submit comments. Public notice was mailed to 28 residences and businesses within 1/3 of a mile of the facility, posted on the Metro web site, and e-mailed to a list of industry and government stakeholders, and members of the public that have expressed a general interest in solid waste issues in the Metro region. The public comment period ended on November 30, 2016. There were no comments in response to the public notice.

During Metro's public comment period, DEQ held a public information meeting and hearing in Wilsonville on November 17, 2016, to provide information and solicit comments on the proposed facility and its DEQ permits. Metro staff attended the hearing to provide information and to accept comments on the franchise application. Eleven people signed the attendance sheet for the hearing. There were no formal comments submitted at the hearing.

Known Opposition

There is no known opposition to the proposed franchise.

Legal Antecedents

1. Metro Code Chapter 5.01, entitled "Solid Waste Facility Regulation." Specifically:
 - A. Section 5.01.150 states that a solid waste facility franchise is required for the processing of putrescible waste and operating an energy recovery facility.
 - B. Section 5.01.160 requires that a prospective applicant for a franchise participate in a pre-application conference within one year before filing an application.

The applicant attended a pre-application conference with Metro on July 7, 2016, and subsequently filed a complete franchise application on September 6, 2016.

- C. Section 5.01.170 requires that a franchise application be filed in a format prescribed by Metro and include a description of the proposed activities and waste to be accepted at the proposed facility.

The applicant filed its application using a standard Metro form and submitted the required application fee of \$500 on September 6, 2016. The application included an adequate description of the types of activities and waste to be accepted at the facility.

- D. Section 5.01.170(c) requires that a franchise application must include the following information:

- (1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the term of the franchise.

The applicant will be required to submit proof of insurance once the facility is constructed and prior to commencing operation.

- (2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ.

The applicant submitted a duplicate copy of its DEQ Solid Waste Disposal Site and Air Contaminant Discharge Permit applications.

- (3) A duplicate copy of any closure plan required to be submitted to DEQ, or if DEQ does not require a closure plan, a closure document describing closure protocol for the solid waste facility at any point in its active life.

The DEQ does not require that the facility submit a closure plan. The applicant included a closure plan with its Metro franchise application.

- (4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure.

The DEQ does not require proof of financial assurance for this facility.

- (5) Signed consent by the owner(s) of the property to the proposed use of the property.

The applicant submitted a signed property use consent form with the application.

- (6) Proof that the applicant has received proper land use approval.

The applicant provided proof of land use approval in the form of a LUCS signed by the city of Wilsonville on June 20, 2016.

- (7) Identify any other known or anticipated permits required.

In addition to the proposed franchise, the applicant states it must obtain the following permits to construct and operate the facility:

- DEQ Solid Waste Disposal Site Permit No. 1573 issued on December 5, 2016
- DEQ Air Contaminant Discharge Permit No. 34-0179-ST-01 issued on December 30, 2016
- DEQ Stormwater General Permit 1200-Z
- DEQ Stormwater Construction Permit 1200-C
- City of Wilsonville Industrial Discharge Pre-Treatment Permit

- E. Section 5.01.180(f) states that the Metro Council must consider the following factors when determining whether to authorize a franchise.

- (1) Whether the applicant has demonstrated that the proposed solid waste facility and authorized activities will be consistent with the Regional Solid Waste Management Plan (RSWMP);

Staff finds that the proposed activity is consistent with the regional values and policies outlined in the RSWMP.⁶ Specifically, Chapter III of the RSWMP, entitled “Future Direction and Regional Policies,” establishes the long-term vision, values, and policies that provide direction for the region’s solid waste management system. The applicant’s proposed activity is consistent with the regional values outlined in that chapter in that the proposal seeks to reduce the amount of solid waste generated in the Metro region and divert it to energy recovery. Chapter IV of RSWMP, entitled “Program Areas,” emphasizes program goals to implement a collection and processing system to enhance recovery of commercial food waste by targeting large generators such as grocery stores, institutional cafeterias and food processors. Additionally, to meet the requirements of Oregon Administrative Rules 340-93-070 (4)(b) for its DEQ Solid Waste Disposal Site Permit application, the applicant obtained a written statement from Metro that the proposed facility is compatible with RSWMP.⁷ In fact, management of commercial food waste in this manner is a primary goal of Metro Council based on direction provided at its October 25, 2016 work session.

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

⁶ Regional Solid Waste Management Plan 2008-2018 Update

⁷ Solid Waste Disposal Site Compatibility with Solid Waste Management Plan signed June 28, 2016.

The effect is undetermined at this time. Approval of the proposed franchise would not immediately result in the construction of the facility. The applicant has indicated that it is unlikely the facility would be constructed unless it is awarded a supply contract through the competitive procurement process that Metro will conduct later in 2017. However, the applicant has indicated it will evaluate its situation once the RFP decision is finalized. Metro will determine cost impacts on services through that process and through a related determination of how to most effectively transfer commercial food waste to a processing facility (or facilities) that is awarded the contract(s) (further details about the competitive procurement process are provided in the Anticipated Effects section of this report).

- (3) Whether granting a franchise to the applicant is likely to adversely affect the health, safety, and welfare of Metro's residents in an unreasonable manner;

WRI has been operating a transfer station on the property since 1998. In that time WRI has operated at the site without significant impact to nearby neighborhoods or business, and the SORT facility is not expected to adversely affect health, safety, or welfare of nearby residents or businesses as it will have additional odor control measures and all processes will take place in enclosed vessels.

- (4) Whether granting a franchise is likely to adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood in an unreasonable manner;

As discussed above in subsection E(3) above, WRI has been operating a solid waste transfer station at the site since 1998 and has a good operating record at the site. SORT proposes to construct and operate an enclosed anaerobic digester for energy recovery adjacent to the transfer station which is consistent with current activities at the site location.

- (5) Whether the applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to Section 5.01.280 and other applicable local, state and federal laws, rules, regulations, ordinances, orders, or permits pertaining in any manner to the proposed franchise.

Since WRI has operated at the site since 1998 without significant impact to nearby neighborhoods or business, the proposed anaerobic digester at the site is not expected to adversely affect health, safety, or welfare of nearby residents or businesses. In addition, neither DEQ nor the city of Wilsonville have reported any code, environmental, or nuisance violations at the site. Based on the WRI's good compliance record, staff anticipates that the applicant will also remain in compliance with requirements and standards of the proposed franchise.

Anticipated Effects

Adoption of Ordinance No. 17-1393 will authorize a new, five-year solid waste facility franchise for SORT to operate an anaerobic digestion and energy recovery facility with an annual maximum tonnage authorization of 65,000 tons of food waste. If the proposed ordinance is adopted, the franchise will become effective on July 1, 2017. The construction of the proposed facility is not expected to commence before that date.

Metro intends to issue a request for proposals (RFP) in April 2017 to secure stable, proximate food waste processing capacity for the region. Republic pre-qualified as a potential service provider during an earlier request for qualifications.⁸ In its proposal, Republic indicated that SORT would serve as its operator. If Republic is not selected as a service provider by Metro, Republic and SORT have indicated they may re-evaluate whether the proposed facility continues to be viable. Franchise approval does not guarantee that Republic will be selected as a service provider.

Budget and Rate Impacts

If the proposed franchise is approved, SORT is unlikely to have an immediate impact to Metro's budget or transfer station rates. SORT has not yet constructed the anaerobic digestion facility. As discussed above, Republic and SORT have indicated that the proposed facility may be reevaluated if Republic is not selected as a service provider as a result of the RFP. Additionally, SORT's operation will likely coincide with other solid waste policy decisions that may further affect the collection and diversion of commercial food waste and putrescible waste tonnage at both public and private transfer stations. Such direction may result in changes to some of Metro's solid waste fiscal policies and rates at its transfer stations.

Should SORT begin operations it could have an effect on Metro tip fees, transaction fees and disposal costs. For instance, Metro would likely divert the 15,000 tons of commercial food waste that it currently receives directly to SORT. An additional 20,000-30,000 tons of food waste could be diverted if it were to be separated from the current general municipal waste stream. This additional tonnage would be sourced from both Metro's transfer stations and privately-owned transfer stations. Any diverted tonnage from Metro transfer stations will have some commensurate effect on the tip fee, transaction fee, and disposal costs. Under current rate policy, the separation of commercial food waste from the general solid waste stream would result in a slight increase in the per ton rate. Overall, Community Enhancement Fund revenue would be unaffected in the region but would shift from one jurisdiction/fund to another as the waste shifts to different facilities.

Metro's Disposal Cost

Because the proposed facility does not yet receive any waste that would otherwise be disposed of at a landfill, there is no immediate impact on disposal costs.

⁸ In early 2016, Metro issued a Request for Qualifications (RFQ) to qualify firms and technologies that would be eligible to propose in a scheduled future procurement to process up to 50,000 tons of the region's commercial food waste. Thirteen firms submitted qualifications; nine firms were deemed qualified. Metro is now preparing to issue a Request for Proposals (RFP) to procure long-term, proximate processing capacity for the region's commercial food waste. The RFP, applications, evaluation, and selection are likely to be completed by late 2017.

Community Enhancement Fund Revenue

All commercial food waste received at the proposed facility will be subject to a \$1.00 per ton community enhancement fee. The funds collected will be remitted to Metro. In turn, Metro will remit these fees to the already established Wilsonville Community Enhancement Program (Wilsonville CEP). The Wilsonville CEP operates under an intergovernmental agreement with Metro to provide support to the local host community of Wilsonville as determined by the local committee. The funds collected at SORT would serve to increase the funds available to the committee on an annual basis of up to an additional \$65,000 per year. In fiscal year 2016, the Wilsonville CEP received about \$86,600.

RECOMMENDED ACTION:

Based on the information and analysis provided in this report, the COO recommends that the Metro Council adopt Ordinance No. 17-1393 and issue a new five-year franchise to SORT as attached to this ordinance as Exhibit A which becomes effective on June 1, 2017 until December 31, 2021.