



600 NE Grand Ave.  
Portland, OR 97232-2736

## Council meeting agenda

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Thursday, October 5, 2017

2:00 PM

Metro Regional Center, Council chamber

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REVISED 10/05/17

**1. Call to Order and Roll Call**

**2. Citizen Communication**

**3. Presentations**

3.1 Zoo Construction Impacts [17-4902](#)

Presenter(s): Don Moore, Oregon Zoo  
Sheri Horiszny, Oregon Zoo

**4. Consent Agenda**

4.1 Consideration of the Council Meeting Minutes for September 28, 2017 [17-4903](#)

4.2 Resolution No. 17-4830, For the Purpose of Amending the 2018-21 Metropolitan Transportation Improvement Program (MTIP) to Add a New HB2017 Awarded Project, the I-205 Johnson Creek to Glenn Jackson Bridge Corridor Bottleneck and ATMS Project Plus Amend a Second Existing Project with HB2017 Conditioned Funding, the I-205 Stafford Rd to OR99E Affecting ODOT Which Compromise the August 2017 Formal MTIP Amendment (AG17-01-AUG) [RES 17-4830](#)

Attachments: [Resolution No. 17-4830](#)  
[Exhibit A to Resolution No. 17-4830](#)  
[Staff Report](#)  
[Attachment 1 to Staff Report](#)  
[Attachment 2 to Staff Report](#)  
[Attachment 3 to Staff Report](#)  
[Attachment 4 to Staff Report](#)

**5. Resolutions**

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- 5.1 Resolution No. 17-4851, For the Purpose of Proclaiming October 9, 2017 as Indigenous Peoples' Day in the Greater Portland Area [RES 17-4851](#)

Presenter(s): Raahi Reddy, Metro  
Nathan Baptiste, Metro  
Cassie Salinas, Metro

Attachments: [Resolution No. 17-4851](#)  
[Staff Report](#)

- 5.2 Resolution No. 17-4845, For the Purpose of Recognizing the 100th Anniversary of the Keller Auditorium [RES 17-4845](#)

Presenter(s): Karol Collymore, Metro

Attachments: [Resolution No. 17-4845](#)  
[Staff Report](#)  
[Attachment 1 to Staff Report](#)

**6. Ordinances (First Reading and Public Hearing)**

- 6.1 Ordinance No. 17-1410, For the Purpose of Amending Metro Code Chapter 5.00 to Add Certain Definitions [ORD 17-1410](#)

Presenter(s): Paul Slyman, Metro  
Dan Blue, Metro

Attachments: [Ordinance No. 17-1410](#)  
[Exhibit A to Ordinance No. 17-1410](#)  
[Staff Report](#)  
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- 6.1.1 Public Hearing for Ordinance No. 17-1410

- 6.2 Ordinance No. 17-1411, For the Purpose of Amending Metro Code Chapter 5.01 to Establish Licensing Requirements for Certain Facilities that Receive and Process Source-Separated Recyclable Materials and Make Housekeeping Changes

[ORD 17-1411](#)

Presenter(s): Paul Slyman, Metro  
Dan Blue, Metro

Attachments: [Ordinance No. 17-1411](#)  
[Exhibit A to Ordinance No. 17-1411](#)  
[Staff Report](#)  
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- 6.2.1 Public Hearing for Ordinance No. 17-1411

- 7. **Chief Operating Officer Communication**
- 8. **Councilor Communication**
- 9. **Adjourn**

# Metro respects civil rights

Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes that ban discrimination. If any person believes they have been discriminated against regarding the receipt of benefits or services because of race, color, national origin, sex, age or disability, they have the right to file a complaint with Metro. For information on Metro’s civil rights program, or to obtain a discrimination complaint form, visit [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights) or call 503-797-1536. Metro provides services or accommodations upon request to persons with disabilities and people who need an interpreter at public meetings. If you need a sign language interpreter, communication aid or language assistance, call 503-797-1700 or TDD/TTY 503-797-1804 (8 a.m. to 5 p.m. weekdays) 5 business days before the meeting. All Metro meetings are wheelchair accessible. For up-to-date public transportation information, visit TriMet’s website at [www.trimet.org](http://www.trimet.org).

### Thông báo về sự Metro không kỳ thị của

Metro tôn trọng dân quyền. Muốn biết thêm thông tin về chương trình dân quyền của Metro, hoặc muốn lấy đơn khiếu nại về sự kỳ thị, xin xem trong [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Nếu quý vị cần thông dịch viên ra dấu bằng tay, trợ giúp về tiếp xúc hay ngôn ngữ, xin gọi số 503-797-1700 (từ 8 giờ sáng đến 5 giờ chiều vào những ngày thường) trước buổi họp 5 ngày làm việc.

### Повідомлення Metro про заборону дискримінації

Metro з повагою ставиться до громадянських прав. Для отримання інформації про програму Metro із захисту громадянських прав або форми скарги про дискримінацію відвідайте сайт [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). або Якщо вам потрібен перекладач на зборах, для задоволення вашого запиту зателефонуйте за номером 503-797-1700 з 8.00 до 17.00 у робочі дні за п'ять робочих днів до зборів.

### Metro 的不歧視公告

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### Ogeysiiska takooris la'aanta ee Metro

Metro waxay ixtiraamtaa xuquuqda madaniga. Si aad u heshid macluumaad ku saabsan barnaamijka xuquuqda madaniga ee Metro, ama aad u heshid warqadda ka cabashada takoorista, booqo [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Haddii aad u baahan tahay turjubaan si aad uga qaybqaadatid kullanka dadweynaha, wac 503-797-1700 (8 galka hore illaa 5 galka dambe maalmaha shaqada) shan maalmaha shaqo ka hor kullanka si loo tixgaliyo codsashadaada.

### Metro의 차별 금지 관련 통지서

Metro의 시민권 프로그램에 대한 정보 또는 차별 항의서 양식을 얻으려면, 또는 차별에 대한 불만을 신고 할 수 [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). 당신의 언어 지원이 필요한 경우, 회의에 앞서 5 영업일 (오후 5시 주중에 오전 8시) 503-797-1700를 호출합니다.

### Metroの差別禁止通知

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### សេចក្តីជូនដំណឹងអំពីការមិនរើសអើងរបស់ Metro

ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬដើម្បីទទួលបានកម្មប្រតិបត្តិការរើសអើងសម្រាប់សេចក្តីណែនាំ [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)។ បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1700 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ ថ្ងៃធ្វើការ មុនថ្ងៃប្រជុំដើម្បីអាចឲ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក ។

### إشعار بعدم التمييز من Metro

تحتزم Metro الحقوق المدنية. للمزيد من المعلومات حول برنامج Metro للحقوق المدنية أو لإيداع شكوى ضد التمييز، يُرجى زيارة الموقع الإلكتروني [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). إن كنت بحاجة إلى مساعدة في اللغة، يجب عليك الاتصال مقدماً برقم الهاتف 503-797-1700 (من الساعة 8 صباحاً حتى الساعة 5 مساءً، أيام الاثنين إلى الجمعة) قبل خمسة (5) أيام عمل من موعد الاجتماع.

### Paunawa ng Metro sa kawalan ng diskriminasyon

Iginagalang ng Metro ang mga karapatang sibil. Para sa impormasyon tungkol sa programa ng Metro sa mga karapatang sibil, o upang makakuha ng porma ng reklamo sa diskriminasyon, bisitahin ang [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Kung kailangan ninyo ng interpreter ng wika sa isang pampublikong pulong, tumawag sa 503-797-1700 (8 a.m. hanggang 5 p.m. Lunes hanggang Biyernes) lima araw ng trabaho bago ang pulong upang mapagbigyan ang inyong kahilingan.

### Notificación de no discriminación de Metro

Metro respeta los derechos civiles. Para obtener información sobre el programa de derechos civiles de Metro o para obtener un formulario de reclamo por discriminación, ingrese a [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Si necesita asistencia con el idioma, llame al 503-797-1700 (de 8:00 a. m. a 5:00 p. m. los días de semana) 5 días laborales antes de la asamblea.

### Уведомление о недопущении дискриминации от Metro

Metro уважает гражданские права. Узнать о программе Metro по соблюдению гражданских прав и получить форму жалобы о дискриминации можно на веб-сайте [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Если вам нужен переводчик на общественном собрании, оставьте свой запрос, позвонив по номеру 503-797-1700 в рабочие дни с 8:00 до 17:00 и за пять рабочих дней до даты собрания.

### Avizul Metro privind nediscriminarea

Metro respectă drepturile civile. Pentru informații cu privire la programul Metro pentru drepturi civile sau pentru a obține un formular de reclamație împotriva discriminării, vizitați [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Dacă aveți nevoie de un interpret de limbă la o ședință publică, sunați la 503-797-1700 (între orele 8 și 5, în timpul zilelor lucrătoare) cu cinci zile lucrătoare înainte de ședință, pentru a putea să vă răspunde în mod favorabil la cerere.

### Metro txoj kev ntxub ntxaug daim ntawv ceeb toom

Metro tributes cai. Rau cov lus qhia txog Metro txoj cai kev pab, los yog kom sau ib daim ntawv tsis txaus siab, mus saib [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Yog hais tias koj xav tau lus kev pab, hu rau 503-797-1700 (8 teev sawv ntov txog 5 teev tsaus ntuj weekdays) 5 hnub ua hauj lwm ua ntej ntawm lub rooj sib tham.

**Television schedule for Metro Council meetings**

<p><b>Clackamas, Multnomah and Washington counties, and Vancouver, WA</b>  Channel 30 – Community Access Network  <i>Web site:</i> <a href="http://www.tvctv.org">www.tvctv.org</a>  <i>Ph:</i> 503-629-8534  Call or visit web site for program times.</p>	<p><b>Portland</b>  Channel 30 – Portland Community Media  <i>Web site:</i> <a href="http://www.pcmtv.org">www.pcmtv.org</a>  <i>Ph:</i> 503-288-1515  Call or visit web site for program times.</p>
<p><b>Gresham</b>  Channel 30 - MCTV  <i>Web site:</i> <a href="http://www.metroeast.org">www.metroeast.org</a>  <i>Ph:</i> 503-491-7636  Call or visit web site for program times.</p>	<p><b>Washington County and West Linn</b>  Channel 30– TVC TV  <i>Web site:</i> <a href="http://www.tvctv.org">www.tvctv.org</a>  <i>Ph:</i> 503-629-8534  Call or visit web site for program times.</p>
<p><b>Oregon City and Gladstone</b>  Channel 28 – Willamette Falls Television  <i>Web site:</i> <a href="http://www.wftvmedia.org/">http://www.wftvmedia.org/</a>  <i>Ph:</i> 503-650-0275  Call or visit web site for program times.</p>	

**PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.** Agenda items may not be considered in the exact order. For questions about the agenda, call 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](http://www.oregonmetro.gov) and click on public comment opportunities.



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PACKET REVISED 10/03/17

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Presenter(s): Don Moore, Oregon Zoo  
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Presenter(s): Ken Lobeck, Metro

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**7. Chief Operating Officer Communication****8. Councilor Communication****9. Adjourn**

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ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬដើម្បីទទួលបានកម្មប័ណ្ណរើសអើងសម្រាប់ទស្សនាគោលដៅ [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)។ បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1700 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ មុនថ្ងៃប្រជុំដើម្បីអាចឲ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក ។

### إشعار بعدم التمييز من Metro

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600 NE Grand Ave.  
Portland, OR 97232-2736

## Council meeting agenda

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Thursday, October 5, 2017

2:00 PM

Metro Regional Center, Council chamber

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**1. Call to Order and Roll Call**

**2. Citizen Communication**

**3. Presentations**

3.1 Zoo Construction Impacts [17-4902](#)

Presenter(s): Don Moore, Oregon Zoo  
Sheri Horiszny, Oregon Zoo

**4. Consent Agenda**

4.1 Consideration of the Council Meeting Minutes for September 28, 2017 [17-4903](#)

4.2 Resolution No. 17-4830, For the Purpose of Amending the 2018-21 Metropolitan Transportation Improvement Program (MTIP) to Add a New HB2017 Awarded Project, the I-205 Johnson Creek to Glenn Jackson Bridge Corridor Bottleneck and ATMS Project Plus Amend a Second Existing Project with HB2017 Conditioned Funding, the I-205 Stafford Rd to OR99E Affecting ODOT Which Compromise the August 2017 Formal MTIP Amendment (AG17-01-AUG) (8:10 AM) [RES 17-4830](#)

Presenter(s): Ken Lobeck, Metro

Attachments: [Resolution No. 17-4830](#)  
[Exhibit A to Resolution No. 17-4830](#)  
[Staff Report](#)  
[Attachment 1 to Staff Report](#)  
[Attachment 2 to Staff Report](#)  
[Attachment 3 to Staff Report](#)  
[Attachment 4 to Staff Report](#)

**5. Resolutions**

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- 5.1 Resolution No. 17-4845, For the Purpose of Recognizing the 100th Anniversary of the Keller Auditorium [RES 17-4845](#)

Presenter(s): Karol Collymore, Metro

Attachments: [Resolution No. 17-4845](#)  
[Staff Report](#)  
[Attachment 1 to Staff Report](#)

**6. Ordinances (First Reading and Public Hearing)**

- 6.1 Ordinance No. 17-1410, For the Purpose of Amending Metro Code Chapter 5.00 to Add Certain Definitions [ORD 17-1410](#)

Presenter(s): Paul Slyman, Metro  
Dan Blue, Metro

Attachments: [Ordinance No. 17-1410](#)  
[Exhibit A to Ordinance No. 17-1410](#)  
[Staff Report](#)  
[Attachment 1 to Staff Report](#)

- 6.1.1 Public Hearing for Ordinance No. 17-1410

- 6.2 Ordinance No. 17-1411, For the Purpose of Amending Metro Code Chapter 5.01 to Establish Licensing Requirements for Certain Facilities that Receive and Process Source-Separated Recyclable Materials and Make Housekeeping Changes [ORD 17-1411](#)

Presenter(s): Paul Slyman, Metro  
Dan Blue, Metro

Attachments: [Ordinance No. 17-1411](#)  
[Exhibit A to Ordinance No. 17-1411](#)  
[Staff Report](#)  
[Attachment 1 to Staff Report](#)

- 6.2.1 Public Hearing for Ordinance No. 17-1411

**7. Chief Operating Officer Communication**

**8. Councilor Communication**

**9. Adjourn**

# Metro respects civil rights

Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes that ban discrimination. If any person believes they have been discriminated against regarding the receipt of benefits or services because of race, color, national origin, sex, age or disability, they have the right to file a complaint with Metro. For information on Metro’s civil rights program, or to obtain a discrimination complaint form, visit [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights) or call 503-797-1536. Metro provides services or accommodations upon request to persons with disabilities and people who need an interpreter at public meetings. If you need a sign language interpreter, communication aid or language assistance, call 503-797-1700 or TDD/TTY 503-797-1804 (8 a.m. to 5 p.m. weekdays) 5 business days before the meeting. All Metro meetings are wheelchair accessible. For up-to-date public transportation information, visit TriMet’s website at [www.trimet.org](http://www.trimet.org).

### Thông báo về sự Metro không kỳ thị của

Metro tôn trọng dân quyền. Muốn biết thêm thông tin về chương trình dân quyền của Metro, hoặc muốn lấy đơn khiếu nại về sự kỳ thị, xin xem trong [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Nếu quý vị cần thông dịch viên ra dấu bằng tay, trợ giúp về tiếp xúc hay ngôn ngữ, xin gọi số 503-797-1700 (từ 8 giờ sáng đến 5 giờ chiều vào những ngày thường) trước buổi họp 5 ngày làm việc.

### Повідомлення Metro про заборону дискримінації

Metro з повагою ставиться до громадянських прав. Для отримання інформації про програму Metro із захисту громадянських прав або форми скарги про дискримінацію відвідайте сайт [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). або Якщо вам потрібен перекладач на зборах, для задоволення вашого запиту зателефонуйте за номером 503-797-1700 з 8.00 до 17.00 у робочі дні за п'ять робочих днів до зборів.

### Metro 的不歧视公告

尊重民權。欲瞭解Metro民權計畫的詳情，或獲取歧視投訴表，請瀏覽網站 [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)。如果您需要口譯方可參加公共會議，請在會議召開前5個營業日撥打503-797-1700（工作日上午8點至下午5點），以便我們滿足您的要求。

### Ogeysiiska takooris la'aanta ee Metro

Metro waxay ixtiraamtaa xuquuqda madaniga. Si aad u heshid macluumaad ku saabsan barnaamijka xuquuqda madaniga ee Metro, ama aad u heshid warqadda ka cabashada takoorista, booqo [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Haddii aad u baahan tahay turjubaan si aad uga qaybqaadatid kullanka dadweynaha, wac 503-797-1700 (8 galka hore illaa 5 galka dambe maalmaha shaqada) shan maalmaha shaqo ka hor kullanka si loo tixgaliyo codsashadaada.

### Metro의 차별 금지 관련 통지서

Metro의 시민권 프로그램에 대한 정보 또는 차별 항의서 양식을 얻으려면, 또는 차별에 대한 불만을 신고 할 수 [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). 당신의 언어 지원이 필요한 경우, 회의에 앞서 5 영업일 (오후 5시 주중에 오전 8시) 503-797-1700를 호출합니다.

### Metroの差別禁止通知

Metroでは公民権を尊重しています。Metroの公民権プログラムに関する情報について、または差別苦情フォームを入手するには、[www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)。までお電話ください。公開会議で言語通訳を必要とされる方は、Metroがご要請に対応できるよう、公開会議の5営業日前までに503-797-1700（平日午前8時～午後5時）までお電話ください。

### សេចក្តីជូនដំណឹងអំពីការមិនរើសអើងរបស់ Metro

ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬដើម្បីទទួលបានកម្មប័ណ្ណរើសអើងសម្រាប់ទស្សនាគោលដៅ [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)។ បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1700 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ មុនថ្ងៃប្រជុំដើម្បីអាចឲ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក ។

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Agenda Item No. 3.1

**Zoo Construction Impacts**

*Presentations*

Metro Council Meeting  
Thursday, October 5, 2017  
Metro Regional Center, Council Chamber

Agenda Item No. 4.1

Consideration of the Council Meeting Minutes for September 28,  
2017

*Consent Agenda*

Metro Council Meeting  
Thursday, October 5, 2017  
Metro Regional Center, Council Chamber

**Resolution No. 17-4830**, For the Purpose of Amending the 2018-21 Metropolitan Transportation Improvement Program (MTIP) to Add a New HB2017 Awarded Project, the I-205 Johnson Creek to Glenn Jackson Bridge Corridor Bottleneck and ATMS Project Plus Amend a Second Existing Project with HB2017 Conditioned Funding, the I-205 Stafford Rd to OR99E Affecting ODOT Which Compromise the August 2017 Formal MTIP Amendment

*Consent Agenda*

Metro Council Meeting  
Thursday, October 5, 2017  
Metro Regional Center, Council Chamber



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE 2018-21 ) RESOLUTION NO. 17-4830  
METROPOLITAN TRANSPORTATION )  
IMPROVEMENT PROGRAM (MTIP) TO ADD A ) Introduced by: “Chief Operating Officer  
NEW HB2017 AWARDED PROJECT, THE I-205 ) Martha Bennett in concurrence with  
JOHNSON CREEK TO GLENN JACKSON ) Council President Tom Hughes”  
BRIDGE CORRIDOR BOTTLENECK AND ATMS )  
PROJECT PLUS AMEND A SECOND EXISTING )  
PROJECT WITH HB2017 CONDITIONED )  
FUNDING, THE I-205 STAFFORD RD TO OR99E )  
PROJECT AFFECTING ODOT WHICH COMPRISE )  
THE AUGUST 2017 FORMAL MTIP )  
AMENDMENT (AG17-01-AUG) )

WHEREAS, the Metropolitan Transportation Improvement Program (MTIP) prioritizes projects from the Regional Transportation Plan (RTP) to receive transportation related funding; and

WHEREAS, the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council approved the 2018-21 MTIP via Resolution 17-4817 on July 27, 2017; and

WHEREAS, JPACT and the Metro Council must approve any subsequent amendments to add new projects or substantially modify existing projects in the MTIP; and

WHEREAS, the U.S. Department of Transportation (USDOT) has issued clarified MTIP amendment submission rules and definitions for MTIP formal amendments and administrative modifications that both ODOT and all Oregon MPOs must adhere to which includes that all new projects added to the MTIP must complete the formal amendment process; and

WHEREAS, the I-205: Johnson Creek to Glenn Jackson Bridge Corridor Bottleneck and Active Traffic Management project will implement components of the Corridor Bottleneck Operations Study (CBOS) and Active Transportation Management System (ATMS); and

WHEREAS, the CBOS portion to the project primarily will involve the construction of multiple auxiliary lane segments on northbound I-205 from approximately US26/Powell Blvd northward to the eastbound I-84 interchange; and

WHEREAS, the ATMS non-capacity enhancing scope elements to the project will include multiple Intelligent Transportation System (ITS) improvements to include the installation of variable speed signs, variable message and queue warning signs, and travel time message signs along both the northbound and southbound sections of I-205 within the identified project limits; and

WHEREAS, the northbound I-205 CBOS capacity enhancing auxiliary lanes scope components are included in the current approved constrained 2014 RTP and have been conformed; and

WHEREAS, HB2017 conditions the I-205 Stafford Rd to OR99E project to add funding for PE requirements to continue development of the project; and

WHEREAS, a total of \$10 million of National Highway Freight Program funding & required matching funds will be committed to the I-205 Stafford Rd to OR99E project for Preliminary Engineering needs; and

WHEREAS, both projects are being amended in the MTIP and STIP now and need to move forward in an expedited fashion as a stipulated HB2017 requirement that specifically ties the timely delivery of the I-205 CBOS-ATMS project by the end of 2019 as a condition to implement the planned gas tax increases as part of HB2017; and

WHEREAS, both projects were evaluated against seven MTIP review factors to ensure all requested changes and additions can be accomplished legally through the MTIP amendment process; and

WHEREAS, the MTIP review factors included project eligibility/proof of funding, RTP consistency with the financially constrained element, consistency with RTP goals and strategies, determination of amendment type, air conformity review, fiscal constraint verification, and compliance with MPO MTIP management responsibilities; and

WHEREAS, the MTIP's financial constraint finding is maintained as both projects are awarded HB2017 projects which has been verified; and

WHEREAS, no negative impacts to air conformity will exist as a result of the changes completed through the August 2017 Formal MTIP Amendment; and

WHEREAS, all projects included in the August 2017 Formal MTIP Amendment successfully completed a required 30-day public notification/opportunity to comment period without any significant issues raised; and

WHEREAS, TPAC received their notification and recommended approval on August 25, 2017 and approved the amendment recommendation for both projects to JPACT; now therefore

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT on September 21, 2017 to formally amend the 2018-21 MTIP to include the August 2017 Formal Amendment bundle consisting of the I-205 Johnson Creek to Glenn Jackson Bridge Corridor Bottleneck and Active Traffic Management project, and the I-205 Stafford Road to OR99E project helping ensure ODOT's timely delivery of both projects as stipulated by HB2017.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_ 2017.

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Tom Hughes, Council President

Approved as to Form:

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Alison R. Kean, Metro Attorney

2018-2021 Metropolitan Transportation Improvement Program  
 Exhibit A to Resolution 17-4830



Proposed August 2017 Formal Amendment Bundle  
 Special Formal MTIP Amendment in Support of the new HB2017 Approved Projects  
 Amendment Type: **FORMAL, AG17-01-AUG**  
 Total Number of Projects: **2**

ODOT Key	Lead Agency	Project Name	Required Changes
TBD NEW	ODOT	I-205 Johnson Creek Johnson Creek to Glenn Jackson Bridge Corridor Bottleneck and Active Traffic Management	Add full new project to the 2018 MTP with funding from HB2017
<del>TBD</del> NEW	<del>ODOT</del>	<del>I-205 Paving Project</del>	<del>Add full new project to the 2018 MTP with funding from HB2017</del> Project is deleted from the formal amendment as required approval from the Oregon Transportation Commission (OTC) has not officially occurred. Planned OTC approval is for September 2017.
19786	ODOT	I-205: Stafford Rd to OR99E	\$10 million of National Highway Freight Program (NHFP) is being added to the project to the Preliminary Engineering phase

Exhibit A to Resolution 17-4830

2015-2018 Metropolitan Transportation Improvement Program Chapter 5 Tables Amendment

Action: Amend the MTIP to increase or adjust required funding and add new projects for the following projects



**EXISTING MTIP PROGRAMMING - None New Project**

**PROPOSED AMENDED CHANGES**

ODOT Key	MTIP ID	Lead Agency	Project Name	Project Type	Project Cost
<span style="color: blue;">TBD New</span>	TBD	ODOT	<b>Short Name: I-205 Corridor Bottleneck</b> <b>Expanded Name: I-205: Johnson Creek to Glenn Jackson Bridge Corridor Bottleneck and Active Traffic Management project</b>	Highway	\$ 30,700,000
Project Description:			The project will construct a northbound auxiliary lane (multiple segments) between Powell Boulevard and Interstate 84 and add Active Traffic Management System (ATMS) project improvements between the Glenn Jackson Bridge and Johnson Creek Boulevard (HB2017 Named Project, \$30,700,000 HB2017 Award)		

**Amended MTIP Fund Programming by Phase**

Fund Type Code	Note (Fund Code)	Type	Year	Planning	Preliminary Engineering	Right of Wav	Construction	Other	Total
ADVCON	ACPO	Federal	2018		\$ 8,299,800				\$ 8,299,800
State	Match	State	2018		\$ 700,200				\$ 700,200
ADVCON	ACPO	Federal	2018					\$ 2,766,600	\$ 2,766,600
State	Match	State	2018					\$ 233,400	\$ 233,400
ADVCON	ACPO	Federal	2019				\$ 17,245,140		\$ 17,245,140
State	Match	State	2019				\$ 1,454,860		\$ 1,454,860
<b>Total:</b>				\$ -	\$ 9,000,000	\$ -	\$ 18,700,000	\$ 3,000,000	\$ 30,700,000

- Notes:
1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.
  2. ADVCON = Federal Advance Construction fund code. Used as a generic federal fund code until the final funding composition is known.
  3. State = Generic state funds used for the required match to the federal funds. For this project the match requirement is 7.78%.

**Amendment Summary**

\* This formal amendment adds one of several HB2017 awarded projects to the 2018 MTIP. HB2017 is Oregon's new long-term transportation program.

\* The project name and description added to the MTIP may be adjusted or slightly different from the notification table depending upon ODOT's final naming convention, and description review of the authorized scope elements.

\* Per ODOT comment request on 9-6-2017, the federal fund code of Advance Construction (ADVCON) will be used in place of the State HB2017 fund code for fund leveraging requirements and time to determine the project's final funding composition.

\* Per ODOT's additional Comment: \$1 million from the Construction phase is shifted to the PE phase. PE increases from \$8 million to \$9 million and Construction decreases from \$19.7 million to \$18.7 million. No other changes.

Exhibit A to Resolution 17-4830

2015-2018 Metropolitan Transportation Improvement Program Chapter 5 Tables Amendment

Action: Amend the MTIP to increase or adjust required funding and add new projects for the following projects



EXISTING MTIP PROGRAMMING - None **New Project**

PROPOSED AMENDED CHANGES									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
<del>TBD</del> <b>NEW</b>	TBD	ODOT	<b>I-205 Paving Project</b>					Highway	<del>\$ 5,000,000</del>
Project Description:			<del>The project will provide various non-capacity paving and rehab improvements within the I-205 CBOS and ATMS project limits</del>						
Amended MTIP Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Way	Other (Utility Relocation)	Construction	Total
HB2017	S070	State	2019		-			<del>\$ 5,000,000</del>	<del>\$ 5,000,000</del>
-	-	-	-		-			-	\$ -
<b>Total:</b>				<del>\$ -</del>	<del>\$ -</del>	<del>\$ -</del>	<del>\$ -</del>	<del>\$ 5,000,000</del>	<del>\$ 5,000,000</del>
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment. 2. HB2017 = State funds awarded to projects from House Bill 2017A. The measure is the Transportation Improvement, Modernization and Preservation package of the 2017 session.								

Amendment Summary

**The project is being deleted from this amendment. OTC approval has not yet occurred allowing the amendment to move forward in the MTIP. OTC approval is expected in September 2017. It will be added to the September 2017 Formal MTIP amendment at that time.**

~~This formal amendment adds one of several HB2017 awarded projects to the 2018 MTIP. HB2017 is Oregon's new long-term transportation program.~~

~~This project is the non-capacity enhancing scope component to the larger I-205 CBOS/ATMS project noted in the first project. The project will provide various paving and rehab improvements within the I-205 CBOS and ATMS project limits.~~

~~ODOT determined this scope of work was significant enough to justify it as a separate and stand-alone project in the MTIP and STIP. Only the construction phase needs to be programmed in the MTIP. Added Note: The project name and description added to the MTIP may be adjusted or slightly different from the notification table depending upon ODOT's final naming convention and description review of the authorized scope elements.~~

Exhibit A to Resolution 17-4830

2018-2021 Metropolitan Transportation Improvement Program Chapter 5 Tables Amendment

Action: Amend the MTIP to increase or adjust required funding and add new projects for the following projects



EXISTING MTIP PROGRAMMING									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
19786	70859	ODOT	I-205: Stafford Rd - OR99E					Roadway & Bridge	\$ 2,500,000
Project Description:			Planning activities to add a third lane in each direction between Stafford Road and OR43 and a forth lane on the Abernethy Bridge to help separate through traffic.						
Existing MTIP Project Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Way	Construction	Other	Total
NHFP	Z460	Federal	2016	\$ 2,305,500					\$ 2,305,500
State	Match	State	2016	\$ 194,500					\$ 194,500
<b>Total:</b>				<b>\$ 2,500,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 2,500,000</b>

PROPOSED AMENDED CHANGES									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
19786	70859	ODOT	I-205: Stafford Rd - OR99E					Transit	\$ 12,500,000
Project Description:			Planning activities to add a third lane in each direction between Stafford Road and OR43 and a forth lane on the Abernethy Bridge to help separate through traffic.						
Amended MTIP Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Way	Construction	Other	Total
NHFP	Z460	Federal	2016	\$ 2,305,500					\$ 2,305,500
State	Match	State	2016	\$ 194,500					\$ 194,500
<b>NHFP</b>	Z460	Federal	2018		<b>\$ 9,222,000</b>				<b>\$ 9,222,000</b>
<b>State</b>	Match	State	2018		<b>\$ 778,000</b>				<b>\$ 778,000</b>
<b>Total:</b>				<b>\$ 2,500,000</b>	<b>\$ 10,000,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 12,500,000</b>
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	NHFP = National Highway Freight Program funds.'								
Amendment Summary									
An additional \$10 million of NHFP funds and match is being added to the PE phase .									



**Metro**

600 NE Grand Ave.  
Portland, OR 97232-2736

# Memo

Date: Friday, September 21, 2017  
 To: Metro Council and Interested Parties  
 From: Ken Lobeck, Funding Programs Lead, 503-797-1785  
 Subject: August 2017 MTIP Formal Amendment plus Approval Request of Resolution 17-4830

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## STAFF REPORT

FOR THE PURPOSE OF AMENDING THE 2018-21 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM (MTIP) TO ADD A NEW HB2017 AWARDED PROJECT, THE I-205 JOHNSON CREEK TO GLENN JACKSON BRIDGE CORRIDOR BOTTLENECK AND ATMS PROJECT PLUS AMEND A SECOND EXISTING PROJECT WITH HB2017 CONDITIONED FUNDING, THE I-205 STAFFORD RD TO OR99E PROJECT AFFECTING ODOT WHICH COMPRISE THE AUGUST 2017 FORMAL MTIP AMENDMENT (AG17-01-AUG)

## PREVIOUS ACTIONS

<u>Committee</u>	<u>Date</u>	<u>Action</u>
• TPAC	August 25, 2017	Approved
• JPACT	September 21, 2017	Approved

## BACKGROUND

### A Modified Amendment Approval Request:

This staff report has been modified and updated from the initial version proposed to TPAC on August 25, 2017. TPAC did receive the modified amendment proposal during their meeting which is covered in detail in this staff report. TPAC unanimously approved the modified formal amendment proposal which is now being brought to JPACT for review and approval. The above resolution purpose statement, draft Resolution 17-4830, Exhibit A (before and after funding tables) to Resolution 17-4830, support documentation, the public notification tables, and 30-day notification/comment period all have been updated as required to now reflect the correct information as part of the August 2017 Formal Amendment to the 2018 MTIP.

### What the Modified August 2017 Formal MTIP Amendment Now Includes:

The August 2017 Formal MTIP Amendment bundle contains required changes and updates to two urgent HB2017 projects that affect ODOT, the 2018 STIP, the 2018 MTIP, and the implementation of HB2017. The August 2017 Formal MTIP Amendment represents the first amendment to the new 2018-21 MTIP. Highlights of the required changes include:

- **Key TBD – New Project Addition:**
  - **Short Name: I-205 Corridor Bottleneck Project**
  - Expanded Name: I-205 Johnson Creek to Glenn Jackson Bridge Corridor Bottleneck CBOS and ATMS Project
  - Lead Agency: ODOT
  - Description & Impact: Tied to the implementation of HB2017 with a delivery condition that triggers the gas tax increases stipulated in HB2017. The project will implement approved strategies from the Corridor Bottleneck Operations Study (CBOS) which primarily includes construction of NB auxiliary lane segments on I-205 from Powell Blvd NB to EB I-84 also including various ramp work improvements. The project also will implement Active Transportation Management System (ATMS) improvements (Intelligent Transportation type scope elements) along NB and SB I-205 from Johnson Creek to the Glenn Jackson Bridge.
  - Programming Total: \$30.7 million
  
- **Key 19786 – Existing Project Adding Funding:**
  - Project Name: I-205: Stafford Rd to OR99E
  - Lead Agency: ODOT
  - Description and Impact: Planning activities to add a third lane in each direction between Stafford Road and OR43 and a fourth lane on the Abernethy Bridge to help separate through traffic.
  - Description and Impact: Programming Total: A total of \$10 million for the Preliminary Engineering (PE) phase is being added to that consist of federal National Highway Freight Program (NHFP) and matching funds.

ODOT requested a second modification on 9-8-2017 to revise the programming fund codes for the HB2017 awarded projects. ODOT initially provided guidance that the state fund code “HB2017” would be used for all HB2017 awarded projects. However, to address fund leveraging needs, ODOT-Salem decided to replace the HB2017 fund code with the federal general fund code of “Advance Construction” or ADVCON. The use of this fund code identifies the project as federalized project. The final federal and/or state fund codes to be committed to the project can occur later. For projects on the Interstate system, the required match will be 7.78% with the federal share equaling 92.22%. For HB2017 awarded projects not on the Interstate system, the match requirement is set at 10.27% with the federal share equaling 89.73%. To help ensure the HB2017 name projects don’t get lost in the fund leveraging effort, and for financial constraint monitoring requirements, all HB2017 awarded projects will include an earmark tag identifying the project as an HB2017 named and awarded project along with the original funding award in the MTIP description for the project.

### **What is the requested action?**

**JPACT recommends approval of Metro Council of resolution 17-4830 to JPACT enabling the two projects to be amended in the new 2018-21 MTIP allowing final approval to then occur from USDOT before the end of October 2017. Timing is urgent for both projects to complete their required amendment approvals.**

JPACT vote note: There was one opposing vote cast at JPACT concerning approval of Resolution 17-4830. The opposing vote came from the Washington Clark County JPACT member who expressed serious concern over the funding structure of HB2017. It was her interpretation that the “conditioned” funding requirement for the I-205 CBOS-ATMS project was being driven from expected future revenues from the value pricing/congestion pricing effort discussed in the legislation. Metro ODOT staff explained that the two specific projects in the amendment and all of



the named programmatic projects considered awarded HB2017 projects (totaling 112 projects) are HB2017 funded projects. Three freight category projects are conditioned to move forward now and apply federal National Highway Freight Program (NHFP) funds as well. The HB2017 condition on the I-205 CBOS-ATMS project relates to the delivery timing for the project. The I-205 CBOS-ATMS project must be delivered before the end of 2019 in order for the gas tax increase to be implemented. All of the named and/or programmatic HB2017 awarded projects are not tied to the congestion pricing study ODOT must also complete.

### **Why is this amendment occurring now?**

House Bill 2017 provides additional funding for projects named in the bill and for bridge, pavement, culvert, seismic and safety projects. The attached list includes all of these projects that are funded for the 2018-2021 timeframe. Future STIP updates will incorporate the remaining named projects and other funded projects.

HB2017 stipulates various required benchmarks and process completion steps to occur which the Oregon Transportation Commission must verify. The I-205 CBOS-ATMS project is tied to the proposed gas tax increase. The condition for the gas tax increase to occur is predicated on the I-205 CBOS-ATMS project being delivered before the end of 2019. The delivery timing for both projects requires an accelerated amendment and development process to occur. HB2017 also conditions the I-205 Stafford Road to OR99E project to add federal National Highway Freight funds now to keep the project moving.

A summary of the projects included in the August 2017 Formal MTIP Amendment bundle is provided in the following tables.

<b>1. Project: I-205 JOHNSON CREEK TO GLENN JACKSON BRIDGE CORRIDOR BOTTLENECK AND ATMS PROJECT</b>	
Lead Agency:	ODOT
ODOT Key Number:	New TBD. The Key number has not yet been assigned to the project
Project Description:	The project will implement approved strategies from the Corridor Bottleneck Operations Study (CBOS) which primarily includes construction of NB auxiliary lane segments on I-205 from Powell Blvd NB to EB I-84 also including various ramp work improvements. The project also will implement Active transportation Management System (ATMS) improvements (Intelligent Transportation type scope elements) along NB and SB I-205 from Johnson Creek to the Glenn Jackson bridge.
What is changing?	This is a new project being added to the 2018 MTIP with funding awarded from HB2017.
Additional Details:	This project is tied to the HB2017 proposed gas tax increase and conditioned to be delivered by the end of 2019 to trigger the gas tax increase. The full project is being added to the 2018 MTIP through this amendment.
CBOS Study I-205 NB Proposed Improvements	The I-205 NB proposed improvements primarily consist of adding auxiliary lane segments and completing require rehab work to existing ramps between US26 (Powell Blvd north to eastbound I-84. The proposed segments identified in the CBOS study include the following NB aux lanes (Note: The project's cleared NEPA document and final design will determine the specific aux lane segments.): <ul style="list-style-type: none"> <li>- I-205 NB: Powell Blvd. Entrance Ramp to Division St Entrance Ramp – Auxiliary Lane Extension and 2-Lane Exit at Washington St</li> <li>- I-205 NB: Phase 1 Powell Blvd Entrance to Washington Street Exit Ramp Exit Ramp-Auxiliary Lane Extension</li> <li>- I-205 NB: Phase 2 – Washington Street Exit Ramp to Glisan St Exit Ramp – Auxiliary Lane Extension</li> <li>- I-205 NB: Phase 3 – Glisan St Exit Ramp to I-84 WB Exit Ramp – Auxiliary Lane</li> </ul>

	<p>Extension</p> <ul style="list-style-type: none"> <li>- I-205 NB: Phase 4 – Division Street to Stark S/Washington Street Exit Ramp – Auxiliary Lane Extension w/ 2-Lane Exit at Washington Street</li> <li>- I-205 NB: I-205 Division Street Entrance Ramp to I-84 WB Exit Ramp – Auxiliary Lane Extension w/ 2-Lane Exit at Washington St</li> </ul> <p>(Note: See Attachment 4 for aux lane exhibits)</p>
Why a Formal amendment is required?	Per the FHWA STIP and MTIP amendment matrix, adding or cancelling a federally funded, and regionally significant project to the STIP and state funded projects which will potentially be federalized requires a full/formal amendment to be completed to add the project to the MTIP.
Total Programmed Amount:	\$30,700,000 of state HB2017 awarded funds.
Other and Notes:	OTC approval was required for this project. Approval occurred during their August 17, 2017 meeting. Reference OTC August 17, 2017 Agenda item C. Proof of funding is now considered verified and available to the project by this action.

<b>2. Project: I-205: Stafford Rd – OR99E</b>	
Lead Agency:	ODOT
ODOT Key Number:	19786
Project Description:	This project is a major capacity enhancing project that will add a third through-lane on I-205 and improvements the Abernethy Bridge
What is Changing?	This is a HB2017 conditioned project to add funding now to the PE
Additional Details:	A total of \$10 million of federal National Highway Freight Program (NHFP) and matching funds are being added to the project’s Preliminary Engineering phase to continue development of this project. NHFP portion = \$9,222,000. Required matching funds = \$778,000.
Why a Formal amendment?	Per the FHWA STIP and MTIP amendment matrix, cost changes that exceed 20% to existing \$1 million dollar or greater projects require a full/formal amendment to be completed to add the project to the MTIP.
Total Programmed Amount:	The project currently has \$2,500,000 of NHFP & match programmed for Planning pre NEPA project development activities. Through this amendment, an additional \$10 million of NHFP & match will be added to the Preliminary Engineering (PE) phase in support of required NEPA environmental and project development/design activities.
Other and Notes:	OTC approval occurred during their August 17, 2017 meeting. Proof of funding is now considered verified and available to the project by this action.

**METRO REQUIRED PROJECT AMENDMENT REVIEWS**

In accordance with 23 CFR 450.316-328, Metro is responsible for reviewing and ensuring MTIP amendments comply with all federal programming requirements. Each project and their requested changes are evaluated against seven MTIP review factors. The seven factors include:

- Project eligibility/proof of funding commitment and verification:
  - OTC approval August 17, 2017.
  - HB2017 proof of funding verified through OTC action on August 17, 2017.
  - Note: The remaining HB2017 named projects are expected to go to OTC for approval during their September 2017 meeting.
- RTP consistency review with the financially constrained element:
  - The capacity enhancing scope elements (aux lane portion) are named projects in the current approved constrained 2014 RTP.
  - RTP project references include:

- Project #11370: I-205 NB Phase 1 Aux Lane – Powell Blvd north to Division Street
- Project #11399: I-205 NB Phase 2: Aux Lane Extension – Division St to I-84 WB Exit Ramp
- Project #11398: I-205 NB Auxiliary Lane – I-84 to Killingsworth St Exit Ramp
- RTP goals and strategies consistency: The I-205 CBOS-ATMS project is in support of multiple RTP goals that include:
  - Goal 4: Emphasize Effective and Efficient Management of the Transportation System
    - Objective 4.1 Traffic Management: Apply technology solutions to actively manage the transportation system.
    - Objective 4.2 Traveler Information – Provide comprehensive real-time traveler information to people and businesses in the region.
    - Objective 4.3 Incident Management – Improve traffic incident detection and clearance times on the region’s transit, arterial and throughways networks.
  - Goal 9: Ensure Fiscal Stewardship:
    - Objective 9.1 Asset Management– Adequately update, repair and maintain transportation facilities and services to preserve their function, maintain their useful life and eliminate maintenance backlogs.
    - Objective 9.2 Maximize Return on Public Investment - Make transportation investment decisions that use public resources effectively and efficiently, using a performance-based planning approach supported by data and analyses that include all transportation modes.
- Amendment type determination; **Formal** or Administrative:
  - Adding a new project to the MTIP is required per the FHWA STIP & MTIP Amendment Matrix.
  - Guidance: FHWA STIP/MTIP Amendment Matrix which includes:
    - Adding or cancelling a federally funded and regionally significant project to the STIP and state funded projects which will potentially be federalized.
    - Cost changes above 20% for \$1 million dollar or greater projects require a full/formal MTIP amendment.
- Air conformity review:
  - The I-205 NB aux lane segments are conformed as part of the 2014 RTP.
  - Reference 2014 RTP projects 113470, 11399, & 11398.
- Fiscal constraint verification:
  - Both projects are named projects in HB2017
  - Verification and approval of project funding also occurred through the ODOT review and verification, plus OTC action on August 17, 2017
  - Secondary formal project approvals by OCT on September 22, 2017
- MPO responsibilities completion:
  - Completion of the required 30 day Public Notification period:
  - Initiated on August 17, 2017 with a planned conclusion on September 25, 2017
- Other: The I-205 Stafford Rd to OR99E project is a capacity enhancing project that will add a 3<sup>rd</sup> through lane in each direction within the project limits. At this time only funding for PE activities is being added to the MTIP. At this point in the project development’s life, it is not subject to air conformity or verification that the project is included in the Metro modal network as part of the

required RTP consistency check. To add funding for the right of way and construction phases, the project will need to be included in the constrained 2018 RTP. Per review with ODOT staff, ODOT has submitted the project for inclusion in constrained 2018 RTP.

MPO responsibilities include the completion of a required 30-day public notification period for all projects in the May 2017 Formal Amendment. Both projects have been posted on Metro’s MTIP web page for notification and comment opportunity. Metro staff will respond to received comments as necessary. Staff’s opinion is that the projects can be amended as requested and added to the 2018-21 MTIP without issue. Staff will forward TPAC’s recommendation to JPACT for approval consideration during their September 21, 2017 meeting.

**APPROVAL STEPS AND TIMING**

Metro’s approval process for formal amendment includes multiple steps. The required approvals for the August 2017 Formal MTIP amendment will include the following:

<u>Action</u>	<u>Target Date</u>
• Initiate the required 30-day public notification process.....	August 17, 2017
• TPAC notification and approval recommendation.....	August 25, 2017
• Completion of public notification process.....	September 25, 2017
• JPACT approval recommendation to Council.....	September 21, 2017
• Approval of the 2018 MTIP (on or about).....	October 2, 2017
• Metro Council approval.....	October 5, 2017

USDOT Approval Steps:

<u>Action</u>	<u>Target Date</u>
• Metro development of amendment narrative package .....	October 5, 2017
• Amendment bundle submission to ODOT and USDOT.....	October 6, 2017
• ODOT clarification and approval.....	Mid October, 2017
• USDOT clarification and final amendment approval.....	Mid October, 2017

**ANALYSIS/INFORMATION**

1. **Known Opposition:** None known at this time.
2. **Legal Antecedents:** Amends the 2018-2021 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 17-4817 on July 27, 2017 (For The Purpose of Adopting the Metropolitan Transportation Improvement Program for the Portland Metropolitan Area).
3. **Anticipated Effects:** Enables the projects to obligate and expend awarded federal funds.
4. **Budget Impacts:** None

**RECOMMENDED ACTION:**

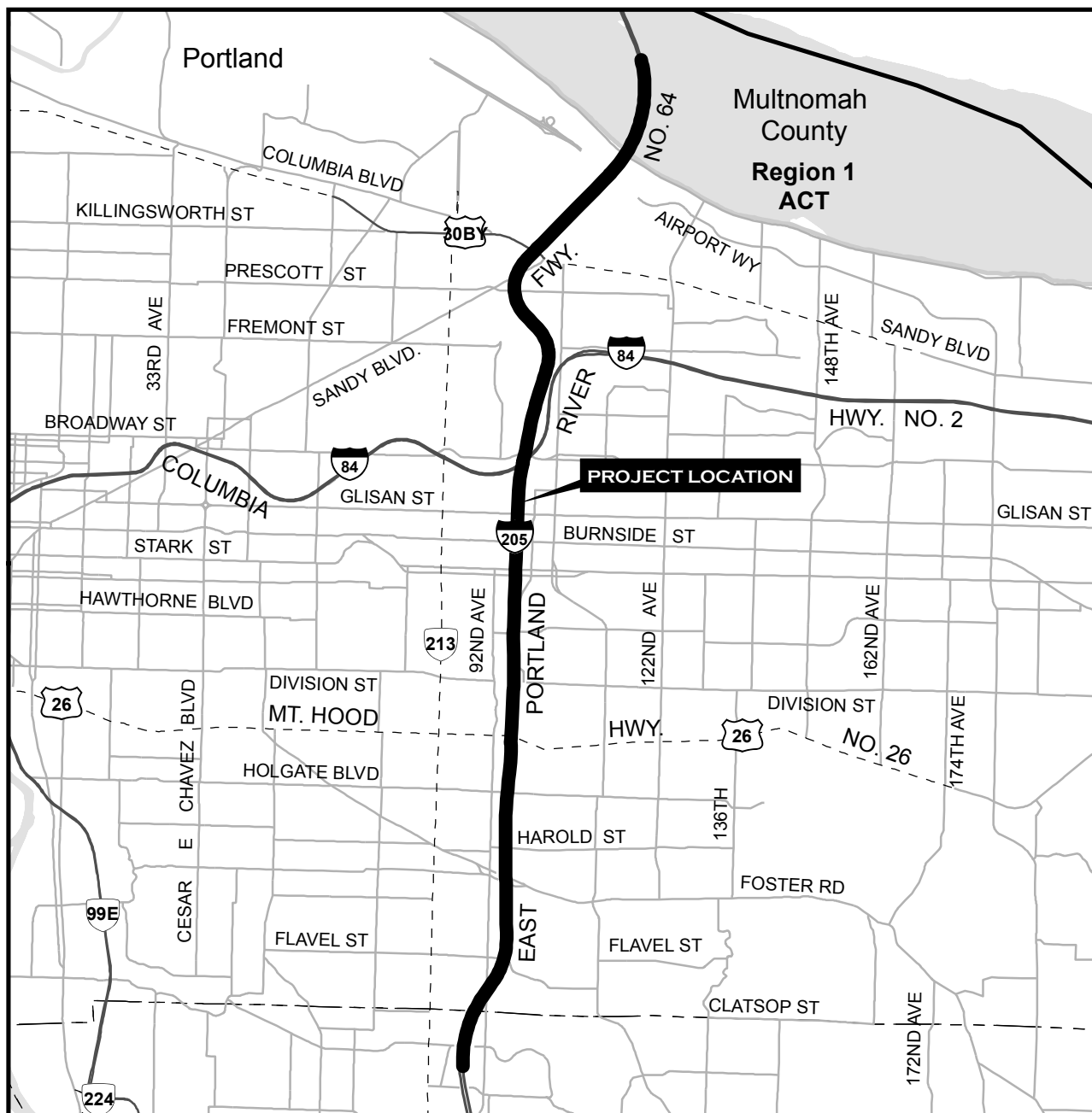
JPACT recommends the approval of Resolution 17-4830.

Attachments:

1. Project Location Maps
2. OTC letter
3. I-205 Charter Map
4. CBOS Study Exhibits: I-205 NB Proposed Auxiliary Lanes

# STIP PROJECT LOCATION

## ODOT REGION 1




### I-205 JOHNSON CREEK BLVD - GLENN JACKSON BRIDGE (CBOS ATM)

KEY NO. TBD

- LEGEND**
- PROJECT LOCATION
- STATE HIGHWAY CLASSIFICATION**
- INTERSTATE
  - STATEWIDE
  - REGIONAL / DISTRICT
- BOUNDARIES**
- REGIONAL BOUNDARY
  - COUNTY BOUNDARY
  - ACT BOUNDARY

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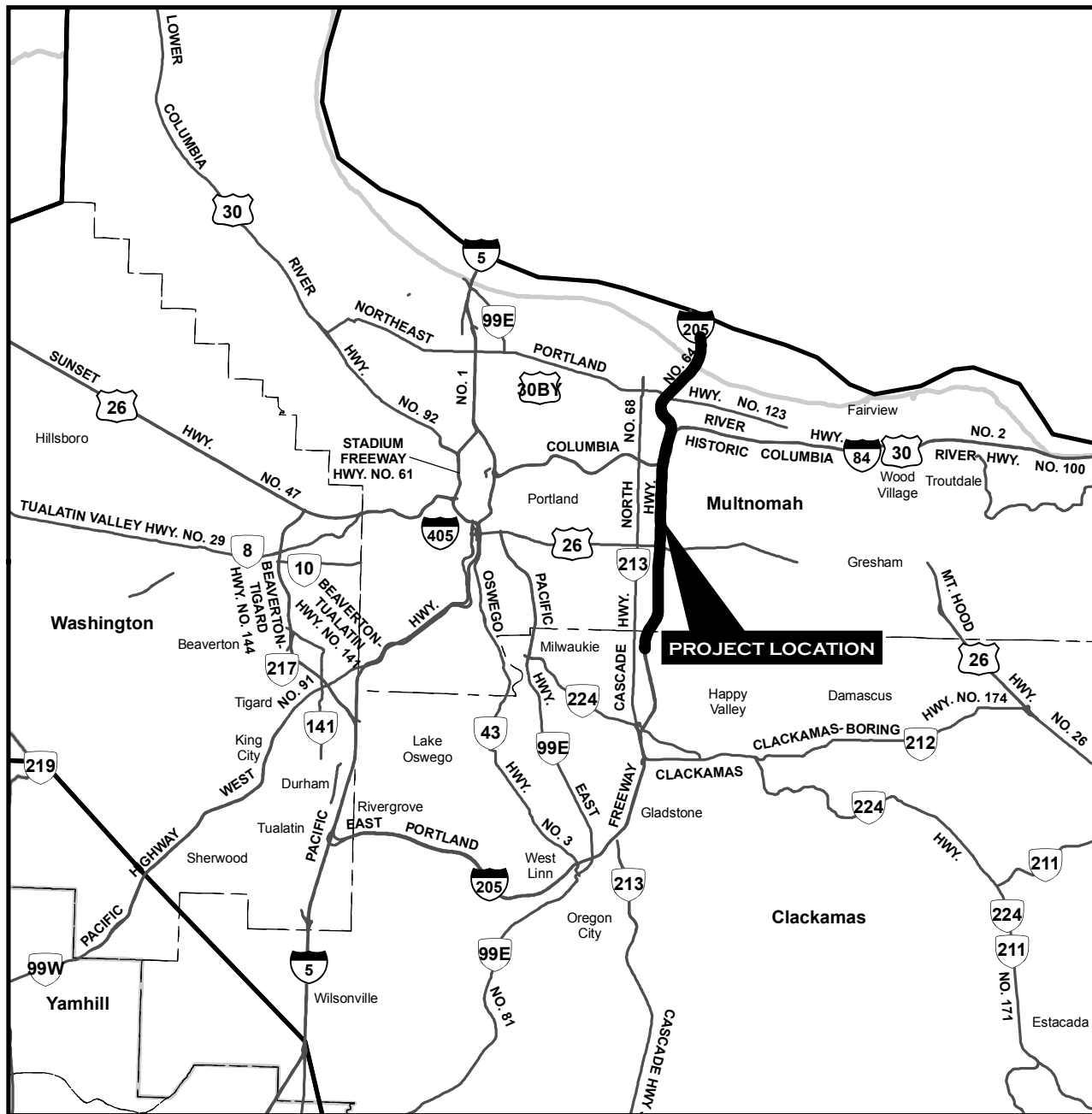


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PRODUCED BY ODOT - GIS UNIT  
(503) 986-3154 - JANUARY 2017  
GIS No. 23-52

# STIP PROJECT VICINITY





## ODOT REGION 1



### I-205 JOHNSON CREEK BLVD - GLENN JACKSON BRIDGE (CBOS ATM)

KEY NO. TBD

LEGEND

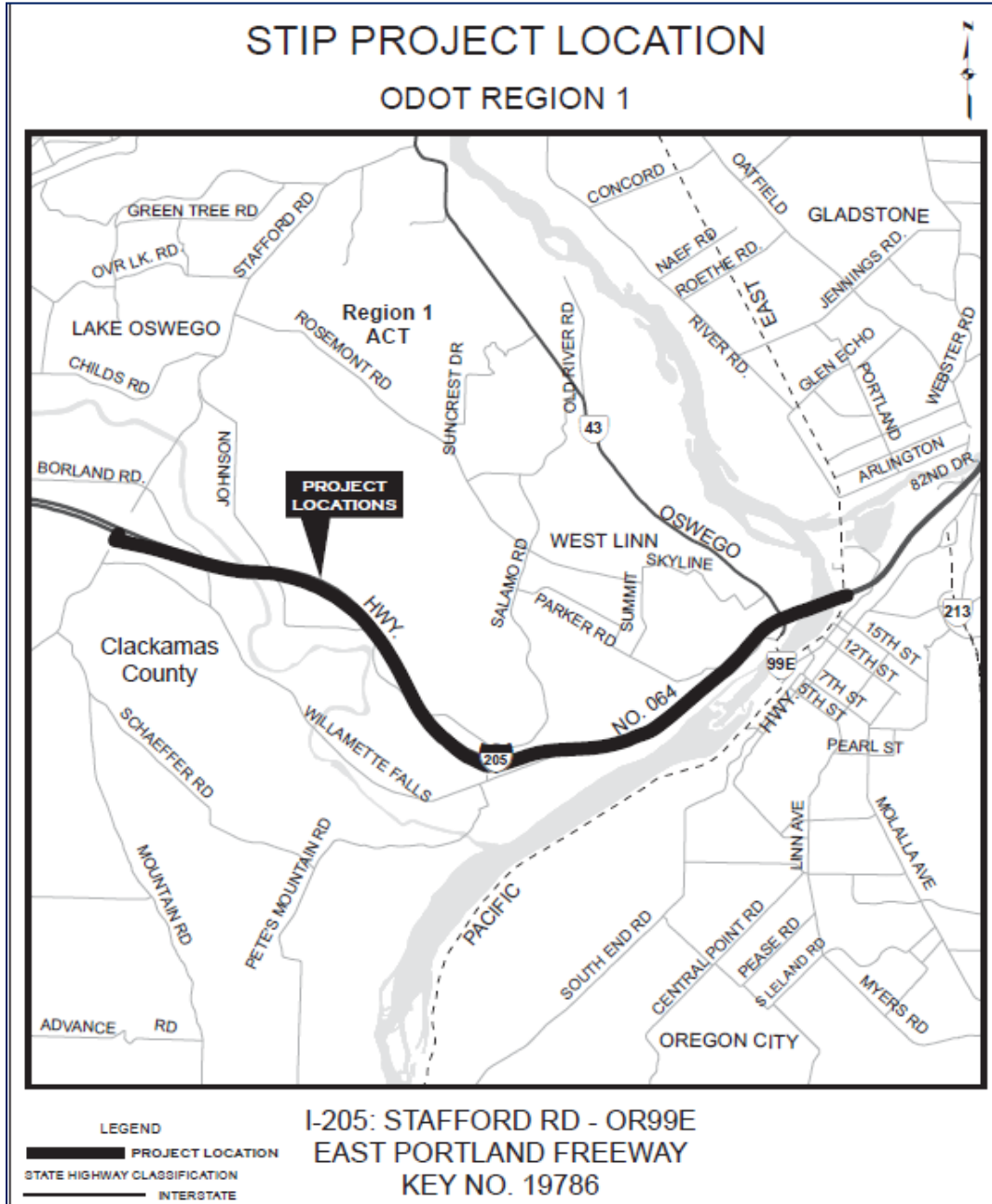
-  PROJECT LOCATION
-  STATE HIGHWAY
-  COUNTY BOUNDARY
-  STATE BOUNDARY

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 PRODUCED BY ODOT - GIS UNIT  
 (503) 986-3154 - JANUARY 2017  
 GIS No. 23-52

Key 19786  
I-205 Stafford Rd to OR99E







# Oregon

Kate Brown, Governor

**Oregon Transportation Commission**

Office of the Director, MS 11

355 Capitol St NE

Salem, OR 97301-3871

**DATE:** August 6, 2017

**TO:** Oregon Transportation Commission

*[Original signature on file]*

**FROM:** Matthew L. Garrett  
Director

**SUBJECT:** **Agenda C** – Amend the 2015-2018 Statewide Transportation Improvement Program (STIP) to add the Interstate 205: Johnson Creek to Glenn Jackson Bridge Corridor Bottleneck and Active Traffic Management project.

**Requested Action:**

Request approval to amend the 2015-2018 Statewide Transportation Improvement Program (STIP) to add the Interstate 205: Johnson Creek to Glenn Jackson Bridge Corridor Bottleneck and Active Traffic Management project. This project will implement operational and safety improvements to reduce crashes and improve travel time on Interstate 205 between Johnson Creek Boulevard and Glenn Jackson Bridge in Multnomah and Clackamas counties and includes a northbound auxiliary lane between Powell Boulevard and Interstate 84. The total cost for the project is approximately \$30,700,000 and will be funded by the Oregon Department of Transportation's (ODOT) House Bill 2017 (Transportation Funding) allocation.

**STIP Amendment Funding Summary**

<b>Project</b>	<b>Current Funding</b>	<b>Proposed Funding</b>
House Bill 2017 funds allocated for the Interstate 205 Corridor Bottleneck Project	\$15,500,000	\$0
House Bill 2017 funds allocated for Interstate 205 Active Traffic Management	\$15,200,000	\$0
Interstate 205: Johnson Creek to Glenn Jackson Bridge Corridor Bottleneck and Active Traffic Management project	\$0	\$30,700,000
<b>TOTAL</b>	<b>\$30,700,000</b>	<b>\$30,700,000</b>

**Projects to add:**

<b>Interstate 205: Johnson Creek to Glenn Jackson Bridge Corridor Bottleneck and Active Traffic Management project (KN TBD)</b>			
<b>PHASE</b>	<b>YEAR</b>	<b>COST</b>	
		<b>Current</b>	<b>Proposed</b>
Preliminary Engineering	2017	\$0	\$8,000,000
Right of Way	N/A	\$0	\$0
Utility Relocation	N/A	\$0	\$0
Construction	2019	\$0	\$19,700,000
Other	2018	\$0	\$3,000,000
<b>TOTAL</b>		<b>\$0</b>	<b>\$30,700,000</b>

**Background:**

The project locations and proposed solutions are based on the Active Traffic Management Strategy study and the Corridor Bottleneck Operations Study, which Region 1 undertook to identify high priority reoccurring bottlenecks with potentially high return improvements and develop freeway operational and safety improvements to address them.

Interstate 205 is a facility of statewide and regional significance, and this is one of the highest volume sections of roadway in the state. The recurring congestion in this area results in millions of dollars per year in user delay and high instances of congestion-related crashes. The auxiliary lane improvements are anticipated to result in a 30 percent reduction in mainline crashes based on comparable auxiliary lane improvements.

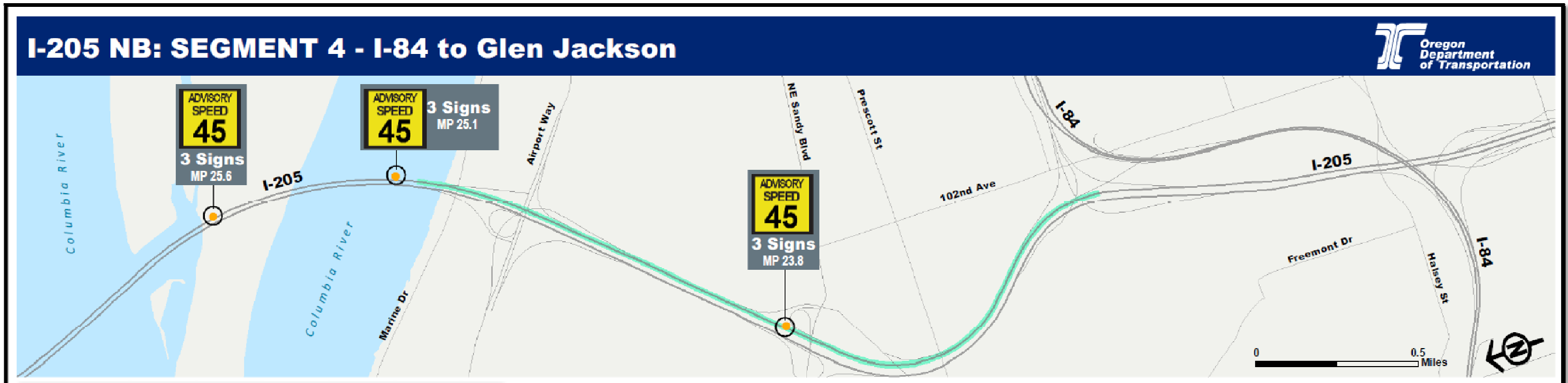
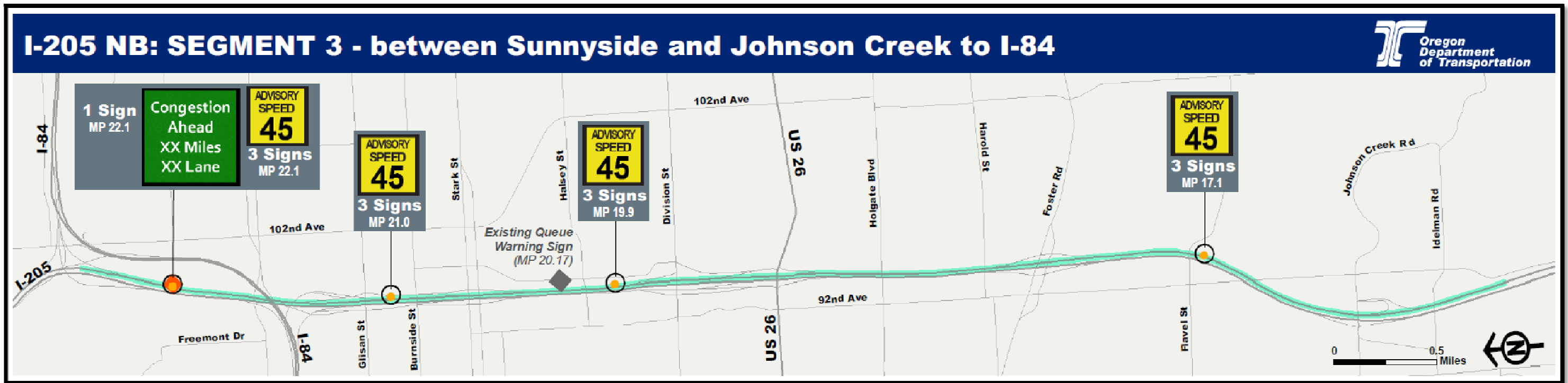
House Bill 2017, which was signed by the Oregon Speaker of the House and Senate President on July 18, 2017, provides a total of \$30,700,000 to construct a northbound auxiliary lane between Powell Boulevard and Interstate 84 and an Active Traffic Management System project between the Glenn Jackson Bridge and Johnson Creek Boulevard. HB 2017 conditioned approval of a future two cent gas tax increase upon completion of both projects by December 1, 2019. ODOT staff recommend combining the projects for efficient delivery. The combined project name is Interstate 205: Johnson Creek to Glenn Jackson Bridge Corridor Bottleneck and Active Traffic Management.

**Attachment:**

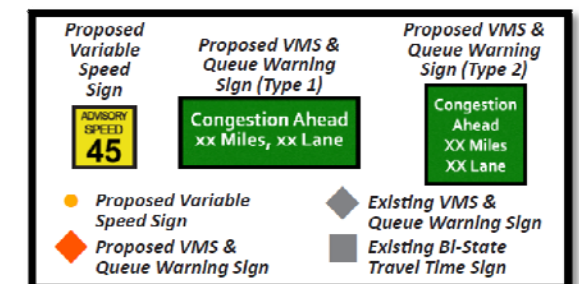
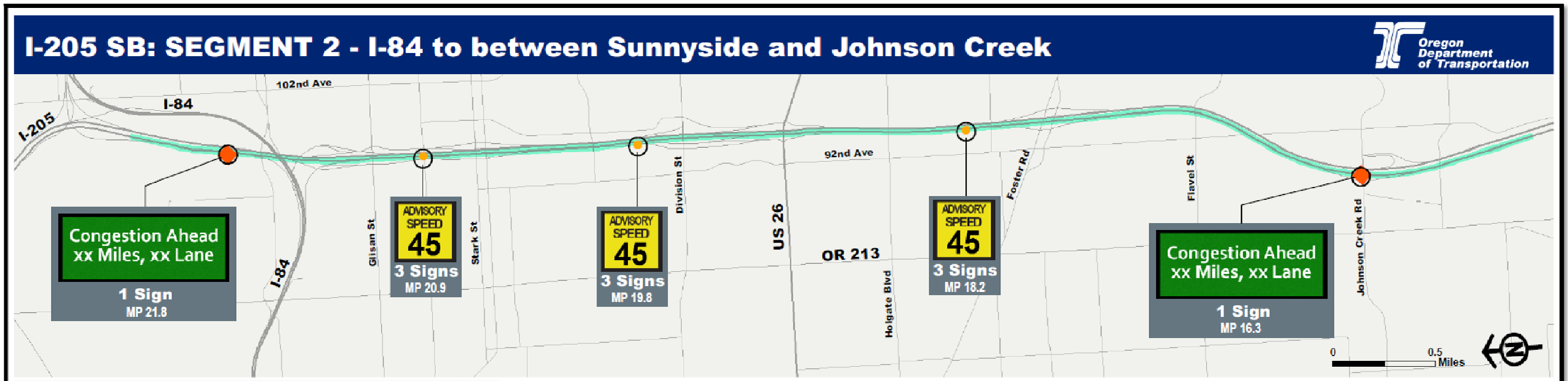
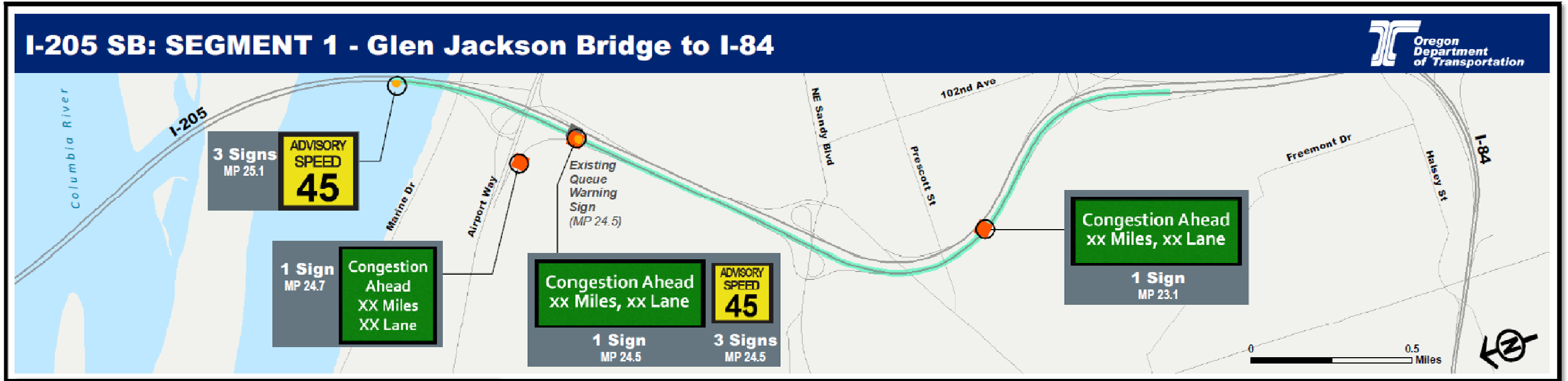
- Attachment 1 - Location and Vicinity Maps

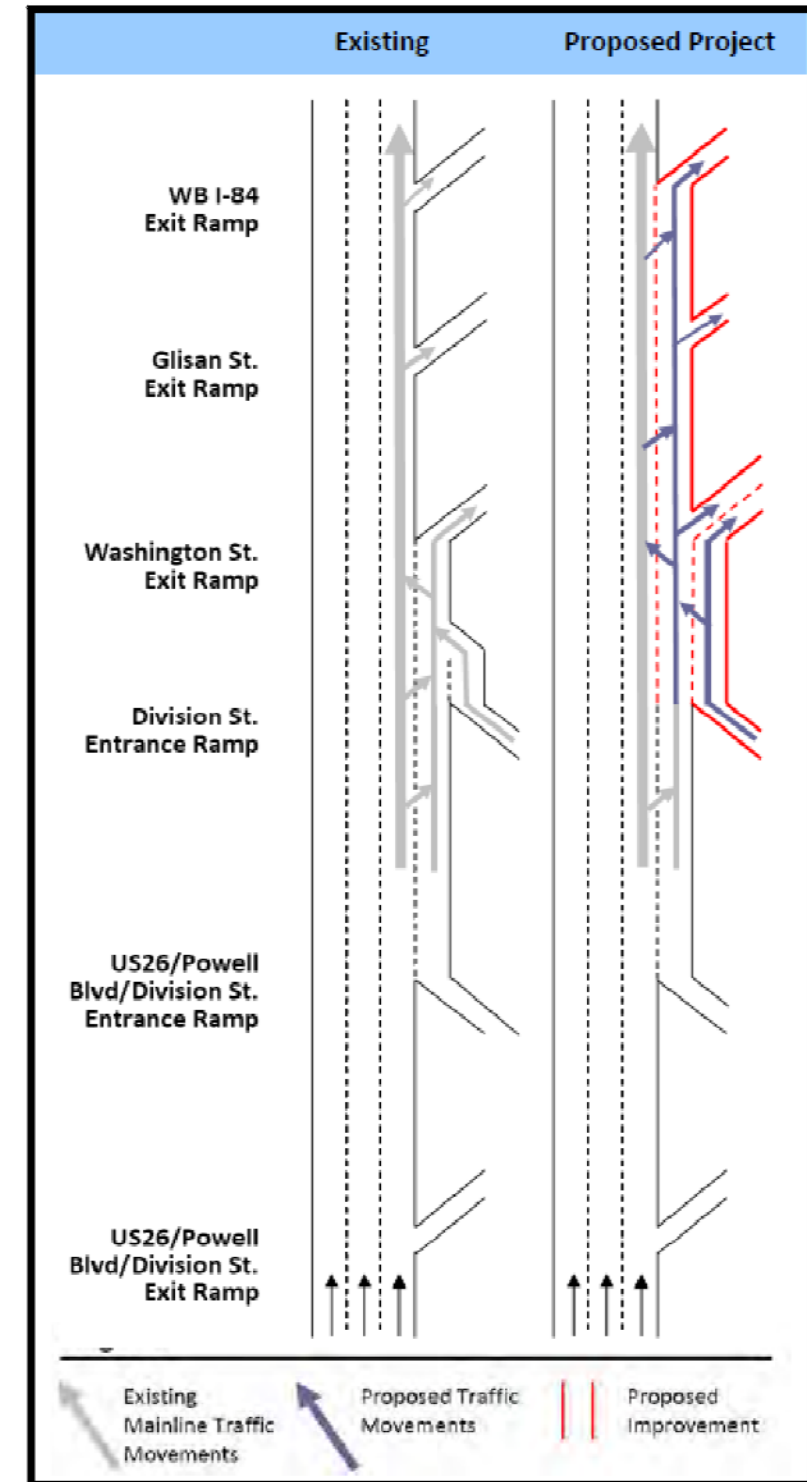
**Copies (w/attachment) to:**

Jerri Bohard	Travis Brouwer	Bob Gebhardt	McGregor Lynde
Paul Mather	Jeff Flowers	John Coplantz	Justin Moderie
Rian Windsheimer	Kelly Brooks	Shyam Sharma	Tamira Clark
David Kim	Ted Miller	Talena Adams	David Arena
Richard Garrison	Lynn Averbeck	Amanda Sandvig	Arlene Santana
Vaughan Rademeyer			



<b>Proposed Variable Speed Sign</b> 	<b>Proposed VMS &amp; Queue Warning Sign (Type 1)</b> 	<b>Proposed VMS &amp; Queue Warning Sign (Type 2)</b> 
Proposed Variable Speed Sign	Existing VMS & Queue Warning Sign	Existing BI-State Travel Time Sign





# Attachment 4 CBOS Study Exhibits: I-205 NB Proposed Auxiliary Lanes



The below I-205 NB Aux Lane Segments as proposed in the CBOS Study are provided as an illustration and general overview of the CBOS component to the project. The NEPA Record of Decision and final design completed through the project's Preliminary Engineering (PE) phase will determine the final alignments and scope of required improvements.



Final Working Draft Project Atlas  
Chapter 4: Bottlenecks and Project Recommendations by Corridor: I-205

## I-205 NB: Powell Blvd. Entrance Ramp to Division St. Entrance Ramp - Auxiliary Lane Extension and 2-Lane Exit at Washington St.

Project Analysis/Evaluation		Operations Diagram		Project Concept	
Potential Solution	Cost Estimate	Existing		Proposed Project	
Yes	6.5M - \$7.5M				
<b>Existing Operations*</b>					
Variable	Existing				
Duration (hours)	1.75				
Queue (miles)	0.4 - 1.0				
Average Speed (mph)	≥ 10				
Density (veh/mi/ln)	-				
<b>Key Points</b>					
<b>Existing Conditions</b>					
<p>Currently, the Division St. entrance-ramp and Powell Blvd. exit-ramp bottleneck is confined to the US26/Powell Blvd. entrance-ramp merge during the AM peak, and spans both the Division St. and Powell Blvd. entrance-ramps during the PM peak. The combined queue ends north of the US26/Powell/Division exit-ramp. Camera observations suggest that the bottleneck at the US26/Powell Blvd. entrance-ramp lingers after the Division St. entrance-ramp bottleneck improves. Speeds in the area drop as low as 15 mph in the AM and 10 mph in the PM. The project section is a top 10% SPIS site.</p>					
<b>Proposed Improvements</b>					
<p>This project will extend the existing acceleration lane from the Powell Blvd. entrance-ramp to match with the existing auxiliary lane between the Division St. entrance-ramp and Stark/Washington St. exit-ramp, and provide a two-lane exit at Stark/Washington. The proposed auxiliary lane will provide an extended distance for traffic to merge onto mainline, thereby reducing congestion at the US26/Powell Blvd entrance-ramp merge junction. The two-lane exit at Stark/Washington St. will reduce weaving conflicts in this segment.</p>					
<b>Operations/Safety Benefits</b>					
<p>The proposed improvement will provide motorists additional time and distance to find gaps and safely weave over lanes. Congestion/queuing would be reduced in most lanes and completely reduced in the two leftmost lanes. It is anticipated that this would result in a 30% reduction in mainline crashes, based on comparable auxiliary lane improvements.</p>					
<b>Potential Follow-Up Phases</b>					
Project Title: Auxiliary Lane Addition: Washington St. - I-84 WB (Project Map ID P)					
Notes:					
Bottleneck ID	Tracking ID	Map ID	Cost		
I-205: B4	1e	P	\$7.6M - \$8.0M		

**Legend**

- ← Existing Mainline Traffic Movements
- ← Proposed Traffic Movements
- || Proposed Improvement

**Impacts**

- ROW: None anticipated
- Structures: Modification
- Environment: To be determined

**Diagram of Improvements**

**Diagram of Improvements**

## Attachment 4 CBOS Study Exhibits: I-205 NB Proposed Auxiliary Lanes



The below I-205 NB Aux Lane Segments as proposed in the CBOS Study are provided as an illustration and general overview of the CBOS component to the project. The NEPA Record of Decision and final design completed through the project's Preliminary Engineering (PE) phase will determine the final alignments and scope of required improvements.



Final Working Draft Project Atlas  
Chapter 4: Bottlenecks and Project Recommendations by Corridor: I-205

Map ID	L	<b>I-205 NB: Phase 1 - Powell Blvd Entrance Lane to Washington St. Exit Ramp - Auxiliary Lane Extension</b>	
Bottleneck ID	I-205: B4		
Tracking ID	1a		
Direction	NB		
Project Analysis/Evaluation			
Potential Solution		Cost Estimate	
Yes		\$6.0M - \$6.9M	
Existing Operations*			
Variable	Existing		
Duration (hours)	1.75		
Queue (miles)	0.4 - 1.0		
Average Speed (mph)	≥ 10		
Density (veh/mi/n)			
Key Points			
Existing Conditions			
<p>Currently, the Division St. entrance-ramp and Powell Blvd. exit-ramp bottleneck is confined to the US26/Powell Blvd. entrance-ramp merge during the AM peak, and spans both the Division St. and Powell Blvd. entrance-ramps during the PM peak. The combined queue ends north of the US26/Powell/Division exit-ramp. Camera observations suggest that the bottleneck at the US26/Powell Blvd. entrance-ramp lingers after the Division St. entrance-ramp bottleneck improves. Speeds in the area drop as low as 15 mph in the AM and 10 mph in the PM. The project section is a top 10% SPIS site.</p>			
Proposed Improvements			
<p>This project would extend the existing acceleration lane from the Powell Blvd. entrance-ramp to match with the existing auxiliary lane between the Division St. entrance-ramp and Stark/Washington St. exit-ramp. Auxiliary lane would provide an extended distance for traffic to merge onto mainline.</p>			
Operations/Safety Benefits			
<p>The proposed improvement will provide motorists additional time and distance to find gaps and safely weave over lanes. Congestion/queuing would be reduced in most lanes. It is anticipated that this would result in a 30% reduction in mainline crashes, based on comparable auxiliary lane improvements.</p>			
Potential Follow-Up Phases			
<p>Project Title: Auxiliary Lane Addition: Powell Blvd. to I-84 exit-ramp</p>			
<p>Notes: Follow-up projects: three low-cost incremental projects (Map ID M, N &amp; O) or one higher-cost project (Map ID P)</p>			
Bottleneck ID	Tracking ID	Map ID	Cost
I-205: B4	1b	M	\$2.4M - \$2.8M
*PM Peak Hour			
Operations Diagram		Project Concept	
Existing		Proposed Project	
WB I-84 Exit Ramp	Glisan St. Exit Ramp	Washington St. Exit Ramp	Division St. Entrance Ramp
US26/Powell Blvd/Division St. Entrance Ramp	US26/Powell Blvd/Division St. Entrance Ramp	US26/Powell Blvd/Division St. Entrance Ramp	US26/Powell Blvd/Division St. Entrance Ramp
<p><b>Legend</b></p> <p>Existing Mainline Traffic Movements (grey arrow) Proposed Traffic Movements (blue arrow) Proposed Improvement (red line)</p>			
<p><b>Impacts</b></p> <p>ROW: None anticipated Structures: Modification Environment: To be determined</p>			
		<p><b>Project Concept</b></p> <p>Market Street Match Existing End Work Area Realign Ramp Begin Work Area: Powell Entrance Ramp</p>	
		<p><b>Diagram of Improvements</b></p> <p>Existing Improved</p>	

## Attachment 4 CBOS Study Exhibits: I-205 NB Proposed Auxiliary Lanes



The below I-205 NB Aux Lane Segments as proposed in the CBOS Study are provided as an illustration and general overview of the CBOS component to the project. The NEPA Record of Decision and final design completed through the project's Preliminary Engineering (PE) phase will determine the final alignments and scope of required improvements.



Final Working Draft Project Atlas  
Chapter 4: Bottlenecks and Project Recommendations by Corridor: I-205

I-205 NB: Phase 2 - Washington St. Exit Ramp to Glisan St. Exit Ramp - Auxiliary Lane Extension				Map ID	M																					
				Bottleneck ID	I-205: B4																					
				Tracking ID	1b																					
				Direction	NB																					
Project Analysis/Evaluation			Project Concept																							
<b>Potential Solution</b>	<b>Cost Estimate</b>		<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p><b>Operations Diagram</b></p> <table border="1" style="width: 100%; border-collapse: collapse; font-size: 0.8em;"> <thead> <tr style="background-color: #0066b3; color: white;"> <th colspan="2" style="text-align: center;">Assumed Existing</th> <th style="text-align: center;">Proposed Project</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">WB I-84 Exit Ramp</td> <td style="text-align: center;">↑</td> <td style="text-align: center;">↑</td> </tr> <tr> <td style="text-align: center;">Glisan St. Exit Ramp</td> <td style="text-align: center;">↑</td> <td style="text-align: center;">↑</td> </tr> <tr> <td style="text-align: center;">Washington St. Exit Ramp</td> <td style="text-align: center;">↑</td> <td style="text-align: center;">↑</td> </tr> <tr> <td style="text-align: center;">Division St. Entrance Ramp</td> <td style="text-align: center;">↑</td> <td style="text-align: center;">↑</td> </tr> <tr> <td style="text-align: center;">US26/Powell Blvd/Division St. Entrance Ramp</td> <td style="text-align: center;">↑</td> <td style="text-align: center;">↑</td> </tr> <tr> <td style="text-align: center;">US26/Powell Blvd/Division St. Exit Ramp</td> <td style="text-align: center;">↑</td> <td style="text-align: center;">↑</td> </tr> </tbody> </table> <p><b>Legend</b></p> <p>← Existing Mainline Traffic Movements    ← Proposed Traffic Movements       Proposed Improvement</p> <p><b>Impacts</b></p> <p>ROW: None anticipated Structures: None anticipated Environment: To be determined</p> </div> <div style="width: 50%;"> <p><b>Overview Map</b></p> <p><b>Aerial View</b></p> </div> </div>			Assumed Existing		Proposed Project	WB I-84 Exit Ramp	↑	↑	Glisan St. Exit Ramp	↑	↑	Washington St. Exit Ramp	↑	↑	Division St. Entrance Ramp	↑	↑	US26/Powell Blvd/Division St. Entrance Ramp	↑	↑	US26/Powell Blvd/Division St. Exit Ramp	↑	↑
Assumed Existing		Proposed Project																								
WB I-84 Exit Ramp	↑	↑																								
Glisan St. Exit Ramp	↑	↑																								
Washington St. Exit Ramp	↑	↑																								
Division St. Entrance Ramp	↑	↑																								
US26/Powell Blvd/Division St. Entrance Ramp	↑	↑																								
US26/Powell Blvd/Division St. Exit Ramp	↑	↑																								
YES	\$2.4M - \$2.8M																									
<b>Existing Operations*</b>																										
Variable	Existing																									
Duration (hours)	1.75																									
Queue (miles)	0.4 - 1.0																									
Average Speed (mph)	≥ 10																									
Density (veh/mi/ln)	-																									
<b>Key Points</b>																										
<b>Existing Conditions</b>																										
<p>Currently, the Division St. entrance-ramp and Powell Blvd. exit-ramp bottleneck is confined to the US26/Powell Blvd. entrance-ramp merge during the AM peak, and spans both the Division St. and Powell Blvd. entrance-ramps during the PM peak. The combined queue ends north of the US26/Powell/Division exit-ramp. Camera observations suggest that the bottleneck at the US26/Powell Blvd. entrance-ramp lingers after the Division St. entrance-ramp bottleneck improves. Speeds in the area drop as low as 15 mph in the AM and 10 mph in the PM. The project section is a top 10% SPIS site.</p>																										
<b>Proposed Improvements</b>																										
<p>Assuming that Project Map ID L is built, this would be the next low-cost incremental improvement for congestion relief in the area. The proposed project will extend the existing auxiliary lane on I-205 NB in the project section from the Washington St. exit-ramp to the Glisan St. exit-ramp.</p>																										
<b>Operations/Safety Benefits</b>																										
<p>The proposed improvement will further enhance the operational benefits of the auxiliary lane by providing motorists additional time and distance to find gaps and safely weave over lanes. Congestion/queuing would be reduced in most lanes. It is anticipated that this would result in a 30% reduction in mainline crashes, based on comparable auxiliary lane improvements.</p>																										
<b>Potential Follow-Up Phases</b>																										
<b>Project Title:</b>	Extend auxiliary lane from Glisan St. exit-ramp to I-84 WB exit-ramp (Project Map ID N)																									
<b>Notes:</b>	Follow-up projects: low-cost incremental projects (Map ID N & O)																									
<b>Bottleneck ID</b>	<b>Tracking ID</b>	<b>Map ID</b>	<b>Cost</b>																							
I-205: B4	1c	N	\$2.2M - \$2.5M																							

\*PM Peak Hour



## Attachment 4 CBOS Study Exhibits: I-205 NB Proposed Auxiliary Lanes



The below I-205 NB Aux Lane Segments as proposed in the CBOS Study are provided as an illustration and general overview of the CBOS component to the project. The NEPA Record of Decision and final design completed through the project's Preliminary Engineering (PE) phase will determine the final alignments and scope of required improvements.



Final Working Draft/Project Atlas  
Chapter 4: Bottlenecks and Project Recommendations by Corridor: I-205

Map ID <b>N</b>		I-205 NB: Phase 3 - Glisan St. Exit to I-84 WB Exit Ramp - Auxiliary Lane Extension	
Bottleneck ID	I-205: B4		
Tracking ID	1c		
Direction	NB		
Project Analysis/Evaluation			
Potential Solution	Cost Estimate		
Yes	\$2.2M - \$2.5M		
Existing Operations*			
Variable	Existing		
Duration (hours)	1.75		
Queue (miles)	0.4 - 1.0		
Average Speed (mph)	≥ 10		
Density (veh/mi/ln)	-		
Key Points			
Existing Conditions			
<p>Currently, the Division St. entrance-ramp and Powell Blvd. exit-ramp bottleneck is confined to the US26/Powell Blvd. entrance-ramp merge during the AM peak, and spans both the Division St. and Powell Blvd. entrance-ramps during the PM peak. The combined queue ends north of the US26/Powell/Division exit-ramp. Camera observations suggest that the bottleneck at the US26/Powell Blvd. entrance-ramp lingers after the Division St. entrance-ramp bottleneck improves. Speeds in the area drop as low as 15 mph in the AM and 10 mph in the PM. The project section is a top 10% SPIS site.</p>			
Proposed Improvements			
<p>Assuming that Projects Map ID L and M are built, this would be the next low-cost incremental improvement for congestion relief in the area. The proposed project would extend the auxiliary lane from Glisan St. exit-ramp to I-84 WB exit-ramp.</p>			
Operations/Safety Benefits			
<p>The proposed improvement will further enhance the operational benefits of the auxiliary lane by providing motorists additional time and distance to find gaps and safely weave over lanes. Of the volumes exiting to I-84 WB, 37% are from Powell and Division. This extended auxiliary lane would provide more direct connection without having to mix with mainline traffic. It is anticipated that this would result in a 30% reduction in mainline crashes, based on comparable auxiliary lane improvements.</p>			
Potential Follow-Up Phases			
<p>Project Title: Auxiliary Lane between Division St entrance-ramp and Washington St exit-ramp</p>			
Notes:			
Bottleneck ID	Tracking ID	Map ID	Cost
I-205 - B4	1-d	O	\$1.7M - \$2.0M
*PM Peak Hour			
Operations Diagram		Project Concept	
		Overview Map	
Assumed Existing	Proposed Project		
WB I-84 Exit Ramp	Glisan St. Exit Ramp		
Glisan St. Exit Ramp	Washington St. Exit Ramp	<p>Existing Mainline Traffic Movements    Proposed Traffic Movements    Proposed Improvement</p>	
Washington St. Exit Ramp	Division St. Entrance Ramp	<p><b>Impacts</b></p>	
Division St. Entrance Ramp	US26/Powell Blvd/Division St. Entrance Ramp	<p>ROW: None anticipated Structures: None anticipated Environment: To be determined</p>	
US26/Powell Blvd/Division St. Entrance Ramp	US26/Powell Blvd/Division St. Exit Ramp		

## Attachment 4 CBOS Study Exhibits: I-205 NB Proposed Auxiliary Lanes



The below I-205 NB Aux Lane Segments as proposed in the CBOS Study are provided as an illustration and general overview of the CBOS component to the project. The NEPA Record of Decision and final design completed through the project's Preliminary Engineering (PE) phase will determine the final alignments and scope of required improvements.



Final Working Draft Project Atlas  
Chapter 4: Bottlenecks and Project Recommendations by Corridor: I-205

I-205 NB: Phase 4 - Division Street Entrance Ramp to Stark St./Washington St. Exit Ramp - Auxiliary Lane Extension w/ 2-lane Exit at Washington Street				Map ID	O
<b>Project Analysis/Evaluation</b>				Bottleneck ID	I-205: B4
<b>Project Concept</b>				Tracking ID	1d
<b>Potential Solution</b>				Direction	NB
<b>Yes</b>	<b>Cost Estimate</b>				
	\$1.7M - \$2.0M				
<b>Existing Operations*</b>					
<b>Variable</b>	<b>Existing</b>				
Duration (hours)	1.75				
Queue (miles)	0.4 - 1.0				
Average Speed (mph)	≥ 10				
Density (veh/mi/n)	-				
<b>Key Points</b>					
<b>Existing Conditions</b>					
<p>Currently, the Division St. entrance-ramp and Powell Blvd. exit-ramp bottleneck is confined to the US26/Powell Blvd. entrance-ramp merge during the AM peak, and spans both the Division St. and Powell Blvd. entrance-ramps during the PM peak. The combined queue ends north of the US26/Powell/Division exit-ramp. Camera observations suggest that the bottleneck at the US26/Powell Blvd. entrance-ramp lingers after the Division St. entrance-ramp bottleneck improves. Speeds in the area drop as low as 15 mph in the AM and 10 mph in the PM. The project section is a top 10% SPIS site.</p>					
<b>Proposed Improvements</b>					
<p>Assuming Projects Map ID L, M, and N are built, this project would be the next and final low-cost phase. The project will build an auxiliary lane between the Division St. entrance-ramp and the Washington St. exit-ramp. This project will also provide a two-lane exit-ramp at Stark/Washington.</p>					
<b>Operations/Safety Benefits</b>					
<p>This additional auxiliary lane will provide entrance-ramp traffic from the Division St. additional time and distance to find gaps and safely weave over lanes. Congestion would be completely reduced in all lanes.</p>					
<b>Potential Follow-Up Phases</b>					
<p>Project Title: No follow-up phases identified at this time.</p>					
Notes:					
Bottleneck ID	Tracking ID	Map ID	Cost		
---	---	---	---		
*PM Peak Hour					

Operations Diagram	
Assumed Existing	Proposed Project
WB I-84 Exit Ramp	[Diagram showing lane configuration]
Glisan St. Exit Ramp	[Diagram showing lane configuration]
Washington St. Exit Ramp	[Diagram showing lane configuration]
Division St. Entrance Ramp	[Diagram showing lane configuration]
US26/Powell Blvd/Division St. Entrance Ramp	[Diagram showing lane configuration]
US26/Powell	[Diagram showing lane configuration]

**Legend**

Existing Mainline Traffic Movements: [Solid line]

Proposed Traffic Movements: [Dashed line]

Proposed Improvement: [Red double line]

**Impacts**

ROW: None anticipated

Structures: None anticipated

Environment: To be determined

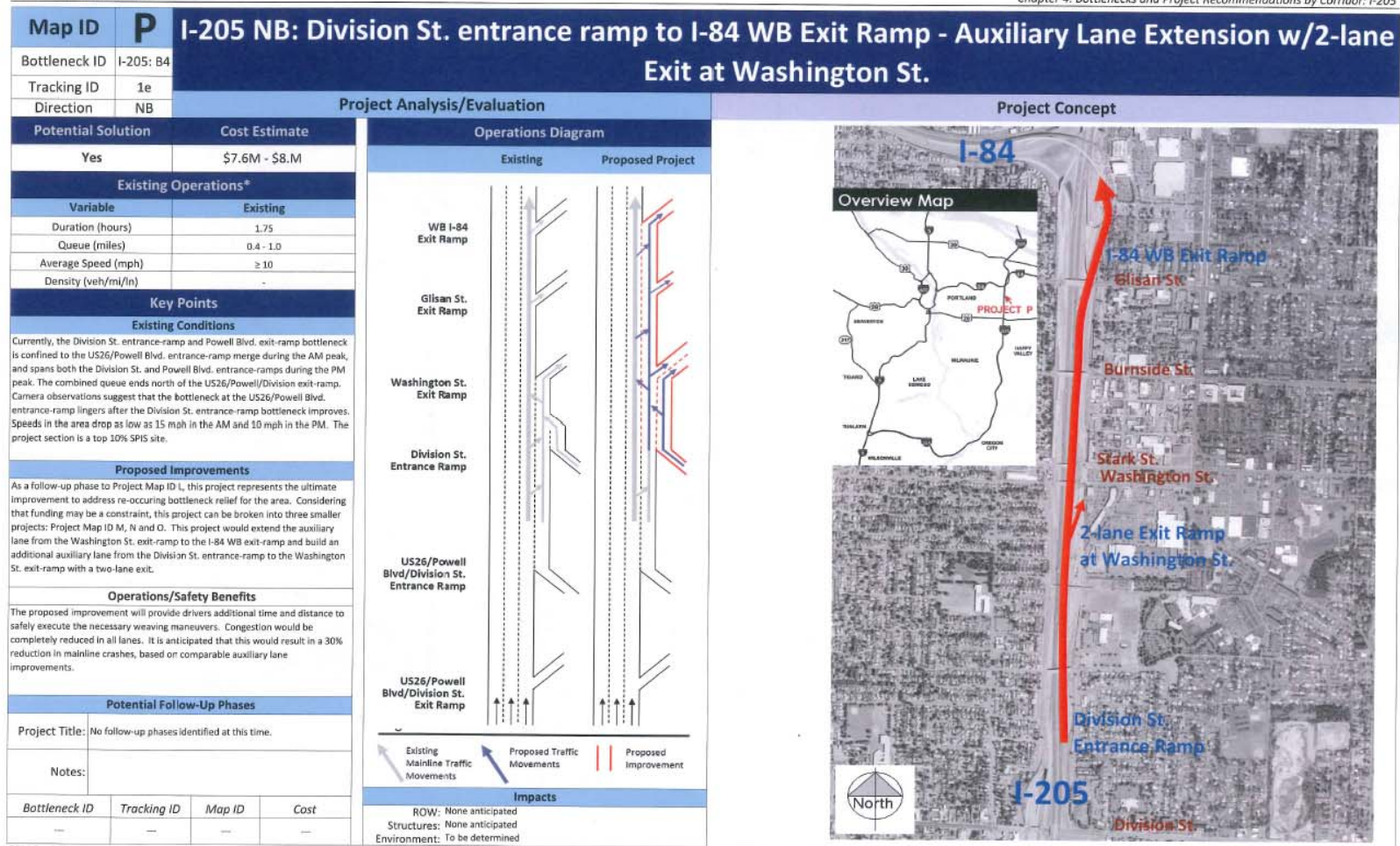
## Attachment 4 CBOS Study Exhibits: I-205 NB Proposed Auxiliary Lanes



The below I-205 NB Aux Lane Segments as proposed in the CBOS Study are provided as an illustration and general overview of the CBOS component to the project. The NEPA Record of Decision and final design completed through the project's Preliminary Engineering (PE) phase will determine the final alignments and scope of required improvements.



Final Working Draft Project Atlas  
Chapter 4: Bottlenecks and Project Recommendations by Corridor: I-205



Agenda Item No. 5.1

**Resolution No. 17-4851**, For the Purpose of Proclaiming  
October 9, 2017 as Indigenous Peoples' Day in the Greater  
Portland Area

*Resolutions*

Metro Council Meeting  
Thursday, October 5, 2017  
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF PROCLAIMING ) RESOLUTION NO. 17-4851  
OCTOBER 9, 2017 AS INDIGENOUS PEOPLES' )  
DAY IN THE GREATER PORTLAND AREA ) Introduced by Council President Tom Hughes

WHEREAS, Metro is committed to Diversity, Equity, and Inclusion to address systemic inequities that impact our communities by providing support and tools to Metro staff, Metro Council, and community partners to create an equitable region for all; and

WHEREAS, Metro recognizes that American Indians and Alaska Natives have lived on these lands we all cherish since time immemorial; and

WHEREAS, it is important for us to never forget American history through the perspective of Native people in our country because it reminds us of forced migration, broken treaties, and other injustices that should never be repeated. This history is a lesson to all of us of the perseverance and resilience of Native people in the face of these injustices and the continued integrity and vitality of their cultures and their governments. As we work together to forge a brighter future, we cannot shy away from the difficult aspects of our past; and

WHEREAS, we recognize that Oregon’s tribal people were impacted by the Western Oregon Indian Termination Act that was passed by the U.S. Congress in 1954. As a result of this act, many tribal governments were abolished and their members were relocated to urban areas, making Portland the 9<sup>th</sup> largest urban Indian population in the United States, with over 40,000 tribal people representing 380 tribes; and

WHEREAS, Native people have contributed to the unique culture of the greater Portland area and this country, with a special emphasis on traditional ecological knowledge and core values that go beyond materialism. Today, Native Americans are leaders in every aspect of our society – from the classroom, to the boardroom, to the battlefield; and

WHEREAS, recognizing Indigenous Peoples’ Day shall be an opportunity to celebrate the thriving traditions and deeply rooted values of the Indigenous people who reside in the greater Portland area, and of course, their ancestors before them; now therefore:

BE IT RESOLVED that the Metro Council proclaims October 9, 2017 as Indigenous Peoples’ Day in the greater Portland area to honor and celebrate the many contributions made by the Indigenous peoples throughout our vibrant community. We encourage other businesses, organizations, public institutions, and community members to recognize Indigenous Peoples’ Day and take time to learn and teach others about the history and cultural significance of the American Indian and Alaska Native community.

ADOPTED by the Metro Council this 5<sup>th</sup> day of October 2017.

Approved as to Form:

\_\_\_\_\_  
Tom Hughes, Council President

\_\_\_\_\_  
Alison R. Kean, Metro Attorney

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 17-4851, FOR THE PURPOSE OF PROCLAIMING OCTOBER 9, 2017 AS INDIGENOUS PEOPLES' DAY IN THE GREATER PORTLAND AREA.

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Date: October 4, 2017

Prepared by: Roger Gonzalez,  
Policy Coordinator,  
503-797-1560

### BACKGROUND

The Native people in our country have suffered forced migration, broken treaties, and other injustices that should never be repeated. This history is a lesson to all of us of the perseverance and resilience of Native people in the face of these injustices and the continued integrity and vitality of their cultures and their governments. The second Monday in October is currently known as Columbus Day. While this is a federally recognized holiday, it is not recognized by the State of Oregon. Metro will be joining other local governments from around the greater Portland area in recognizing the important history and culture of Indigenous People in our community, country, and around the world.

On October 12, 2015, Metro declared Columbus Day as Indigenous Peoples' Day for the first time and did so by inviting local community partners to speak. Last year, Metro worked with government partners and groups of organizations that represent and serve the American Indian and Alaska Native community to hold a larger, joint celebration event at the Oregon Zoo. This year, on October 9, 2017 in collaboration with the greater Portland area's Native American Community Advisory Council to Metro and Portland Parks and Recreation, Metro will be hosting the region's third annual Indigenous Peoples' Day celebration at the Oregon Zoo. This event will highlight Indigenous voices and will include representation from the Confederated Tribes of Grand Ronde, Confederated Tribes of Siletz, several cultural performances from Mexica Tiahui PDX, Portland State University's Pacific Islander Club, several local Indigenous storytellers, and First Foods practitioners.

In addition, the Metro Council recently adopted its updated Diversity Action Plan, and follows the adoption of the Strategic Plan to Advance Racial Equity, Diversity, and Inclusion, which guides Metro in uplifting all communities who have historically been marginalized. Declaring October 9, 2017 as the third annual Indigenous Peoples' Day in the greater Portland area will honor, acknowledge, and celebrate the resiliency of Indigenous communities.

### ANALYSIS/INFORMATION

1. **Known Opposition** None
2. **Legal Antecedents** Metro Council Resolution No. 15-4663; Metro Council Resolution No. 16-4748

3. **Anticipated Effects** Declaring October 9, 2017 as the third annual Indigenous Peoples' Day in the greater Portland area will honor, acknowledge, and celebrate the resiliency of Indigenous communities.
4. **Budget Impacts** None

**RECOMMENDED ACTION**

Approve Resolution No. 17-4851 proclaiming October 9, 2017 as Indigenous Peoples' Day in the greater Portland area.

Agenda Item No. 5.2

**Resolution No. 17-4845**, For the Purpose of Recognizing the  
100th Anniversary of the Keller Auditorium

*Resolutions*

Metro Council Meeting  
Thursday, October 5, 2017  
Metro Regional Center, Council Chamber



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF RECOGNIZING THE ) RESOLUTION NO. 17-4845  
100<sup>TH</sup> ANNIVERSARY OF THE KELLER )  
AUDITORIUM ) Introduced by Metro President Tom Hughes

WHEREAS, the Portland Municipal Auditorium was built in Portland, Oregon, during 1916-1917 and opened on July 4, 1917; and

WHEREAS, the brand new public auditorium was refitted as a temporary hospital in order to receive Spanish Influenza cases in October 1918; and

WHEREAS, the building was used as Red Cross disaster headquarters and nursery for the Vanport Flood response in 1948; and

WHEREAS, the auditorium was renamed as the Civic Auditorium in 1966 and later the Keller Auditorium in 2000 in honor of a \$1.5 million renovation donation by Richard B. Keller; and

WHEREAS, the auditorium was the site of several historical speeches given by national politicians including President Calvin Coolidge in August of 1922; Adlai Stevenson in October 1956; President Eisenhower in 1958; Senator John F. Kennedy and Vice President Richard Nixon in 1960; and

WHEREAS, the auditorium was the site of several historical cultural events including performances by Richard Crooks, the first American-born lead tenor for the Metropolitan Opera in 1934; Paul Robeson in November 1940, an event which was announced in The Oregonian with the headline "Negro Singer Coming Here"; and a vocal performance by Margaret Truman, daughter of President Harry Truman, in 1952; and

WHEREAS, the Keller Auditorium is the renowned performing arts center for the city of Portland, Oregon and home to several resident performing arts companies including the Portland Opera, and The Oregon Ballet Theater; and

WHEREAS, audiences continue to enjoy Broadway productions, ballet, operas, family events and more at the Keller Auditorium, making it fundamental to the cultural heart of the City of Portland; and

WHEREAS, the Keller Auditorium provides hundreds of thousands of dollars in economic impact on the Portland metropolitan area each year; and

WHEREAS, Metro Council wishes to recognize that 2017 marks the 100<sup>th</sup> anniversary of the Keller Auditorium; now therefore,

BE IT RESOLVED that the Metro Council officially recognizes and celebrates the 100<sup>th</sup> anniversary of the Keller Auditorium.

ADOPTED by the Metro Council this 5th day of October, 2017.

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Tom Hughes, Council President

Approved as to Form:

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Alison R. Kean, Metro Attorney

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION\_NO. 17-4845 FOR THE PURPOSE OF RECOGNIZING THE 100<sup>TH</sup> ANNIVERSARY OF THE KELLER AUDITORIUM

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Date: October 5, 2017

Prepared by: Karol Collymore,  
communication and policy development manager

## BACKGROUND

The Keller Auditorium has been a loved institution in Portland since its opening on July 4, 1917 as announced in The Oregonian (see attachment A to the Staff Report). Throughout the building's history, Portlanders have gathered within its walls to celebrate the arts by attending performances by renowned entertainers; to hear speeches from national politicians; and to attend local events including coronations of Rose Festival queens and local high school graduation ceremonies.

Additionally, while the building was nearly new in 1918, it was retrofitted as a temporary hospital to help residents suffering from Spanish influenza and in 1948 it served as Red Cross disaster headquarters during the Vanport Flood response adding to its part as an important player in the city's history.

Since the Keller Auditorium will celebrate its 100<sup>th</sup> anniversary in October 2017, we request that Metro Council honor the building's impact on the region by passing Resolution 17-4845.

## ANALYSIS/INFORMATION

1. **Known Opposition** None.
2. **Legal Antecedents** N/A.
3. **Anticipated Effects** If this Resolution is adopted, Metro Council will officially recognize the 100<sup>th</sup> Anniversary of the Keller Auditorium.
4. **Budget Impacts** There is no cost to implementing this resolution.

## RECOMMENDED ACTION

Approve the Resolution as drafted and join Metro staff in celebrating the Keller Auditorium on its 100<sup>th</sup> Anniversary.

# AUDITORIUM WILL BE OPENED TODAY

### Fine Programme Arranged for Introducing Public to City's \$600,000 Hall.

## NOTE WILL BE PATRIOTIC

Building Declared Unusually Attractive and Large Audience Is Expected at Dedicatory Exercises at 10:30 o'Clock.

**FACTS ABOUT TODAY'S DEDICATION OF THE PUBLIC AUDITORIUM.**  
Building opens at 10 A. M. Admission free.  
Dedicatory programme starts at 10:30 o'clock.  
Arrangements made for opening of entire lower floor, making room for 5500 persons.  
Building to remain open all day after 10 A. M. for public inspection.  
Dedicatory programme will be over in time to allow persons to have lunch before the Fourth of July military parade starts.

With an elaborate programme Portland will dedicate her beautiful public Auditorium this morning at 10:30 o'clock.

The building, representing an investment of about \$600,000 and marking the final realization of a civic institution sought for 10 years or more, is virtually finished. Except for a few details it will appear this morning in final shape. The design has been on the side say the public will be astounded at its magnificence.  
The doors will open at 10 o'clock, at which time the dedicatory exercises will begin to assemble. The dedicatory is to be under the auspices of the Royal Rosarians, assisted by the Monday Musical Club and the Daughters of the Confederacy, with Dean Vincent, prime minister of the Rosarians, as master of ceremonies.  
A series of novel features of an artistic and patriotic nature have been arranged by the Rosarians for the programme which has been worked out by the Rosarian committee. The introduction by Dean Vincent, Frank E. Smith, William McMurray, Frank M. Case, W. E. Finzer and H. J. Blasing.

### Large Gathering Expected.

It is expected the Auditorium will be crowded to capacity. The lower floor will be open for the occasion, which means there will be seats for 5500 persons. A squad of police will be on hand to take charge of the crowd and Boy Scouts will be assigned to the band and will be led by the Royal Rosarian quartet.  
The opening number of the programme will be patriotic music by the Royal Rosarian band under the direction of J. E. Etzinger. The introduction will be made with a novel stunt. The band then will play an overture to the opera "Martha," followed by "America." The assembly will sing with the band, and will be led by the Royal Rosarian quartet.  
Bishop Walter T. Sumner will offer the dedicatory prayer, which the Rosarian quartet will sing. "The Blessing." The quartet comprises Harry Miles, Whetsel, Thomas H. Williams, Albert E. Brown and Walter Hardwick, with William Robinson Boone accompanist.  
Hans Pederson, who erected the building, will present the key to Mayor Baker, and the band accompanying an address on "Our Auditorium," which will include a history of the Auditorium movement and construction.

### Madame Valair to Sing.

Madame Lucie Valair will be on the programme for a solo "American Melodrama." She is representing the Monday Musical Club and the Daughters of the Confederacy. The band will accompany her. Frank Branch Riley will read the Declaration of Independence, after which the assemblage will sing "Columbia, the Gem of the Ocean," with the Royal Rosarian quartet leading and the band accompanying. The finale will be the "Grand American Fantasia" by the band.  
All during the day after 10 o'clock the building will be open for public inspection. It is expected thousands of persons will visit it, inasmuch as this will be the first opportunity the public has had to see the interior.  
Workmen were busy yesterday rounding out the final finishing touches. Last night Mayor Baker put a large force of men to work making the final cleanup so the building will be spick and span for today.  
A temporary stand has been erected in front of the stage for use of the band, and on the stage will be an assemblage of persons who have had some part in the Auditorium movement at one time or another.

### DRIVER FALLS 60 FEET

Horse and Wagon Goes Over Bank, Animal Hurt, Man Escapes.

D. H. Mills, driver for the Bleidt Boot Shop, yesterday morning fell down a 60-foot embankment with his horse and wagon, and escaped with a few minor scratches.  
Mr. Mills was attempting to turn his horse and wagon around on their Street Drive, near the embankment, when the animal became unmanageable and started to buck. Mr. Mills leaped just as the wagon started over the bank. The horse's hip was dislocated and the wagon was wrecked.

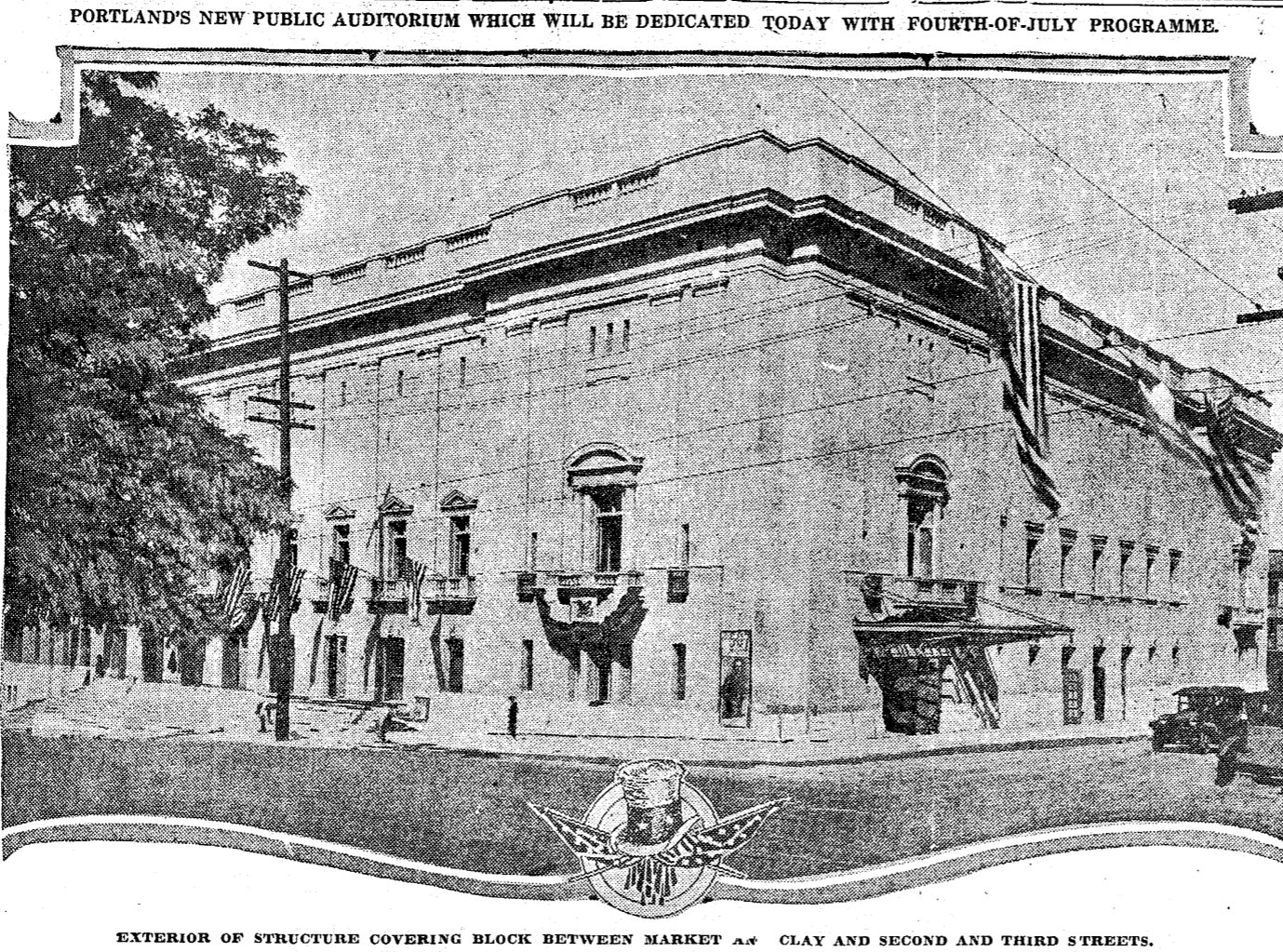
### LECTURE SERIES CHANGED

Summer School to Adjourn During Convention Week.

A change in the schedule of lectures offered in Portland by the University of Oregon in connection with the Summer school session has been announced by Dr. George Rebec, who is in charge of the Portland Summer session. The lecture on Whitman announced for this week will be given July 29 and Dr. Spaeth will lecture on Milton and "The Juritan Ideal of Liberty" Friday evening of this week.  
The Summer school will adjourn during the week of the N. E. A.

### Aberdeen Arrests 20 Men.

ABERDEEN, Wash., July 3.—(Special.)—Twenty men were arrested here yesterday on charges of drunkenness—the largest number for that offense arrested in any one day since the dry law went into effect, 18 months ago. Many of the men when brought to the Police Station were found to be carrying quart bottles of whiskey on their hip. Police fines for the day from drunks totalled over \$200.



EXTERIOR OF STRUCTURE COVERING BLOCK BETWEEN MARKET AND CLAY AND SECOND AND THIRD STREETS.

## RECORD NOT CLEAR

### Mr. Muck Thinks Minutes of Bridge Meetings Changed.

### TYPING SEEMS DIFFERENT

### County Commissioner Says He Is Ready to Fight to Last Ditch to Prevent Unfair Distribution of Net Profits.

Alleged tampering with the records of the Interstate Bridge Commission is to be fully investigated by County Commissioner Muck prior to the next meeting of the commission, which is scheduled to be held the middle of this month.  
In an examination already made by Mr. Muck, what appears to have been a tampering of the records has been brought to light, and he announced yesterday that he would insist upon a rigid investigation before any action is taken which will give Clarke County two-fifths of the bridge profits.  
In examining the records of the commission before he became a member, Mr. Muck found that a clause had been inserted in the resolution setting forth the fact that this two-fifths is the pro rata share of the cost of construction. This last clause was written with a different style of typewriter from the first part of the resolution and Mr. Muck will demand an explanation.  
In looking over the records of the commission, Mr. Muck found that it was ordered that Multnomah County pay five-sevenths and Clarke County two-sevenths of the cost of construction of the bridge. This order was made November 29, 1913. The resolution of April, 1915, however, asserts that Clarke County paid two-fifths of the cost of construction, says Mr. Muck.  
"I will see to it that a thorough investigation is made before any definite action is taken," said Mr. Muck. "If a fair division of the profits is made, Clarke County will receive its two-sevenths and I will fight any effort on the part of the Clarke County Commissioners or Chairman Holman to give the Livingston County two-fifths of the profits."  
"This fight will mean a saving of thousands upon thousands of dollars to the taxpayers of Multnomah County in the course of a few years. In fact, even for the first four months of the operation of the bridge, the difference between two-fifths and two-sevenths amounts to more than \$2000. This is a matter worth fighting for, and I will take it through the meeting of the commission this month and further, if there is any need of doing so."  
The fight first started Monday, when the Clarke County officials appeared at the Courthouse and made demand for two-fifths of the profits of the bridge.  
The fight was continued by Mr. Muck, who authorized payment of just two-sevenths of the revenue. The Clarke County officials at that time threatened to take it into the courts.

### PERSONAL MENTION.

W. L. Clark, of Hood River, is at the Ritz.  
W. F. White, of Albany, Or., is at the Seward.  
R. A. Booth, of Eugene, Or., is at the Imperial.  
W. R. Ingram, of Yacolt, Wash., is at the Oregon.  
I. Dayton, of Los Angeles, Cal., is at the Carlton.  
F. E. Craig registered at the Perkins from Astoria, Or.  
E. C. Brownlee, of Hood River, Or., is at the Carlton.  
W. C. McFarland, of Clifton, Ariz., is registered at the Oregon.  
Mrs. Annie Phillips, of Hood River, Or., is at the Cornelia.  
John Twobly registered at the Portland from Spokane, Wash.  
Mr. and Mrs. W. Huffner, of Bend, Or., are registered at the Carlton.  
Captain Parks registered at the Imperial from San Jose, Cal.  
Miss Gwen Beiril registered at the Multnomah from Otter Rock, Or.  
J. A. Shearer and T. E. Hulery, of McMinnville, Or., are at the Ritz.  
Viola Gandrup registered at the Washington from San Jose, Cal.  
Mr. and Mrs. W. Huffner, of Bend, Or., are registered at the Carlton.  
Captain Parks registered at the Imperial from San Jose, Cal.

## BATTERY B FORMING

### New Field Unit Expects Early Service in France.

### "BE VOLUNTEER" IS SLOGAN

### National Guard Officers Desire to Fill Regiment to Replace Men Discharged Because They Have Persons Dependent.

Instead of being sent from the Auditorium's office to the individual members of the Council interested in the subject.  
The Council by unanimous vote repealed the ordinance passed by the old Council doing away with Council action on all communications. The old system led to many matters of importance going direct to Commissioners and therefore never coming to the attention of the Council as a whole.  
**BAPTISTS FOR PROHIBITION**  
Medford Congregation Urges Senator Chamberlain to Take Stand.  
MEDFORD, Or., July 3.—(Special.)—Acting upon the suggestion of their pastor, Rev. F. W. Carstens, the congregation of the Baptist Church sent a night letter to Senator Chamberlain recently praying that the Oregon Senator do everything in his power for Nation-wide prohibition.  
Mr. Carstens urged the members of his congregation to practice economy in their households and to aid in the conservation of food throughout the Nation. He declared the waste of grain in the production of beer, as well as spirituous liquors, should be stopped, so that the war against German militarism could be pursued with the maximum supply of food for civilians and soldiers.  
**ITALIAN SURGEON IS ANGRY**  
Alleged Insinuations of Mr. Ferrara on Reservists' Tests Scored.  
Dr. Carlo Visetti, ex-Consular Agent for the Italian government in Portland, resents the implications contained in recent declarations by Albert B. Ferrara, well-known Italian attorney, that numerous Italian reservists examined for Battery B and bring other units of the Guard up to full war strength in readiness for the call into the Federal service that is to come this month or early in August.  
"Be a Volunteer" to Be Slogan.  
Most of them already have been at full war strength, but the War Department order authorizing the discharge of married men and those having dependent families for the strength again. There is still room for young men of good character and physique who prefer volunteering in a live outfit to waiting for the draft.  
"Be a volunteer" will be the recruiting slogan today. It will be heard all over the city. Men are urgently needed and it is hoped that many will be moved by the patriotic spirit of the day to join the colors.  
The opportunity for volunteering with these National Guard organizations, all of which are well officered and instructed, may end at an early date.  
**Third Infantry Needs Fifty.**  
Men are needed for the artillery, cavalry, infantry and the engineers. Companies A and C of the National Guard Engineers, are pretty well up toward war strength, but there is still room in Company B for a large number of men.  
The Third Oregon Infantry also needs men. Those who present today for this crack regiment will be sent at once to Clackamas and their pay will begin immediately. The Third Oregon has twice been to full war strength, but each time the discharge of men having dependent relatives has left several vacancies. The Third Oregon enjoys the distinction of being commanded by Army Major and best officered by Army Major and best officered National Guard regiments in the United States.  
Captain Cleo F. Hogan, who is in charge of the National Guard recruiting station at 106 Fourth street, yesterday enlisted 14 men. He was assisted in his recruiting work by First Lieutenant Johnson, of Battery A, and by Sergeant Patrick, United States Field Artillery, who is sergeant instructor for the Oregon Field Artillery.

## 10,000 SEE ROUND-UP

### MANY THRILLERS ARE STAGED ON SECOND DAY AT ALBANY.

### Diamond C. Dumps Los Angeles Rider, Then Turns Somersault—Broncho Bob's Fall Is Favorite.

### ALBANY, Or., July 3.—(Special.)—Scores of automobiles poured into Albany today from all directions, and a crowd estimated to exceed 10,000 persons viewed the second day's events of the Western Oregon Round-up.

Diamond C. C. one of the bucking horses, furnished the headline thriller of the day when, after dumping "Fee Wee" Holmes, of Los Angeles, by vicious bucking, it turned a complete somersault. Holmes, introduced as the smallest bucking horse rider in the world, is said to have received \$500 recently for impersonating a famous motion picture actress in a fall from a runaway horse, and did not do the job as well as he did his involuntary fall today.  
The Red Cross squad in attendance performed its first service today when Olive Osborn, of Union, Or., had to be carried from the Board Her stand when attempting to ride Gray Devil, one of the buckers. She recovered later, but was unable to participate in any further events. Attempting to ride a Roman race with an open girl, John Tayche, of Pendleton, suffered another bad tumble. One rider was kicked today and several were thrown hard, but no serious injuries were suffered.  
The bucking was high class again today. True to his name, Poncho Villa proved the hardest buckner, and tossed Art Bivens, of Los Angeles, George Fletcher, of Pendleton, on George Washington, made one of the feature rides of the day.  
"Broncho Bob" Hall, of Independence, was a favorite. His drunken ride and a spectacular fall in bull-dogging won applause.  
**Clatsop Sees Juvenile Fair Dates.**  
ASTORIA, Or., July 3.—(Special.)—The County Fair Board has named September 21 and 22 as the time for the juvenile fair here.

## RECORD NOT CLEAR

### Mr. Muck Thinks Minutes of Bridge Meetings Changed.

### TYPING SEEMS DIFFERENT

### County Commissioner Says He Is Ready to Fight to Last Ditch to Prevent Unfair Distribution of Net Profits.

peral from the Oregon Agricultural College at Corvallis, Or.  
Mr. and Mrs. H. C. Johnson, of Birmingham, Ala., are at the Nortonia.  
R. E. Seward and L. M. Sparks, of Bridal Veil, Or., are at the Seward.  
Mr. and Mrs. J. A. McCall registered at the Cornelia from Vancouver, Wash.  
Mrs. W. H. Ferguson, of San Francisco, Cal., registered at the Portland.  
T. T. Thompson, of Knightsen, Cal., is spending a few days at the Washington.  
W. M. Holton, of Spokane, and W. R. Alexander, of Seattle, are at the Oregon.  
Mr. and Mrs. C. O. Gessett, of Stella, Wash., are at the Carlton for a few days.  
Mr. and Mrs. C. B. Durkin, of Vancouver, Wash., are registered at the Washington.  
George Schultberg, of Salinas, Cal., and M. H. Evans, of St. Paul, Or., are at the Multnomah.  
W. H. Aublin, of Pasco, Wash., and George A. Beavis, of The Dalles, Or., are at the Cornelia.  
John P. Sweeney, of Fort Wayne, and H. E. Jensen, of Walla Walla, Wash., are at the Multnomah.  
Mrs. Andrew Peterson, of Oregon City, Or., and Winnie Braden, of Dallas, Or., are at the Imperial.  
S. C. Ralston, of Salem, Or., and A. M. McKenny, of Kelso, Wash., are registered at the Perkins.  
Dr. and Mrs. H. Hart and son, of Medford, Or., and R. R. Butler, of The Dalles, Or., are at the Imperial.  
Mr. and Mrs. William Packard and Mr. and Mrs. William Penland, of Pendleton, Or., are at the Perkins.  
Roy Webb, of Spokane, and G. G. Bagley, of Spokane, are registered for a few days at the Multnomah.  
Dr. and Mrs. Francke, of Boise, Idaho, registered at the Portland, as did Mrs. James Torrance, of Boise, Idaho.  
Mr. and Mrs. L. A. Porter and Mr. and Mrs. J. W. Sweeney, all of Clatskanie, Or., are registered at the Ritz.  
Mr. and Mrs. H. Shippe, of Astoria, Or., and Mr. and Mrs. W. M. Smith, of Oroville, Cal., registered at the Seward.  
Mr. and Mrs. W. W. Gill, of San Francisco, are visiting in Portland and registered for a few days at the Nortonia.  
Mrs. W. A. Van Engelen, of Burley, Idaho, and Miss Jennie Van Engelen, of Centralia, Wash., are at the Portland for a few days.  
John B. Wilson, star member of the Oregon Agricultural College football team last fall, registered at the Seward from Corvallis, Or.  
Captain and Mrs. D. V. Chisholm registered at the Carlton from Washington, D. C. Captain Chisholm is commander-in-chief of the Spanish-American War Veterans and will take part in the parade today.

## CHICAGO, July 3.—(Special.)—D.

Livermore, of Portland, is registered at the Auditorium Hotel today.

## \$1500 GIVEN FOR LIFE

### Two Verdicts Award Damages for Automobile Accident.

Damages amounting to \$1500 were awarded to Carl Lorenz, administrator of the estate of W. Lorenz, and against the Roberts Motor Car Company and the Wah Lee Yuen Company in a verdict returned yesterday at the conclusion of the personal injury trial before Circuit Judge Phelps. In the same case Andrew McAtee won a verdict of \$1582 against the same firms and for the same accident.  
McAtee said he was badly injured when a truck operated by the Chinese company ran into him. W. Lorenz died as the result of injuries suffered in the accident.

## COUNCIL ACTION INCREASED

### Auditor to Send All Business to Board Instead of Individuals.

All public matters received by the City Auditor's office will be sent direct to the City Council from now on

**Store Closed**  
All Day Today  
**Independence Day**

*Meier & Frank Co.*  
Established 1857  
THE QUALITY STORE OF PORTLAND  
Fifth, Sixth, Morrison, Alder Sts.

**Employer and Employee**

FROM the head of the industry or business down to the person receiving the smallest pay envelope in plant and store—the Northwestern National Bank affords all a courteous, prompt and efficient banking service.

—And, the account of each is as appreciatively received.

**The Northwestern National Bank**

Northwestern Bank Building  
Portland Oregon

**STATE SOCIETY MEETS**

FORMER RESIDENTS OF MICHIGAN HAVE SOCIABLE TIME.

Entertainment Consists of Speaking and Musical Numbers—N. E. A. Delegates to Be Welcomed.

An elaborate programme was given by the Michigan Society of Oregon in the Portland Hotel Monday night at its regular monthly meeting. President G. L. Rausch presided and was responsible for the large assortment of entertainment provided.  
Miss Ruth Gibbs opened the programme with a piano solo, followed by a soprano solo by Miss Mary Randall, accompanied by Miss Cunningham. Helen Miller Sen then introduced her pupil, Miss Margaret Garrison who won Pacific Coast oratorical honors in California recently. Her topic was "National Prohibition." The Girls' Quartet, made up of Miss Randall, Miss Richmond, Miss Williams and Miss Ersley, accompanied by Miss Cunningham, rendered two songs.  
E. J. Freeman, a prominent educator of Michigan, introduced D. W. Springs, secretary of the National Education Association, who called on all former Michigan residents to help entertain Michigan teachers in attendance at the annual convention here next week.  
A. G. Clark, of the Home Industry League, delivered an address on the civic duty of all members of the Michigan Society of Oregon. Dancing, cards and light refreshments ended a pleasant evening.  
Pendleton Court Work Drops Off.  
PENDLETON, Or., July 3.—(Special.)—Police Court business in Pendleton during the month of June was at its lowest ebb. There were only 14 cases on the docket, the majority of them minor offenses. This is the smallest number in any one month since the Fall of 1908, when the city was first dry, and the amount of the fines, \$110, was exactly equalled at that time. A number of the offenders are Indians who occasionally manage to get enough lemon extract to get intoxicated and into trouble. Bootlegging, however, has been reduced to a minimum.

**Home Products Week**  
At the Meier & Frank Store  
July 9th to 14th

To the Manufacturers of Oregon:

We desire to offer you, free of charge, space available in our store, for the purpose of demonstrating the manufacture and exhibition of Home Made Products during Home Products Week, July 9th to 14th.

It is the desire of the Meier & Frank Company to take this opportunity, while there are so many visitors in the city (N. E. A. Week), to assist the producers of this community and the state at large in showing the superior character and quality of merchandise and articles made in Oregon, thereby increasing the demand and making for a bigger and better city and state. Apply for space at once. Office, 6th floor.

*Meier & Frank Co.*  
Established 1857  
THE QUALITY STORE OF PORTLAND  
Fifth, Sixth, Morrison, Alder Sts.

Agenda Item No. 6.1

**Ordinance No. 17-1410**, For the Purpose of Amending Metro  
Code Chapter 5.00 to Add Certain Definitions

*Ordinances (First Reading and Public Hearing)*

Metro Council Meeting  
Thursday, October 5, 2017  
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO )  
CODE CHAPTER 5.00 TO ADD CERTAIN )  
DEFINITIONS )  
)  
)  
)

ORDINANCE NO. 17-1410  
Introduced by Chief Operating Officer Martha  
Bennett in concurrence with Council  
President Tom Hughes

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

WHEREAS, Metro Solid Waste Code Chapter 5.00 contains the definitions for Title V of the Metro Code; and

WHEREAS, Metro has previously exempted from regulation those material recovery facilities that exclusively receive non-putrescible source-separated recyclable materials that are collected through a curbside residential or commercial collection program; and

WHEREAS, via companion Ordinance No. 17-1411, Metro Council adopted code amendments that require source-separated material recovery facilities to obtain a license, while explicitly exempting those facilities that receive and process a single type of non-putrescible recyclable material; and

WHEREAS, the Code changes adopted in Ordinance No. 17-1411 require that new definitions defining a “conversion technology facility” and “specific material recycler” be added to Metro Code Section 5.00.010; and

WHEREAS, staff engaged in extensive public outreach regarding these proposed Code definitions, including presentations to the Solid Waste Alternatives Advisory Committee (SWAAC) on multiple occasions and a 60-day public comment period that closed on July 14, 2017; and

WHEREAS, on August 9, 2017, staff presented to SWAAC both the public’s comments and staff’s responses to those comments, whereupon SWAAC recommended presenting the proposed Code changes to the Metro Council for consideration; and

WHEREAS, the Metro Council finds that adding these new definitions to Metro Code Section 5.00.010 is necessary to implement the amendments made by Ordinance No. 17-1411; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Section 5.00.010 is amended to add the new terms and definitions as set forth in the attached Exhibit A.

ADOPTED by the Metro Council this \_\_\_\_ day of October 2017.

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Tom Hughes, Council President

Attest:

Approved as to Form:

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Nellie Papsdorf, Recording Secretary

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Alison R. Kean, Metro Attorney

## CHAPTER 5.00

### SOLID WASTE DEFINITIONS

#### 5.00.010 Definitions

**Conversion technology facility** means a facility that uses primarily chemical or thermal processes other than melting (changing from solid to liquid through heating without changing chemical composition) to produce fuels, chemicals, or other useful products from solid waste. These chemical or thermal processes include, but are not limited to, distillation, gasification, hydrolysis, pyrolysis, thermal depolymerization, transesterification and animal rendering, but do not include direct combustion, composting, anaerobic digestion, melting, or mechanical recycling. Mills that primarily use mechanical recycling or melting to recycle materials back into similar materials are not considered to be conversion technology facilities, even if they use some chemical or thermal processes in the recycling process.

**Specific material recycler** means a facility that processes a single type of non-putrescible recyclable material that holds intrinsic value in established reuse or recycling markets. These materials include, but are not limited to, scrap metal, plastic, paper, or other similar commodities. This term does not include a facility that processes commingled source-separated recyclables collected through curbside residential or commercial collection programs.



## **STAFF REPORT**

### **IN CONSIDERATION OF ORDINANCE NO. 17-1410 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.00 TO ADD CERTAIN DEFINITIONS**

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September 22, 2017

Prepared by: Dan Blue  
503-797-1863

Adoption of Ordinance No. 17-1410 will amend Metro Code Chapter 5.00 (Solid Waste Definitions) to add new terms and definitions for “conversion technology facility” and “specific material recycler.” The purpose of these proposed definitions is to provide greater clarity in how Metro authorizes and implements its licensing requirements at solid waste facilities.

This ordinance is a companion to Ordinance No. 17-1411 which proposes related amendments to Metro Code Chapter 5.01 (Solid Waste Facility Regulation) to establish licensing requirements for certain facilities that receive and process source-separated recyclable materials. The Metro Council will consider both of these ordinances collectively at its meetings on October 5 and October 26, 2017.

#### **BACKGROUND**

In an effort to shape the future solid waste system to better attain public benefits and improve 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. Concurrently with this effort, staff seeks to provide a more consistent, transparent, and equitable regulatory framework for the regional solid waste system. Metro will further support this effort by developing the Regional Solid Waste Management Plan during 2017 and 2018.

In August 2015, Metro staff proposed a wide range of changes to Metro’s solid waste code (Metro Code Title V). Metro received feedback from the public requesting a more thorough and transparent process for considering the proposed code changes. In October 2015, Metro Council directed staff to implement an improved and more rigorous process for developing and soliciting feedback on proposed changes to Metro’s solid waste code. As directed by Metro Council, staff implemented a thorough public engagement process for soliciting input on the proposed code changes.

Because Metro is the agency tasked with planning, management, and oversight of the region’s solid waste system, it has an obligation to the public to ensure the waste intended for reuse, recycling and other purposes is handled properly and sent to appropriate markets and that all other waste is safely managed and disposed.

Metro Code currently exempts from licensing certain material recovery and conversion technology facilities that exclusively receive non-putrescible source-separated recyclable

materials that are collected through a curbside residential or commercial collection program. However, collection methods, material composition, and market conditions for source-separated recyclable materials have changed significantly since Metro initially established that regulatory exemption. These significant changes over the years have resulted in greater potential for material degradation at recovery facilities and adverse impacts on neighboring communities.

In December 2015, Metro's Solid Waste Alternatives Advisory Committee (SWAAC) commissioned a subcommittee to consider whether material recovery and conversion technology facilities that receive source-separated recyclable materials should be subject to Metro's licensing and inspection requirements similar to that of other solid waste facilities. Also, if so, the subcommittee was with charged identifying which licensing requirements were appropriate for such material recovery and conversion technology facilities.

The 15-member subcommittee, comprised of industry, local government, nonprofit, and general public representatives, held a series of meetings throughout 2016 and recommended that Metro establish regulatory requirements for certain material recovery and conversion technology facilities that receive and process source-separated recyclable materials. The subcommittee's recommendation was subsequently endorsed by SWAAC. The proposed code amendments described in this ordinance, as well as the companion Ordinance No. 17-1411, reflect SWAAC and the subcommittee's recommendations.

On May 10, 2017, SWAAC recommended that Metro solicit input from the public on the proposed changes and open a 60-day review and comment period. A formal public comment period was open from May 12 through July 14, 2017. The comments received and staff's response to those comments is provided as Attachment 1.

Staff presented the comments received and responses to those comments to SWAAC at its meeting on August 9, 2017. Staff then reviewed the proposed code changes with Metro Council at its work session meeting on September 19 and Council directed staff to bring the proposed code changes forward for formal consideration.

#### **PUBLIC OUTREACH AND ENGAGEMENT:**

As directed by Metro Council in October 2015, staff conducted extensive public outreach and solicited input on the proposed changes to Chapter 5.00. The public outreach for the proposed code changes included:

1. SWAAC review and SWAAC Subcommittee review :
  - (a) December 2015 – SWAAC commissioned a 15-member subcommittee to consider regulation of material recovery and conversion technology facilities. The subcommittee held seven meetings (between January and October 2016) and

recommended that Metro establish authorization requirements for material recovery and conversion technology facilities.

- (b) October 2016 – SWAAC endorsed the subcommittee’s recommendations.
  - (c) May 2017- SWAAC endorsed staff’s draft code changes and the opening of a 60- public review period.
  - (d) August 2017– SWAAC reviewed the public comments received by Metro, staff’s responses, and proposed revisions. SWAAC endorsed presenting the final proposal to Metro Council.
2. Public review and comment period:
- (a) Metro opened a 60-day public review and comment period from May 15 through July 14, 2017.
  - (b) Metro also held two public workshops on May 31 and June 13, 2017 to review the proposal and answer questions.
  - (c) Metro received three written comments related to the proposed code changes (see Attachment 1).
  - (d) Staff prepared a detailed response to the written comments received during the public review period (see Attachment 1).
3. Other outreach:
- (a) Metro established a dedicated web page that was used to post the proposed code change information and related documents at <http://www.oregonmetro.gov/regional-leadership/metro-advisory-committees/solid-waste-alternatives-advisory-committee/material>
  - (b) Staff sent routine status updates and other correspondence to interested parties via email.

## PROPOSED AMENDMENTS TO CHAPTER 5.00

If adopted, this ordinance would add two new terms and definitions to Metro Code Section 5.00.010 as shown in Exhibit A. These proposed definitions are necessary to clarify which types of material recovery and conversion technology facilities will be subject to Metro licensing requirements under proposed companion Ordinance No. 17-1411. The Chief Operating Officer recommends adding the following terms to Metro Code Section 5.00.010:

- 1) **Conversion technology facility** – Add this new term to clearly define what constitutes conversion technology for purposes of Metro Code. The proposed term uses the same definition of *conversion technology* as defined by the state.<sup>1</sup>
- 2) **Specific material recycler** Add this new term in order to clarify which types of facilities are exempt from licensing requirements as proposed under companion Ordinance No. 17-1411.

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<sup>1</sup> Oregon Administrative Rules (OAR) 340-093-0030 (28)

## **ANALYSIS / INFORMATION**

### **1. Known Opposition**

One operator of a material recovery facility within the region is known to oppose the proposed code amendments and licensing requirements for material recovery facilities that receive and process source-separated recyclable material (see Attachment 1). A representative of the facility operator participated on the SWAAC subcommittee which considered this issue and the operator also had the opportunity to provide further input throughout the subsequent public engagement process.

The SWAAC subcommittee and SWAAC subsequently endorsed the proposed code amendments to establish additional regulatory oversight for material recovery and conversion technology facilities that receive and process source-separated recyclable materials.

### **2. Legal Antecedents**

Any change to the Metro Code requires a legislative action of the Metro Council. Metro Code Section 2.01.070 states that the legislative action of Metro shall be by ordinance.

### **3. Anticipated Effects**

Approval of this ordinance would amend Metro Code Section 5.00.010 to add two new defined terms as provided in Exhibit A. The new definitions would take effect 90 days after adoption. If Council also adopts companion Ordinance No. 17-1411, material recovery and conversion technology facilities that receive non-putrescible source-separated recyclable materials that are collected through a curbside residential or commercial collection program would be required to apply for and obtain a solid waste license by January 1, 2019.

### **4. Budget Impacts**

There are no expected budget impacts associated with the adoption of this ordinance.

## **RECOMMENDED ACTION**

The COO recommends adoption of Ordinance No. 17-1410.

**Material Recovery Facility & Conversion Technology Facility Project (MRF/CT)**  
**Compilation of Feedback Received, Metro Response, and Actions Taken**  
**Topic: Proposed Changes to Title V, Chapters 5.00 and 5.01**  
**August 1, 2017**

On May 12 2017, Metro opened a 60-day public review and comment period to solicit input on proposed changes to Metro Code Chapters 5.00 and 5.01 related to the regulation of certain material recovery facilities (MRFs) and conversion technology (CT) facilities. The public comment period closed on July 14, 2017. At that time, Metro also posted preliminary drafts of two proposed administrative rules associated with the Code amendments for informal review and comment. If Metro Council were to adopt amendments to Metro Code, then Metro would subsequently open a formal public review and comment period for the proposed administrative rules as provided in Metro Code Section 5.01.280.

The following is a summary of the written comments that Metro received during the public comment period and Metro's responses to those comments related specifically to the proposed changes to Metro Code. All comments were received in writing by email. A copy of each comment received is also attached to this document.

All documents related to this project are located on Metro's website here:

<http://www.oregonmetro.gov/regional-leadership/metro-advisory-committees/solid-waste-alternatives-advisory-committee/material>

*For questions or concerns regarding the project please contact Dan Blue at 503-797-1863 or [dan.blue@oregonmetro.gov](mailto:dan.blue@oregonmetro.gov).*

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**NOTE:** Due to the length and varied nature of the comments received and for clarity, pertinent sections of the comments are italicized. Responses to those comments are in *bold and are italicized*. Copies of all comments received are attached to the end of this document.

**Scott Farling (SF) representing Agilyx, by email on July 13, 2017:**

**Comment 1.** *5.01.030 (b) should include "conversion to petrochemical products" along with reuse and recycling as accepted means of disposal for source-separated recyclable materials. (Note: 5.01.040 (b) refers back to 5.01.030 (a), (b), (d), and (f).)*

***Metro Response: This suggested change is outside the scope of the current proposed changes to 5.00 and 5.01. No change made.***

**Comment 2.** *5.01.040(a)(4) should include the information under the heading "Characteristics of CT Facilities Exempt from Obtaining a Metro License" from page 10 of the MRF-CT Recommendations for SWAAC Final.*

CT facilities that receive feedstocks that have already been extracted from mixed solid waste and otherwise processed to conform to prescribed specifications and largely resemble commodity feedstocks (material streams) for direct introduction into a conversion technology process may have the following characteristics:

- The facility does not accept unprocessed, mixed solid waste from collection trucks/containers, reload facilities, or other solid waste generators.
- A majority of feedstock material is used productively in conversion process.
- Feedstock specifications are prescribed to conform to the specific conversion technology industrial process requirements.

- Shredding, mixing, right-sizing or other similar treatment of already sorted and processed feedstocks typical in a manufacturing process does not constitute “processing of solid waste”.
- The facility’s receipt and processing of the feedstock presents low potential risk to the environment, or to neighboring businesses and residential communities (e.g., odors, dust, noise, vectors, litter, fire safety etc.).

***Metro Response: The “Characteristics of CT Facilities Exempt from Obtaining a Metro License” were developed to inform the discussion and deliberation of the MRF/CT Subcommittee which led to the Subcommittee’s subsequent recommendations to Metro’s Solid Waste Alternatives Advisory Committee (SWAAC). While this language helps to clarify what types of facilities would be exempt under the proposed code changes, Metro staff does not concur that this level of specificity is needed in the Code and recommends that the proposed code language is sufficient. Metro staff will consider including this level of detail in the draft administrative rules should Council elect to modify the Code as proposed. No change made.***

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**Matt Cusma, Representing Schnitzer Steel, by letter sent by email July 14, 2017:**

Schnitzer Steel Industries appreciates the opportunity to submit these comments on the proposed amendments to Metro Code Chapters 5.00 and 5.01 dated May 12, 2017. The proposed amendments are the result of many months of effort by the Solid Waste Alternatives Advisory Committee’s MRF/CT Subcommittee, other stakeholders, and Metro staff. Schnitzer believes this collaborative approach and deliberate effort to involve stakeholders in the Metro Solid Waste Code revision process improved on the code revisions originally proposed in 2015. Schnitzer commends Metro on this renewed commitment to collaboration and stakeholder engagement at the outset of any discussions regarding whether changes to Metro’s Solid Waste Code are necessary and, if so, what those changes should be.

One purpose of the proposed amendments is to clarify that recyclers that receive and process non-putrescible recyclable material that holds intrinsic value in established reuse and recycling markets (e.g., scrap metal, plastic, paper, and similar commodities) will remain exempt from Metro’s solid waste license and franchise requirements. See Proposed Sec. 5.01.040(a)(5). This exemption appropriately recognizes that these types of recyclable materials are managed as valuable commodities, not waste, and present little risk of harm to human health or the environment. Much of this recyclable material never enters the solid waste stream because of its recycling value. Based on these considerations and others, Metro has long recognized facilities that process such materials as a unique type of commercial recycling facility and has exempted them from solid waste facility licensing requirements. The proposed amendments appropriately codify a specific exemption that covers these types of facilities: the “Specific Material Recycler” exemption.

Schnitzer fully supports the clarification of the Specific Material Recycler exemption, but believes the proposed language is unnecessarily narrow. As drafted, the exemption applies to: “Specific material recyclers that receive and process a single type of nonputrescible recyclable material that holds intrinsic value in established reuse and recycling markets such as scrap metal, plastic, paper, or other similar commodities.” But for recyclers that receive recyclable materials with intrinsic value and manage those materials as valuable commodities, it should not matter whether the recycler receives and processes only a single type of material. That is, eligibility for the exemption should depend on the type of material accepted by the recycler (i.e., recyclable materials that hold intrinsic value in established markets), not whether the recycler accepts more than one type of such material.

**Comment 1.** To address this issue, Schnitzer urges Metro to remove the phrase “a single type of” from the exemption, so that the exemption would apply to specific material recyclers that receive and process “nonputrescible recyclable materials that hold intrinsic value in established reuse and recycling markets, such as scrap metal, paper, or other similar commodities.” The phrase “a single type of” would also need to be removed from the definition of “specific material recycler,” which Metro is proposing to add to Section 5.00.010.

This limited expansion of the Specific Material Recycler exemption would be consistent with the purposes of Metro's solid waste facility regulations. See Sec. 5.01.010(a). Because Schnitzer's proposed changes would not expand or change the types of materials that would fall within the exemption, the proposed changes would not undermine Metro's ability to protect and preserve the health, safety, and welfare of its residents. See Sec. 5.01.010(a)(1). Moreover, the proposed changes would create additional incentive for facilities that receive and process recyclable materials with intrinsic value to reduce the volume of solid waste disposal. See Sec. 5.01.010(a)(4). Schnitzer would welcome the opportunity to discuss this proposed revision to the Specific Material Recycler exemption with Metro staff.

***Metro Response: Use of the phrase "a single type of" is intended to distinguish between a facility that predominately receives multiple homogeneous types of source-separated recyclable materials from a facility that receives commingled source-separated recyclables from curbside commercial and residential collection programs. Staff finds that removing the phrase "a single type of" from the definition of Specific Material Recycler may cause confusion for facility operators as to which types of facilities would be exempted, and which would not. Staff has revised the proposed definition of Specific Material Recycler to include the following statement for additional clarification: "The exemption does not apply to facilities receiving commingled source-separated recyclables collected through curbside residential or commercial collection programs." Staff will also consider providing further clarification of this distinction as part of administrative rule.***

***As such, the proposed definition in Metro Code Section 5.00.010 has been revised to read: "Specific material recycler" means a facility that processes a single type of non-putrescible recyclable material that holds intrinsic value in established reuse or recycling markets. These materials include, but are not limited to, scrap metal, plastic, paper, or other similar commodities. The exemption does not apply to facilities receiving commingled source-separated recyclables collected through curbside residential or commercial collection programs.***

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**Jeff Murray, Representing EFI, by letter send by email July 14, 2017:**

EFI has an interest in and would be effected by the Proposed Ordinances because EFI is located within the Metro Region and receives significant volumes of Commercial Commingled Recyclables collected by EFI trucks and licensed refuse haulers from businesses located inside and outside the Metro Region. A majority of the recycling that EFI processes at its facility on Swan Island is source segregated recyclables (ie OCC, Office Paper and other various grades of recyclables separated by the generator by grade). *Competitors that only receive and process source segregated recyclables will not be subject to licensing by Metro and the requirements associated with licensing, placing EFI in a competitive disadvantage with these facilities.*

**Comment 1.** *EFI opposes the Proposed Ordinances because it is a dramatic change in Metro Code that violates a stated policy in the Metro RSWMP and is in violation of Oregon State Statute (ORS 459A.075).*

***Metro Response: Metro has thoroughly discussed and evaluated the need for this ordinance with a stakeholder subcommittee, SWAAC, the public and Metro Council over the last two years. While EFI states its opposition to this ordinance, Metro staff finds that the proposed amendments to Metro Code are in the public interest. Metro staff has found that many in the solid waste industry, local government officials, and the public are in support of these changes. The 2008 Metro Regional Solid Waste Management Plan (RSWMP) states that certain facilities including those that exclusively handle source-separated recyclable materials "are not required to obtain authorization from Metro to operate." That statement is found in the section of the***

***RSWMP entitled “Current System,” which is intended to simply describe Metro’s current solid waste system. It is a factual statement and not intended to be a policy statement or a prohibition on future regulation.***

***The state law exemption in ORS 459A.075 is not relevant to the proposed Code change. To enjoy this exemption, the recyclable material must be “Purchased from or exchanged by the generator for fair market value for recycling or reuse.” The source-separated recyclable materials covered by the proposed Metro Code changes and administrative rules are not “purchased from or exchanged by the generator for fair market value.” Accordingly, commingled source-separated recyclables from residential and commercial curbside collection programs do not align with this exemption because the collection hauler, under the terms of a solid waste franchise or license with the local government, is providing that collection service and transporting that material to a recovery facility for further processing. There is no direct exchange or purchase from the generator for fair market value for recycling or reuse. Finally, Metro’s definition of solid waste includes source-separated recyclables. No change made.***

***Comment 2. Past reports by staff have downplayed the potential negative impacts of the Proposed Ordinances and we have deep concerns that licensing can place facilities, such as EFI, that handle commingled recyclables and that are located within the Metro Region at a strong disadvantage to those outside the Region.***

***Metro Response: Metro is responsible for and has broad regulatory authority over all solid waste within the region and, in particular, has identified concerns about potential nuisance, odor, litter and dust generated by some facilities. Metro currently issues licenses or franchises to over 30 solid waste facilities within the region to ensure that the region’s solid waste is managed appropriately and that nearby residents and business are not adversely impacted. Currently some MRFs inside the region are subject to Metro authorization while others are not. The proposed legislation would establish similar and consistent requirements for solid waste facilities performing similar functions. No change necessary.***

***Comment 3. The Proposed Ordinances would, through licensing, allow Metro to impose unnecessary requirements on source separated recycling facilities, including design requirements, operating requirements, performance standards and reporting of detailed, confidential account information.***

***Metro Response: No performance standards are being proposed at this time. Operating, design and reporting requirements are being proposed with the full and unanimous support of the MRF/CT Subcommittee and SWAAC and are contained within the draft administrative rules that accompany the proposed Code amendments. No change necessary.***

***Comment 4. To this point there has only been discussion related to already existing administrative rules.***

***Metro Response: Metro does not currently have administrative rules related to the operation or regulation of MRFs that receive source-separated recyclables (SSR). The preliminary administrative rules that staff posted for public review are proposed in draft form for information only.***

***Metro will not adopt an administrative rule related to regulation of SSR MRFs unless the Metro Council first adopts Code amendments that authorizes regulation of SSR MRFs. To date Metro staff has engaged with stakeholders in a variety of ways to solicit input on potential operating requirements for SSR MRFs including initiating an “informal” public comment process related to proposed administrative rules.***

***As part of the public engagement process, the proposed amendments to Code, and preliminary drafts of administrative rules, were provided to SWAAC, MRF/CT Subcommittee members and interested parties on May 2, 2017 and discussed at the May 10, 2017 SWAAC meeting. A stakeholder workshop was held on May 31, 2017 to discuss proposed changes to Code chapters 5.00 and 5.01 as well as draft administrative rules. A second public workshop was also held on June 12, 2017.***



***If the Metro Council adopts the proposed Code changes and requires that SSR MRFs obtain authorization from Metro, then Metro will subsequently open a formal public comment process and hold a public hearing for any proposed administrative rules as provided in Metro Code Chapter 5.01. No change necessary.***

**Comment 5.** *We have two specific concerns related to the administrative rules: 1) Are there more administrative rules to come specifically related to source separated commingle facilities?*

**Metro Response:** *Much useful input was received on the draft administrative rules for both CT and for SSR MRFs during the two stakeholder workshops on May 31 and June 12, 2017 as well as the initial “informal” public comment period on the rules that closed July 14, 2017. If the Metro Council adopts the proposed Code amendments, then staff will revise the draft administrative rules based on the preliminary stakeholder input that has already been provided and will open another public comment period on a revised set of administrative rules as provided in Metro Code Chapter 5.01. No change necessary.*

**Comment 6.** *2) If there are more administrative rules, will there be a committee established to help developed these rules before Metro Council votes on the Proposed Ordinances? Without finalized Administrative Rules, we do not yet know what the full implication of licensing will mean to our business.*

**Metro Response:** *The proposed administrative rules that will accompany the Code amendment package will be open to a formal public review period and hearing process if the proposed Code changes are adopted by Metro Council. Adoption of any subsequent amendments or new administrative rules would be considered as provided in Metro Code Section 5.01.280. No change necessary.*

EFI may be harmed and the regional refuse / recycling system as a whole may suffer unintended consequences by the Proposed Ordinances for the following reasons:

- 1) Within the City of Portland, recycling facilities in the appropriate zones have outright use. Solid waste facilities are not allowed within some of the zones and need conditional use in the limited number of zones that they are allowed.

**Comment 7.** *In the event that EFI became a licensed solid waste facility, we may need conditional use to make any significant changes to our facility. This is particularly troubling if Metro were to require the changes.*

**Metro Response:** *Metro staff has researched this issue, which was raised and discussed in the MRF/CT Subcommittee and with city of Portland officials. Metro has not received any evidence suggesting that local land use decisions would, or have been, influenced by the issuance of a Metro solid waste license. The actual “use” of EFI’s property remains unchanged regardless of Metro’s proposed licensing requirements. Because land use regulations are based on “use” of the property, then a Metro requirement to license a facility should not automatically change any land use decisions affecting that property if the use remains the same. As indicated in the referenced “attachment A” Table 140-1 (a City of Portland planning document) “Industrial Service (Includes Recycling)” is an outright approved use. No change made.*

- 2) Currently, most of the commingled recyclables collected in the state of Oregon are received and sorted at facilities within the Metro region. In the event that Metro were to license commingle recycling facilities within the region the following may happen:

**Comment 8.**

- a. *Commingled recyclables collected outside the region that are currently delivered to facilities within the region may travel to facilities currently outside the region. This would raise the cost per ton to receive and sort the material that continues to be delivered to the facilities*

*within the Metro region. Fewer commingle tons also raises the per ton cost to handle source segregated recyclables (separated by type), placing EFI at a competitive disadvantage on our segregated portion of our business.*

- b. Commingled recyclables collected in the region may be delivered, or reloaded and delivered to facilities outside the region. There is a commingled recycling facility located in Salem, OR that may draw commingle material from the south end of the region and there are a number of facilities in the Puget Sound area that are currently running under capacity. The facilities in the Puget Sound market are much closer to the port. A few dollars difference in pricing and more stringent controls on the commingled material may be enough to send the material north to facilities owned by haulers that also provide collection service in the metro area.*
- c. Licensing of commingle recycling facilities in the Metro region may cause recyclers currently in the region to relocate outside the region.*

***Metro Response: The concerns outlined in a – c above are speculative. Metro’s intent in this Code change package is to ensure that nuisance, odor, vector, dust and litter impacts for residents and businesses located nearby MRFs and CT facilities are minimized. There is no evidence to suggest that the proposed changes to Code are likely to result in any of the impacts outlined above (comments a. – c.) for facilities that are already meeting the minimum standards proposed in the rules. No change necessary.***

**Comment 9.** *The result of Metro licensing facilities that handle commingled recycling may result in giving Metro and local governments less information about and control over the source separated commingled recyclables collected in the region.*

***Metro Response: This is both speculative and contrary to the expected outcome of the proposed changes. Staff believes that adoption of these changes will result in a much better understanding of the regional solid waste system and that many information gaps will be filled in that will better inform future policy choices and planning efforts. No change made.***

#### **Metro’s Authority to Regulate Solid Waste**

**Comment 10.** *EFI does not question Metro’s authority to regulate solid waste; however, we do not agree that source separated recycling and / or source separated commingled recycling are solid waste, therefore Metro does not have the authority to license source separated recycling facilities. The primary document that gives Metro its authority over disposal and solid waste also exempts source separated recyclables that meet specific, yet broad criteria.*

**459A.075 Exemptions.** *Nothing in ORS 459.005, 459.015, 459.035, 459.250, 459.992, 459.995 and 459A.005 to 459A.665 applies to recyclable material which is: (1) Source separated by the generator; and (2) Purchased from or exchanged by the generator for fair market value for recycling or reuse. [Formerly 459.192]. The source separated recycling described above is exempted from all pertinent sections of 459 and 459A.*

***Metro Response: Metro staff recommends the following passage of the Oregon Recycling Opportunity Act in 1983 as a point of reference. In 1984, the Oregon Department of Environmental Quality (DEQ) sought legal advice from the Oregon Attorney General as to whether recyclable material was still considered “solid waste” for regulatory purposes under state law. The specific question was whether facilities “that receive only source separated recyclable materials [were] now exempt by definition, from the Department’s solid waste management rules?” (See Oregon Department of Justice letter to William Dana, DEQ, dated June 21, 1984.) The Oregon Department of Justice unequivocally stated that “recyclable material” is considered “solid waste” for regulatory purposes. The Attorney General’s Office further explained:***

*“The overall policy of the Act, the expressed concerns of individual legislators, and the specific language of particular sections all indicate that the Legislative Assembly intended that ‘recyclable material’ continue to be a sub-category of ‘solid waste,’ and that facilities for collecting and sorting recyclable materials continue to be regulated as ‘disposal sites.’*

*\* \* \**

*[I]t appears to be the intent that DEQ continue to have power to regulate materials which meet the definition of ‘solid waste,’ whether such materials are recyclable or not.”*

*For similar Oregon Department of Justice interpretations, see Memorandum from Assistant Attorney General Larry Edelman to DEQ, dated February 27, 1996, and Letter from Assistant Attorney General Larry Edelman to Mark Morford, dated November 4, 2002.*

*In addition, ORS 268.317(8) gives Metro explicit statutory authority to “Receive, accept, process, recycle, reuse and transport solid and liquid wastes.” This statute indicates that the legislature considers “recyclable materials” as a sub-category of “solid waste.” Further, the definition of “Solid Waste Management” in ORS 459.005 (25) references “recycling” from “solid waste.”*

*Finally, it is not entirely clear what is meant by the comment: “The primary document that gives Metro its authority over disposal and solid waste also exempts source separated recyclables that meet specific, yet broad criteria.” Metro’s sources of solid waste legal authority are its home rule Charter, the Metro Code, the RSWMP, Oregon Revised Statutes (ORS) Chapters 268, 459 and 459A.*

*NOTE: The state law exemption in ORS 459A.075 is not relevant to the proposed Code change. To enjoy this exemption, the recyclable material must be “Purchased from or exchanged by the generator for fair market value for recycling or reuse.” The source-separated recyclable materials covered by the proposed Metro Code changes and administrative rules are not “purchased from or exchanged by the generator for fair market value.” Accordingly, commingled source-separated recyclables from residential and commercial curbside collection programs do not align with this exemption because the collection hauler, under the terms of a solid waste franchise or license with the local government, is providing that collection service and transporting that material to a recovery facility for further processing. There is no direct exchange or purchase from the generator for fair market value for recycling or reuse. No change made.*

### **Why Regulate Commingle Recycling Facilities?**

The answers that we have been given by staff were primarily related to storage of recycling and “house-keeping”. Local regulators had concerns that certain recycling facilities were stock-piling large volumes recyclable materials outside. In a few cases, for extended period. This caused a concern that the facilities were becoming nuisances and that the material would degrade and become unmarketable. There was also a general concern related to the house-keeping at these same facilities. Before the MRF / CT Subcommittee held its last meeting, the electronics recycler in Washington County was cited by DEQ and closed its doors shortly thereafter, and a commingle facility that was of concern shuttered its business.

**Comment 11.** *Metro has stated in the 2008 RSWMP: “Certain facilities, such as those exclusively handling inert wastes or source-separated recyclable materials, are not required to obtain authorization from Metro to operate. However, Metro retains the authority to inspect and audit these operations to periodically confirm compliance with Metro Code.” Similar language also existed in the 1995 RSWMP. EFI asks the following questions: 1) When and how often has Metro exercised this Authority?*

**Metro Response:** *Metro staff have periodically visited SSR MRFs over the years to determine if they meet the exemption criteria provided in Metro Code Section 5.01.040(a)(3) i.e. exclusively accepting source-separated recyclable materials. However, under current Code requirements, such visits are typically pre-scheduled with the operator and performed for the purpose of determining whether the facility exclusively receives source-separated recyclable materials for reuse or recycling. Currently, SSR MRFs are not subject to licensing or franchising requirements and Metro does not have any authorization mechanisms in place to establish and enforce operating conditions at these types of facilities.*

**Comment 12.** *2) What has the response been by facilities that handle commingled recyclables when Metro has informed the facility operators that the facility is out of compliance?*

**Metro Response:** *As explained in Metro's response above, SSR MRFs are not subject to licensing or franchising requirements under current Metro Code. Metro does not have any authorization mechanisms in place at this time to establish and enforce operating conditions at these types of facilities. As stated earlier, Metro's intent with these proposed changes is to minimize nuisance, odor, vector, litter and dust from these operations, and to avoid material degradation due to improper handling. Given that local, national and global commodity markets ebb and flow, it is critical that periodic unannounced, random site visits are conducted to reduce undue impacts on communities.*

**Comment 13.** *3) Has any facility that handles source separated commingled recyclables turned down a request by Metro to enter the property or to respond in a positive manner when metro staff has recommended / requested a change to improve their operation?*

**Metro Response:** *As explained in Metro's response above, Metro staff have periodically visited SSR MRFs over the years to determine if they meet the exemption criteria provided in Metro Code Section 5.01.040(a)(3). Currently, such visits are typically pre-scheduled, limited in scope, and subject to approval by the operator. Metro staff has found that SSR MRF operators have generally accommodated Metro's requests to allow site access over the years. However, Metro does not have any authorization mechanisms in place to require site access or other operating conditions at these types of facilities.*

**Comment 14.** *Regulation of commingle facilities will have little if any positive impact on the quality of the outgoing product from commingle facilities.*

**Metro Response:** *Improving the quality of outgoing materials is not an objective of this proposed Code change. However, the proposed regulations will likely have a positive impact in those cases in which source-separated recyclable materials are either stored or mishandled in such a way as to lead to significant degradation of that material (as Metro staff has observed at one MRF in the region) making that material unmarketable. Additionally, the proposed regulations will likely have a positive impact on the people living and working nearby these types of facilities in that it will result in establishing operating requirements that will help minimize nuisance conditions such as litter, dust, and vectors.*

#### **Material recovery facility (MRF) and conversion technology (CT) Subcommittee**

EFI has several concerns regarding the process followed in developing the final draft recommendations. A primary concern is that the end product is no different than what was presented at the end of summer, 2015.

**Comment 15.** *The committee process did not address the initial concerns of the recycling community and local governments that brought about their initial support for oversight / regulation of these facilities.*

**Metro Response:** *The MRF/CT Subcommittee was charged with considering whether MRFs that process source-separated recyclable materials and facilities that convert waste to energy, fuel, or other products should be subject to authorization and inspection similar to other facilities and if so to identify which requirements were appropriate. The MRF/CT Subcommittee deliberated over the course of seven meetings*

*with the result being unanimous support for a set of recommendations that included authorizing material recovery facilities processing source-separated recyclables and establishing operating standards for those facilities. The MRF/CT Subcommittee, SWAAC, and Metro Council were clear that the scope of the subcommittee did not include performance standards (material quality) and that consideration of performance standards should be addressed through the upcoming regional waste planning process. No change made.*

**Comment 16.** *Further, I brought forward a motion to recommend Certification of Commingle Recycling Facilities as an alternative to licensing and staff interrupted the motion and later made their own. (Attachment B)*

**Metro Response:** *The MRF/CT subcommittee did receive a copy of Mr. Murray's certification proposal, and did discuss third-party certification as well as a Metro-issued certificate, license, or franchise. Through deliberation, the subcommittee elected to focus on a broader statement recommending that such facilities be subject to a Metro "authorization." Metro Code provides for two types of facility authorizations - solid waste license or franchise. Rather than creating a third type of authorization and developing an additional apparatus in Code, staff recommended removing the current licensing exemption for this type of facility. Therefore, Metro staff recommends using a solid waste license as the form of authorization for this particular class of facility. This approach is consistent with current Code, and Metro's current regulatory oversight of the region's solid waste system.*

**Comment 17.** *Why didn't Metro staff tell members at this second meeting that their list of issues would NOT be addressed in the sub-committee?*

**Metro Response:** *The deliberation of the Subcommittee, taken in whole, addressed many of the issues included in Mr. Murray's comment letter attached to this document. Those issues not specifically addressed in the subcommittee were identified to be better suited to the upcoming regional waste planning process.*

*This information was clearly articulated, as mentioned in these public comments, at the Subcommittee's March 17 meeting (Meeting No. 3). The summary notes for the above-mentioned meeting are available on the Metro website at: <http://www.oregonmetro.gov/regional-leadership/metro-advisory-committees/solid-waste-alternatives-advisory-committee/material>.*

*Mr. Murray began his presentation indicating that it had been mentioned many times in the Subcommittee that so called "clean mrf's" and "dirty mrf's" were similar now, and that his presentation was to show that they are still very different. Mr. Murray then showed a series of slides from both types of facilities indicating that dry waste facilities and SSR MRFs were indeed different in terms of the mixes of materials they receive and the composition of materials leaving the facilities (both to markets and to landfill). Mr. Murray showed a short video from a dry waste MRF and clarified that the outgoing residuals from the two different types of facilities were quite different with far more residuals going to landfill from the dry waste facilities that what comes out of the SSR MRF's.*

*During the same meeting Jeff made a motion to consider Certification as an option. The motion was interrupted by staff and staff asked if they could first give their presentation.*

**Comment 18.** *Jeff was not given another opportunity to present his motion.*

**Metro Response:** *At the May 20 meeting the various available options for "authorization" of these types of facilities was discussed. The Subcommittee discussed the certification option, and coalesced around the suggested language that ultimately became the key recommendation contained in the*

*MRF/CT Recommendation Memo. Mr. Murray's (and EFIs) focus on the certification is acknowledged and was well-represented in Subcommittee discussions, however the rest of the MRF/CT Subcommittee seemed comfortable with the broader term "authorization" for its recommendations going forward and reliance on staff to recommend the exact type of appropriate authorization. This position is further evidenced by the thorough review, editing, and subsequent adoption of the final MRF/CT Recommendation Memo dated October 5, 2016. Finally, it is Metro staff's recommendation that licenses are the appropriate legal form of authorization for this class of facility. Metro licenses can be developed to address conditions specific to a class of facilities. A Metro-issued certificate would only be a different name for a Metro-issued authorization – and it would not be any more restrictive or expansive than a license.*

**Has Metro Council and / or staff discussed the possibility of:**

**Comment 19.** 1) *Building or utilizing an existing facility the purpose of sorting source separated commingled recycling collected within the Metro region?*

2) *Bidding out the processing of source separated commingled recycling collected within the Metro region?*

3) *Flow controlling source separated commingled recycling collected within the Metro region to either a publicly or privately-owned facility?*

**Metro Response:** *The three questions above are not relevant to the proposed changes to Metro Code Chapters 5.00 and 5.01 for which Metro has sought public comment. Metro entering into any of the activities described above would be the result of a policy decision. Policy direction comes from Metro Council. Metro Council has not directed staff to explore any of the three activities described in the questions above.*

**Comment 20.** *EFI requests that Metro re-instate the policy stated in Objective 4.3 of the Metro 1995 RSWMP in the RSWMP currently under development.*

**Metro Response:** *Thank you for this comment. It is, however, not related to the proposed changes to Metro Code. Please be sure to provide these comments through the Regional Waste Plan process. Information is available here: <http://www.oregonmetro.gov/public-projects/future-garbage-and-recycling>. No change made.*

**Conclusion**

In summary, EFI appreciates the opportunity to comment on the Proposed Ordinances. We request that Metro staff and Council give serious consideration to the concept of certification of source separated commingled recycling facilities. We continue to ask the question:

**Comment 21.** *Why does Metro need to license source separated commingled recycling facilities when they have not fully exercised their "authority to inspect and audit these operations to periodically confirm compliance with Metro Code."*

**Metro Response:** *While code provides "authority to inspect and audit these operations to periodically confirm compliance with Metro Code" the Code does not include sufficient details or operating requirements related to the operation of these types of facilities. The MRF/CT Subcommittee and SWAAC, have endorsed additional regulatory oversight including establishing design and operating standards as well as reporting for SSR MRFs. The proposed removal of the licensing exemption for*

***this class of facilities accomplishes the recommendations of the Subcommittee and SWAAC. No change made.***

**Administrative Rule Process:**

The comments received and responded to in this document were focused entirely on the proposed changes to Metro Code Chapters 5.00 and 5.01. When the proposed code changes were put out for public comment, Metro also posted preliminary drafts of two proposed administrative rules associated with the Code amendments for informal review and comment. Staff received comments on the draft administrative rules from the following:

- Keith Ristau, Far West Recycling
- Andy Kahut, KB Recycling
- Dave Claugus, Pioneer Recycling
- Chris McCabe, Northwest Pulp and Paper Association

If Metro Council adopts the proposed changes to Metro Code Chapters 5.00 and 5.01, Metro will subsequently adopt administrative rules as provided in Metro Code Section 5.01.280. Specifically, staff will post revised, draft administrative rules for public review and comment which will take into consideration the preliminary input that Metro received during the informal comment period that ended on July 14, 2017. At the conclusion of the next public comment period for the proposed rules, Metro staff will provide written responses to all comments received during the formal public comment period.

All project materials are located on Metro's website here: <http://www.oregonmetro.gov/regional-leadership/metro-advisory-committees/solid-waste-alternatives-advisory-committee/material>

Questions or concerns regarding the project can be directed to Dan Blue at 5023-797-1863 or [dan.blue@oregonmetro.gov](mailto:dan.blue@oregonmetro.gov).

Agenda Item No. 6.2

**Ordinance No. 17-1411**, For the Purpose of Amending Metro Code Chapter 5.01 to Establish Licensing Requirements for Certain Facilities that Receive and Process Source-Separated Recyclable Materials and Make Housekeeping Changes

*Ordinances (First Reading and Public Hearing)*

Metro Council Meeting  
Thursday, October 5, 2017  
Metro Regional Center, Council Chamber



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO )  
CODE CHAPTER 5.01 TO ESTABLISH )  
LICENSING REQUIREMENTS FOR CERTAIN )  
FACILITIES THAT RECEIVE AND PROCESS )  
SOURCE-SEPARATED RECYCLABLE )  
MATERIALS AND MAKE HOUSEKEEPING )  
CHANGES )

ORDINANCE NO. 17-1411  
Introduced by Chief Operating Officer Martha  
Bennett in concurrence with Council  
President Tom Hughes

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

WHEREAS, Metro Solid Waste Code Chapter 5.01 contains the requirements for Solid Waste Facility Regulation, including regulation of material recovery facilities; and

WHEREAS, Metro has previously exempted from regulation those material recovery facilities that exclusively receive non-putrescible source-separated recyclable materials that are collected through a curbside residential or commercial collection program; and

WHEREAS, collection methods, material composition, and market conditions for non-putrescible source-separated recyclable materials have changed significantly since Metro established the previous regulatory exemption; and

WHEREAS, these significant changes have increased the potential for material degradation, as well as the potential for adverse impacts from the facilities on neighboring communities; and

WHEREAS, the various amendments to Chapter 5.01 include removing licensing exemptions for certain material recovery facilities that receive non-putrescible source-separated recyclable materials that are collected through a curbside residential or commercial collection program; and

WHEREAS, staff engaged in extensive public outreach regarding these proposed Code changes, including presentations to the Solid Waste Alternatives Advisory Committee (SWAAC) on multiple occasions and a 60-day public comment period that closed on July 14, 2017; and

WHEREAS, on August 9, 2017, staff presented to SWAAC both the public's comments and staff's responses to those comments, whereupon SWAAC recommended presenting the proposed Code changes to the Metro Council for consideration; and

WHEREAS, the proposed amendments to Chapter 5.01 also include non-substantive housekeeping changes to delete references to requirements that are no longer effective, correct misnumbered cross-references, and clarify when certain documents and payments are due; and

WHEREAS, the Metro Council finds that these amendments to Metro Code Chapter 5.01 will further the goals of the agency and better protect the environment and the public's health; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Chapter 5.01 is amended as set forth in the attached Exhibit A.

ADOPTED by the Metro Council this \_\_\_\_ day of October 2017.

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Tom Hughes, Council President

Attest:

Approved as to Form:

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Nellie Papsdorf, Recording Secretary

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Alison R. Kean, Metro Attorney

**CHAPTER 5.01**

**SOLID WASTE FACILITY REGULATION**

Section Title

**GENERAL PROVISIONS**

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5.01.020 Authority and Jurisdiction  
5.01.030 Prohibited Activities  
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**APPLICATIONS FOR SOLID WASTE FACILITY LICENSES**

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**APPLICATIONS FOR SOLID WASTE FACILITY FRANCHISES**

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**OBLIGATIONS AND LIMITATIONS FOR SOLID WASTE FACILITIES**

5.01.250 General Obligations of All Regulated Parties  
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5.01.270 Direct Haul of Putrescible Waste

**REGULATORY ADMINISTRATION OF SOLID WASTE FACILITIES**

5.01.280 Authority of Chief Operating Officer to Adopt and Amend Rules, Standards, and Forms  
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**ENFORCEMENT AND APPEALS**

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**MISCELLANEOUS PROVISIONS**

5.01.350 Miscellaneous Provisions

Repealed

5.01.010 Definitions

(Repealed Ord. 14-1331)

5.01.065 Issuance and Contents of Certificates

(Repealed Ord. 03-1018A Sec. 7)

5.01.080 Term of Franchise

(Repealed Ord. 98-762C Sec. 21)

5.01.085 Franchises for Major Disposal System Components

(Repealed Ord. 98-762C Sec. 21)

5.01.190 Right to Purchase

(Repealed Ord. 98-762C Sec. 46)

5.01.230 – Additional Provisions Relating to the Licensing of Yard Debris Processing

5.01.380 Facilities and Yard Debris Reload Facilities

(Repealed Ord. 98-762C Sec. 49)

5.01.130 Administrative Procedures for Franchisees

(Repealed Ord. 98-762C Sec. 29)

5.01.131 Designation and Review of Service Areas and of Demand

(Repealed Ord. 12-1272 Sec. 4)

5.01.160 Reports from Collection Services

(Repealed Ord. 98-762C Sec. 42)

5.01.210 Acceptance of Tires at a Disposal Site

(Repealed Ord. 98-762C Sec. 48)

5.01.220 Additional Provisions Relating to Issuance of a Franchise for a Facility

Processing Petroleum Contaminated Soil

(Repealed Ord. 98-762C Sec. 48)

5.01.400 Treatment of Existing Licenses and Franchises

(Repealed Ord. 03-1018A Sec. 23)

## **GENERAL PROVISIONS**

### **5.01.010 Purpose**

- (a) This chapter governs the regulation of solid waste disposal sites and solid waste facilities within Metro. The purposes of this chapter are to:
  - (1) Protect and preserve the health, safety and welfare of Metro's residents;
  - (2) Implement the Regional Solid Waste Management Plan cooperatively with federal, state and local agencies;
  - (3) Provide a coordinated regional disposal and resource recovery program and a solid waste management plan to benefit all citizens of Metro; and
  - (4) Reduce the volume of solid waste disposal through source reduction, recycling, reuse and resource recovery.
- (b) The provisions of this chapter shall be liberally construed to accomplish these purposes. [Ord. 81-111, Sec. 3; Ord. 95-621A, Sec. 2; Ord. 98-762C, Secs. 2-3; Ord. 02-974; Ord. 16-1387.]

### **5.01.020 Authority and Jurisdiction**

- (a) Metro's solid waste regulatory authority is derived from the Oregon Constitution, ORS Chapter 268 for solid waste and the Metro Charter. It includes authority to regulate solid waste generated or disposed within Metro and all solid waste facilities located within Metro.
- (b) All solid waste regulation is subject to the authority of all other applicable laws, regulations or requirements in addition to those contained in this chapter. Nothing in this chapter is intended to abridge or alter the rights of action by the State or by a person which exist in equity, common law, or other statutes to abate pollution or to abate a nuisance. [Ord. 98-762C, Secs. 4-5; Ord. 02-974; Ord. 16-1387.]

### **5.01.030 Prohibited Activities**

Except as otherwise provided in this chapter, or in Metro Code Chapter 5.05, it is unlawful for:

- (a) Any person to establish, operate, maintain or expand a solid waste facility or disposal site within Metro without an appropriate license or franchise from Metro.
- (b) Any person or solid waste facility to either (1) mix source-separated recyclable material with other solid waste in any vehicle, box, container or receptacle used in solid waste collection or disposal, or (2) to dispose of source-separated recyclable material by any method other than reuse or recycling. As used in this subsection, "reuse or recycling" includes the transfer, transport or delivery of such materials to a person or facility that will reuse or recycle them.

- (c) A licensee or franchisee to receive, process or dispose of any solid waste unless authorized by the license or franchise.
- (d) Any person to transport any solid waste to or to dispose of any solid waste at any place other than a solid waste facility or disposal site that is operated by a licensee or franchisee or is otherwise exempt under Section 5.01.040.
- (e) A licensee or franchisee to violate or fail to meet the rules, performance standards, procedures, and forms adopted pursuant to Section 5.01.280.
- (f) Any person to treat or dispose of petroleum contaminated soil by ventilation or aeration except at the site of origin.
- (g) Any person to store electronic device waste uncovered and outside of a roofed structure. [Ord. 81-111, Sec. 4; Ord. 87-217, Sec. 1; Ord. 95-621A, Sec. 3; Ord. 98-762C, Sec. 6; Ord. 02-974; Ord. 03-1018A, Sec. 2; Ord. 06-1102, Sec. 1; Ord. 16-1387.]

### 5.01.040 Exemptions to Prohibited Activities

- (a) The provisions of this chapter do not apply to:
  - (1) Municipal or industrial sewage treatment plants accepting sewage, sludge, septic tank and cesspool pumpings or other sludge.
  - (2) Disposal sites, transfer stations, or solid waste facilities owned or operated by Metro, except that Metro must pay regional system fees per Section 5.01.300.
  - ~~(3) Facilities that (A) exclusively receive non-putrescible source-separated recyclable materials, and (B) reuse or recycle those materials, or transfer, transport or deliver those materials to a person or facility that will reuse or recycle them.~~
  - ~~(3) Conversion technology facilities that exclusively receive non-putrescible waste for use as feedstock that has been:
    - ~~(A) Extracted from other solid waste: and~~
    - ~~(B) Processed to meet prescribed specifications for direct introduction into a conversion technology process.~~~~
  - ~~(4) Specific material recyclers that receive and process a single type of non-putrescible recyclable material that holds intrinsic value in established reuse and recycling markets such as scrap metal, plastic, paper, or similar commodities.~~
  - ~~(4)(5) Facilities that exclusively receive, process, transfer or dispose of inert waste.~~
  - ~~(5)(6) Persons who generate and maintain residential compost piles for residential garden or landscaping purposes.~~
  - ~~(6)(7) Residences, parks, community gardens and homeowner associations.~~

~~(7)~~(8) Universities, schools, hospitals, golf courses, industrial parks, and other similar facilities, if the landscape waste or yard debris was generated from the facility's own activities, the product remains on the facility grounds, and the product is not offered for off-site sale or use.

~~(8)~~(9) An operation or facility that processes wood wastes, unless:

(A) The wood wastes are processed for composting; or

(B) The operation or facility is other-wise regulated under this chapter.

~~(9)~~(10) Temporary transfer stations or processing centers established and operated by a government for 60 days or less to temporarily receive, store or process solid waste, provided that Metro finds an emergency situation exists.

~~(10)~~(11) Persons who own or operate a mobile facility that processes petroleum contaminated soil at the site of origin and retains any treated petroleum contaminated soil on the site of origin.

- (b) Notwithstanding Section 5.01.040(a), all persons must comply with Sections 5.01.030(a), (b), (d) and (f).
- (c) The provisions of Section 5.01.290 apply to the activities and facilities described in Sections 5.01.040(a)(3) through 5.01.040(a)(~~10~~11). [Ord. 81-111, Sec. 5; Ord. 82-136, Sec. 1; Ord. 91-422B, Sec. 2; Ord. 95-621A, Sec. 4; Ord. 98-762C, Sec. 7; Ord. 00-866, Sec. 2; Ord. 02-933, Sec. 1; Ord. 02-974; Ord. 03-1018A, Sec. 3; Ord. 06-1102, Sec. 2; Ord. 07-1147B, Sec. 2; Ord. 16-1387.]

## **APPLICATIONS FOR SOLID WASTE FACILITY LICENSES**

### **5.01.050 License Requirements and Fees**

- (a) A Metro solid waste license is required of any person owning or controlling a facility at which the person performs any of the following activities:
  - (1) Processing non-putrescible waste.
  - (2) Processing petroleum contaminated soil by thermal destruction, distillation, bioremediation, or by any other methods that destroy or remove such petroleum contamination from the soil.
  - (3) Processing of yard debris or yard debris mixed with residential food waste.
  - (4) Reloading solid waste.
  - (5) Processing wood waste for use as an industrial fuel if such facility is otherwise regulated under this chapter.
- (b) The annual fee for a solid waste license may not exceed \$300.00.
- (c) The application fee for a new or renewal license is \$300.00. The application fee is due at the time of filing.
- (d) The annual solid waste license fee is in addition to any other fee, tax or charge imposed upon a licensee.

- (e) The licensee must pay the license fee in the manner and at the time required by the Chief Operating Officer. [Ord. 81-111, Sec. 15; Ord. 98-762C, Secs. 8-9; Ord. 98-762C, Sec. 40; Ord. 98-767, Sec. 5; Ord. 00-866, Sec. 3; Ord. 02-933, Sec. 2; Ord. 02-974; Ord. 03-1018A, Sec. 4; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.060 Pre-Application Conference for Licenses**

- (a) An applicant for a new license must attend a pre-application conference. The purpose of the conference is to provide the applicant with information regarding the requirements for the proposed facility and to have the applicant describe the proposed facility's location, site conditions and operations.
- (b) If an applicant for a new license does not file an application for a license within one year from the date of the pre-application conference, the applicant must attend a subsequent pre-application conference before filing another application. [Ord. 98-762C, Secs. 11-12; Ord. 02-974; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.070 Applications for Licenses**

- (a) An applicant for a new or renewal license must file the application on forms or in the format required by the Chief Operating Officer.
- (b) The applicant must include a description of the activities the applicant proposes to conduct and a description of the waste it seeks to accept.
- (c) A license application must also include the following information:
  - (1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the license term;
  - (2) A copy of all applications for necessary DEQ permits, any other information required by or submitted to DEQ, and a copy of any DEQ permits;
  - (3) A copy of any closure plan that DEQ requires, including documents demonstrating financial assurance for the costs of closure. If DEQ does not require a closure plan, the applicant must provide a closure document describing closure protocol for the solid waste facility at any point in its active life;
  - (4) Signed consent by the property owner(s) agreeing to the proposed property use. The consent must also disclose the applicant's property interest and the duration of that interest. The consent must include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.320(f) if Metro revokes the license or refuses any license renewal;
  - (5) Proof that the applicant has received proper land use approval; or, if the applicant has not obtained land use approval, then a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal



sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. The recommendation may include, but is not limited to, a statement of compatibility of the site, the solid waste disposal facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the statewide planning goals of the Land Conservation and Development Commission; and

- (6) Any current permit and a list of anticipated permits that a governmental agency may require. If the applicant has previously applied for a permit, the applicant must provide a copy of that permit application and any permit that any other government agency granted. [Ord. 81-111, Sec. 7; Ord. 82-136, Sec. 2; Ord. 91-422B, Sec. 3; Ord. 95-621A, Sec. 5; Ord. 98-762C, Sec. 13; Ord. 00-866, Sec. 4; Ord. 02-974; Ord. 03-1018A, Sec. 5; Ord. 04-1056, Sec. 1; Ord. 05-1093, Sec. 1; Ord. 06-1098B, Sec. 1; Ord. 06-1101; Ord. 07-1139, Sec. 1; Ord. 07-1161, Sec. 1; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.080 License Issuance**

- (a) The Chief Operating Officer may approve or deny license applications and impose conditions on any approved license as the Chief Operating Officer considers appropriate.
- (b) The Chief Operating Officer may make any investigation regarding the application information as the Chief Operating Officers considers appropriate. This includes the right of entry onto the applicant's proposed site.
- (c) Before approving or denying a license application, the Chief Operating Officer must provide public notice and an opportunity for public comment on the license application.
- (d) The Chief Operating Officer will determine if the proposed license meets the requirements of Section 5.01.070 based on the:
  - (1) Submitted application,
  - (2) Chief Operating Officer's investigation regarding the application information, and
  - (3) Public comments.
- (e) If the Chief Operating Officer does not approve or deny a new license application within 180 days after the applicant files a complete application, the license is deemed granted for the solid waste facility or activity requested in the application. The deadline for the Chief Operating Officer to approve or deny an application may be extended as provided in this section. If a license is issued pursuant to the subsection, then the license will contain the standard terms and conditions included in other comparable licenses issued by Metro.

- (f) At any time after an applicant files a complete license application, the deadline for the Chief Operating Officer to approve or deny the application is extended if:
  - (1) The applicant substantially modifies the application during the review period, in which case the 180 days review period for the Chief Operating Officer to act is restarted as of the date Metro receives the applicant's modifications; or
  - (2) The applicant and Chief Operating Officer mutually agree to extend the deadline for a specified time period.
- (g) An applicant may withdraw its application at any time before the Chief Operating Officer's decision and may submit a new application at any time thereafter.
- (h) If the Chief Operating Officer denies a license request, the applicant may not file a new application for the same or substantially similar license for at least six months from the denial date. [Ord. 98-762C, Secs. 16-17; Ord. 02-974; Ord. 03-1018A, Sec. 8; Ord. 06-1098B, Sec. 2; Ord. 07-1138, Sec. 1; Ord. 07-1139, Sec. 2; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.090 License Contents**

- (a) A license will specify authorized activities, the types and amounts of wastes the solid waste facility may accept, and any other conditions the Chief Operating Officer imposes.
- (b) In addition to this section's requirements, if a license authorizes the licensee to accept mixed non-putrescible waste for the purpose of conducting material recovery or reloading, the license is subject to the rules, procedures, performance standards, design requirements, and operating requirements adopted pursuant to Section 5.01.260.
- (c) The license must require that the facility operate in a manner that meets the following general performance goals:
  - (1) Environment. It is designed and operated 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.
  - (2) Health and Safety. It is designed and operated to avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.
  - (3) Nuisances. It is designed and operated to avoid nuisance conditions including, but not limited to, litter, dust, odors, and noise.
  - (4) Material Recovery. Facilities that conduct material recovery on non-putrescible waste must be designed and operated to recover materials in a timely manner, to meet standards in Section 5.01.260, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.

- (5) Reloading. Facilities that reload non-putrescible waste must be designed and operated to rapidly and efficiently reload and transfer that waste to a Metro authorized processing facility while protecting the quality of non-putrescible waste that has not yet undergone material recovery.
  - (6) Record-keeping. A licensee must maintain complete and accurate records of the amount of all solid waste and recyclable materials that it receives, recycles, reloads or disposes.
- (d) A license term may not exceed five years, except that the Chief Operating Officer may extend the license term for up to one year. [Ord. 98-762C, Secs. 16-17; Ord. 02-974; Ord. 03-1018A, Sec. 8; Ord. 06-1098B, Sec. 2; Ord. 07-1138, Sec. 1; Ord. 07-1139, Sec. 2; Ord. 14-1332; Ord. 16-1387.]

### **5.01.100 Record-keeping and Reporting for Licenses**

- (a) A licensee must maintain accurate records of the information that the Chief Operating Officer requires. A licensee must report the required information on the forms, in the format and within the reporting periods and deadlines that the Chief Operating Officer establishes. The licensee or its authorized representative must sign the report and certify it as accurate.
- (b) A licensee must provide copies of any correspondence with any federal, state or local government agency related to the regulation of a solid waste facility within five days of the correspondence.
- (c) A licensee must maintain records of any written complaints received from the public or a customer and retain them for not less than one year. This includes, but is not limited to, information regarding the nature of the complaint, the complainant's name, address and phone number, the date the licensee received the complaint, and any response by the licensee to the complaint.
- (d) A licensee must retain all records required by this chapter for three years (except for the complaint records in subsection (c)) and make them available for inspection by the Chief Operating Officer.
- (e) Any information the licensee submits to Metro is public record and subject to disclosure pursuant to the Oregon Public Records Act, except that portion of the information that the licensee requests exception from disclosure consistent with Oregon Law. [Ord. 98-762C, Secs. 38-39; Ord. 02-974; Ord. 14-1332; Ord. 16-1387.]

### **5.01.110 License Renewal**

- (a) The Chief Operating Officer is responsible for approving or denying a solid waste facility license renewal. The Chief Operating Officer will approve or deny a license renewal consistent with this section.
- (b) A licensee seeking renewal of a license must submit a request as required by this section a renewal license not less than 120 days before the license's expiration date.

~~The licensee must: The Chief Operating Officer is not obligated to renew a license earlier than the expiration date of the existing license even if the renewal request is filed more than 120 days before the existing license expires.~~

~~(c) A licensee requesting a license renewal must:~~

- (1) File a completed application for renewal;
- (2) Pay a \$300.00 application fee; and
- (3) Provide a statement of proposed material changes from the previous license application, along with any other information the Chief Operating Officer requires.

~~(c) The Chief Operating Officer must approve a solid waste facility license renewal unless the Chief Operating Officer determines that the proposed renewal is not in the public interest. The Chief Operating Officer may attach conditions to any renewed license.~~

~~(d) The Chief Operating Officer is not obligated to renew a license earlier than the expiration date of the existing license even if the renewal request is filed more than 120 days before the existing license expires. [Ord. 98-762C, Secs. 22-23; Ord. 98-767, Sec. 3; Ord. 02-974; Ord. 03-1018A, Sec. 11; Ord. 14-1332; Ord. 16-1387.]~~

#### **5.01.120 Transfer of Ownership or Control of Licenses**

- (a) A licensee must notify Metro within 10 days if the licensee leases, assigns, mortgages, sells or otherwise transfers control of the license to another person, whether whole or in part. The transferee of a license must meet the requirements of this chapter.
- (b) The term for any transferred license is for the remainder of the original term unless the Chief Operating Officer establishes a different term. [Ord. 81-111, Sec. 10; Ord. 98-762C, Sec. 24; Ord. 02-974; Ord. 03-1018A, Sec. 12; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.130 Change of Authorizations for Licenses**

- (a) A licensee must submit an application pursuant to Section 5.01.070 when the licensee requests authority to:
  - (1) Accept wastes other than those the license authorizes, or
  - (2) Perform activities other than those the license authorizes, or
  - (3) Modify other limiting conditions of the applicant's license.
- (b) The licensee must file an application for a change in authorization or limits on forms or in the format provided by the Chief Operating Officer.
- (c) An application for a change in authorizations or limits to the applicant's license does not substitute for an application that Metro would otherwise require under Section 5.01.050.

- (d) A licensee must notify Metro in writing when the licensee proposes to cease accepting authorized wastes or cease performing authorized activities at the solid waste facility or disposal site.
- (e) The application fee for changes of authorizations or limits is \$100.00. [Ord. 98-762C, Secs. 25-26; Ord. 98-767, Sec. 4; Ord. 02-974; Ord. 03-1018A, Sec. 13; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.140 Variances for Licenses**

- (a) The Chief Operating Officer may grant specific variances from particular requirements of this chapter to applicants for licenses or to licensees to protect public health, safety and welfare.
- (b) In order to grant a variance, the Chief Operating Officer must find that the licensee or applicant can achieve the purpose and intent of the particular license requirement without compliance and that compliance with the particular requirement:
  - (1) Is inappropriate because of conditions beyond the applicant's or licensee's control; or
  - (2) Would be rendered extremely burdensome or highly impractical due to special physical conditions or causes.
- (c) A licensee or applicant must request a variance in writing and must concisely state why the Chief Operating Officer should grant the variance. The Chief Operating Officer may investigate the request as the Chief Operating Officer considers necessary.
- (d) The Chief Operating Officer must approve or deny the variance request within 60 days.
- (e) A request for a variance does not substitute for an application that Metro would otherwise require under Section 5.01.050.
- (f) If the Chief Operating Officer denies a variance request, the Chief Operating Officer must notify the person requesting the variance of the right to a contested case hearing pursuant to Code Chapter 2.05.
- (g) If the Chief Operating Officer denies a request for a variance, the requesting party may not file a new application for the same or substantially similar variance for at least six months from the date of denial. [Ord. 81-111, Sec. 12; Ord. 98-762C, Sec. 27; Ord. 02-974; Ord. 14-1332; Ord. 16-1387.]

### **APPLICATIONS FOR SOLID WASTE FACILITY FRANCHISES**

#### **5.01.150 Franchise Requirements and Fees**

- (a) A Metro solid waste franchise is required of any person owning or controlling a facility at which the person performs any of the following activities:

- (1) Processing putrescible waste other than yard debris and yard debris mixed with residential food waste.
  - (2) Operating a transfer station.
  - (3) Operating a disposal site or an energy recovery facility.
  - (4) Any process using chemical or biological methods whose primary purpose is reduction of solid waste weight or volumes.
  - (5) Any other activity not listed in this section or exempted by Metro Code Section 5.01.040.
- (b) The annual fee for a solid waste franchise is \$500.00.
- (c) The franchise fee is in addition to any other fee, tax or charge imposed upon a franchisee.
- (d) The franchisee must pay the franchise fee in the manner and at the time required by the Chief Operating Officer.
- (e) The application fee for a new or renewal franchise is \$500.00. The application fee is due at the time of filing. [Ord. 98-762C, Secs. 8-9. Ord. 00-866, Sec. 3; Ord. 02-933, Sec. 2; Ord. 03-1018A, Sec. 4; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.160 Pre-Application Conference for Franchises**

- (a) An applicant for a new franchise must attend a pre-application conference. The purpose of the conference is to provide the applicant with information regarding the requirements for the proposed facility and to have the applicant describe the proposed facility's location, site conditions and operations.
- (b) If an applicant for a new franchise does not file an application for a franchise within one year from the date of the pre-application conference, the applicant must attend a subsequent pre-application conference before filing any application. [Ord. 98-762C, Secs. 11-12; Ord. 02-974; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.170 Applications for Franchises**

- (a) An applicant for a new or renewal franchise must file the application on forms or in the format required by the Chief Operating Officer.
- (b) The applicant must include a description of the activities the applicant proposes to conduct and a description of the waste it seeks to accept.
- (c) An application for a franchise must include the following information:
- (1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the franchise term;
  - (2) A copy of all applications for necessary DEQ permits, any other information required by or submitted to DEQ, and a copy of any DEQ permits;

- (3) A copy of any closure plan that DEQ requires, including documents demonstrating financial assurance for the cost of closure. If DEQ does not require a closure plan, the applicant must provide a closure document describing closure protocol for the solid waste facility at any point in its active life;
  - (4) Signed consent by the property owner(s) agreeing to the property's proposed use. The consent must also disclose the applicant's property interest and the duration of that interest. The consent must include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.320(f) if Metro revokes the franchise or refuses any franchise renewal;
  - (5) Proof that the applicant has received proper land use approval; or, if the applicant has not obtained land use approval, then a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. The recommendation may include, but is not limited to, a statement of compatibility of the site, the solid waste disposal facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the statewide planning goals of the Land Conservation and Development Commission; and
  - (6) Any current permit and a list of anticipated permits that any other governmental agency may require. If the applicant has previously applied for other permits, the applicant must provide a copy of the permit application and any permit that another governmental agency granted as a result.
- (d) An analysis of the factors described in Section 5.01.180(f) must accompany an application for a franchise. [Ord. 81-111, Sec. 7; Ord. 82-136, Sec. 2; Ord. 91-422B, Sec. 3; Ord. 95-621A, Sec. 5; Ord. 98-762C, Sec. 13; Ord. 00-866, Sec. 4; Ord. 02-974; Ord. 03-1018A, Sec. 5; Ord. 04-1056, Sec. 1; Ord. 05-1093, Sec. 1; Ord. 06-1098B, Sec. 1; Ord. 06-1101; Ord. 07-1139, Sec. 1; Ord. 07-1161, Sec. 1; Ord. 14-1332; Ord. 16-1387.]

### **5.01.180 Franchise Issuance**

- (a) The Chief Operating Officer will review franchise applications filed under Section 5.01.170. Council may approve or deny the franchise application.
- (b) The Chief Operating Officer may make any investigation regarding the application information as the Chief Operating Officer considers appropriate. This includes the right of entry onto the applicant's proposed site.
- (c) Upon the basis of the application, evidence submitted and results of the investigation, the Chief Operating Officer will make a recommendation regarding whether the:

- (1) Applicant is qualified;
  - (2) Proposed franchise complies with the Regional Solid Waste Management Plan;
  - (3) Proposed franchise meets the requirements of Section 5.01.170; and
  - (4) Applicant has complied or can comply with all other applicable regulatory requirements.
- (d) The Chief Operating Officer will provide the recommendations required by subsection (c) to the Council, together with the Chief Operating Officer's recommendation regarding whether Council should grant or deny the application. If the Chief Operating Officer recommends that Council grant the application, the Chief Operating Officer may also recommend specific conditions of the franchise.
- (e) After Council receives the Chief Operating Officer's recommendation, the Council will issue an order granting or denying the application. The Council may attach conditions to the order or limit the number of franchises granted. If the Council issues an order to deny the application, the order is effective immediately.
- (f) The Council will consider the following factors when determining whether to issue 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;
  - (2) The effect that granting a franchise will have on the cost of solid waste disposal and recycling services for the citizens of the region;
  - (3) Whether granting a franchise is likely to adversely affect the health, safety and welfare of Metro's residents in an unreasonable manner;
  - (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;
  - (5) Whether the applicant has demonstrated the strong likelihood that it will comply with all 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.
- (g) If the Council does not approve or deny a new franchise application within 180 days after the applicant files a complete application the franchise is deemed granted for the solid waste facility or disposal site requested in the application. The deadline for the Council to approve or deny an application may be extended as provided in this section. If a franchise is issued pursuant to the subsection, then the franchise will



contain the standard terms and conditions included in other comparable franchises issued by Metro.

- (h) At any time after an applicant files a complete franchise application, the deadline for the Council to approve or deny the application is extended if:
  - (1) The Council extends the deadline for up to an additional 60 days, which the Council may do only once for any single application;
  - (2) The applicant substantially modifies the application during the review period, in which case the 180 days review period for the Council to act is restarted as of the date Metro receives the applicant's modifications; or
  - (3) The applicant and Chief Operating Officer mutually agree to extend the deadline for a specified time period.
- (i) An applicant may withdraw its application at any time before the Council's decision and may submit a new application at any time thereafter.
- (j) If the Council denies a franchise request, the applicant may not file a new application for the same or substantially similar franchise for at least six months from the denial date.
- (k) A franchise term may not exceed five years, except that the Chief Operating Officer may extend the term of a franchise for up to one year. [Ord. 98-762C, Secs. 19-20; Ord. 02-974; Ord. 03-1018A, Sec. 10; Ord. 07-1138, Sec. 2; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.190 Franchise Contents**

- (a) The franchise is the Council's grant of authority to accept the waste and perform the activity or activities described in the franchise, the conditions under which these activities may take place and the conditions under which Metro may revoke the authority.
- (b) Franchises must be in writing and include:
  - (1) The term of the franchise;
  - (2) The specific activities the franchisee may perform and the types and amounts of waste the franchisee may accept at the solid waste facility;
  - (3) Any other conditions the Council considers necessary to ensure the franchisee complies with the intent and purpose of this chapter; and
  - (4) Indemnification of Metro in a form acceptable to the Metro Attorney.
- (c) A franchise that authorizes a franchisee to accept mixed non-putrescible waste for the purpose of conducting material recovery or reloading is subject to the rules, procedures, performance standards, design requirements, and operating requirements adopted pursuant to Section 5.01.280. The franchise must require that the facility operate in a manner that meets the following general performance goals:

- (1) Environment. It is designed and operated 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.
- (2) Health and Safety. It is designed and operated to avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.
- (3) Nuisances. It is designed and operated to avoid nuisance conditions including, but not limited to, litter, dust, odors, and noise.
- (4) Material Recovery. Facilities that conduct material recovery on non-putrescible waste must be designed and operated to recover materials in a timely manner, to meet standards in Section 5.01.260, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.
- (5) Reloading. Facilities that reload non-putrescible waste must be designed and operated to rapidly and efficiently reload and transfer that waste to a Metro authorized processing facility while protecting the quality of non-putrescible waste that has not yet undergone material recovery.
- (6) Record-keeping. A franchisee must maintain complete and accurate records of the amount of all solid waste and recyclable materials that it receives, recycles, reloads or disposes. [Ord. 98-762C, Secs. 19-20; Ord. 02-974; Ord. 03-1018A, Sec. 10; Ord. 07-1138, Sec. 2; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.200 Record-keeping and Reporting for Franchises**

- (a) A franchisee must maintain accurate records of the information the Chief Operating Officer requires and report that information on the forms or in the format and within the reporting periods and deadlines that the Chief Operating Officer establishes. A franchisee's authorized representative must sign the report and certify it as accurate.
- (b) A franchisee must provide copies of any correspondence with any federal, state or local government agency related to the regulation of a solid waste facility within five days of the correspondence.
- (c) A franchisee must maintain records of any written complaints received from the public or a customer and retain them for not less than one year. This includes, but is not limited to, information regarding the nature of the complaint, the complainant's name, address and phone number, the date the franchisee received the complaint, and any response by the franchisee to the complaint.
- (d) A franchisee must retain all records required by this chapter (except for the complaint records in subsection (c)) for three years and allow the Chief Operating Officer to inspect them.

- (e) All information that the franchisee submits to Metro is public record and subject to disclosure pursuant to the Oregon Public Records Act, except that portion of the information that the franchisee requests exception from disclosure consistent with Oregon Law. [Ord. 14-1332; Ord. 16-1387.]

#### **5.01.210 Franchise Renewal**

- (a) The Council approves or denies a solid waste facility franchise renewals. A franchisee seeking renewal of a franchise must submit a request as required by this section not less than 120 days before the franchise's expiration date. The franchisee must:
  - (1) File a completed application for renewal;
  - (2) Pay a \$500.00 application fee; ~~not less than 120 days before the franchise term expires;~~ and
  - (3) Provide a statement of proposed material changes from ~~its initial~~ the previous franchise application ~~for the franchise,~~ along with any other information the Chief Operating Officer or the Council requires.
- (b) The Chief Operating Officer will make a recommendation regarding whether the renewal meets the criteria in Section 5.01.180. The Council must approve renewal of a solid waste facility franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria outlined in Section 5.01.180. The Council may attach conditions or limitations to the renewed franchise.
- (c) The Council is not obligated to renew a franchise earlier than the franchise's expiration date even if the franchisee files a renewal request more than 120 days before the existing franchise expires. [Ord. 98-762C, Secs. 22-23; Ord. 98-767, Sec. 3; Ord. 02-974; Ord. 03-1018A, Sec. 11; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.220 Transfer of Ownership or Control of Franchises**

- (a) A franchisee must notify Metro within 10 days if the franchisee leases, assigns, mortgages, sells or otherwise transfers control of the franchise to another person, whether whole or in part. The transferee of a franchise must meet the requirements of this chapter.
- (b) The term for any transferred franchise is for the remainder of the original term unless the Council establishes a different term. [Ord. 81-111, Sec. 10; Ord. 98-762C, Sec. 24; Ord. 02-974; Ord. 03-1018A, Sec. 12; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.230 Change of Authorizations for Franchises**

- (a) A franchisee must submit an application pursuant to Section 5.01.170 when the franchisee requests authority to:
  - (1) Accept wastes other than those the franchise authorizes, or
  - (2) Perform activities other than those the franchise authorizes, or

- (3) Modify other limiting conditions of the applicant's franchise.
- (b) The franchisee must file an application for a change in authorization or limits on forms or in the format provided by the Chief Operating Officer.
- (c) An application for a change in authorization or limits to the applicant's franchise does not substitute for an application that Metro would otherwise require under Section 5.01.150.
- (d) A franchisee must notify Metro in writing when the franchisee proposes to cease accepting authorized wastes or cease performing authorized activities at the solid waste facility or disposal site.
- (e) The application fee for changes of authorizations or limits is \$100.00. [Ord. 98-762C, Secs. 25-26; Ord. 98-767, Sec. 4; Ord. 02-974; Ord. 03-1018A, Sec. 13; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.240 Variances for Franchises**

- (a) Upon the Chief Operating Officer's recommendation, the Council may grant specific variances from particular requirements of this chapter to applicants for franchises or to franchisees upon conditions the Council considers necessary to protect public health, safety and welfare.
- (b) In order to grant a variance, the Council must find that the franchisee can achieve the purpose and intent of the particular franchise requirement without compliance and that compliance with the particular requirement:
  - (1) Is inappropriate because of conditions beyond the applicant's or franchisee's control; or
  - (2) Would be rendered extremely burdensome or highly impractical due to special physical conditions or causes.
- (c) A franchisee or applicant must request a variance in writing and must concisely state why Council should grant the variance. The Chief Operating Officer may make an investigation as the Chief Operating Officer considers necessary.
- (d) The Chief Operating Officer must recommend to the Council whether to approve or deny the variance within 120 days after Metro receives the variance request.
- (e) A request for a variance does not substitute for an application that Metro would otherwise require under Section 5.01.150.
- (f) If the Council denies a variance request, the Chief Operating Officer must notify the person requesting the variance of the right to a contested case hearing pursuant to Code Chapter 2.05.
- (g) If the Council denies a request for a variance, the requesting party may not file a new application for the same or substantially similar variance for at least six months from the denial date. [Ord. 81-111, Sec. 12; Ord. 98-762C, Sec. 27; Ord. 02-974; Ord. 14-1332; Ord. 16-1387.]

## OBLIGATIONS AND LIMITATIONS FOR SOLID WASTE FACILITIES

### 5.01.250 General Obligations of All Regulated Parties

All persons regulated by this chapter must:

- (a) Allow the Chief Operating Officer reasonable access to the premises for purposes of inspection and audit to determine compliance with this chapter, the Code, the license or franchise, and the performance standards and administrative rules adopted pursuant to Section 5.01.280.
- (b) Ensure that solid waste transferred from the facility goes to the appropriate destination under ~~Section 5.01.280~~this chapter, ~~under~~ Metro Code Chapter 5.05, and ~~other~~under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.
- (c) Maintain insurance during the license or franchise term in the amounts specified in the license or franchise or any other amounts as state law may require for public contracts, and to give 30 days' written notice to the Chief Operating Officer of any lapse or proposed cancellation of insurance coverage or performance bond.
- (d) Indemnify and save harmless Metro, the Council, the Chief Operating Officer, Metro employees and Metro agents from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the licensee's or franchisee's performance of or failure to perform any of its obligations under the license or franchise or this chapter.
- (e) Agree to no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of:
  - (1) Any provision or requirement of the license or franchise;
  - (2) Metro's enforcement of the license or franchise; or
  - (3) Any determination that a license or franchise or any part thereof is invalid. [Ord. 81-111, Sec. 13; Ord. 98-762C, Sec. 28; Ord. 02-974; Ord. 03-1018A, Sec. 15; Ord. 16-1387.]

### 5.01.260 Obligations and Limits for Selected Types of Activities

- (a) ~~A solid waste facility that receives non-putrescible waste and is subject to licensing or franchising under this chapter must: A material recovery facility licensee or transfer station franchisee must perform material recovery from non-putrescible waste that it accepts at the facility as specified in this section or as otherwise specified in its license or franchise, or it must deliver the non-putrescible waste to a solid waste facility authorized by Metro to recover useful materials from solid waste.~~
  - (1) Perform material recovery from non-putrescible waste that it receives at the facility as specified in this section or as otherwise specified in its license or franchise, or

- ~~(2) Transport the non-putrescible waste to a solid waste facility authorized by Metro to recover useful materials from solid waste.~~
- ~~(b) Notwithstanding subsection (a) above, a facility that exclusively receives non-putrescible source-separated recyclable material is not subject to the requirements of this section.~~
- ~~(b) A licensee or franchisee subject to subsection (a) must recover at least 25 percent by weight of non-putrescible waste accepted at the facility and waste delivered by public customers. For the purposes of calculating the amount of recovery required by this subsection, recovered waste excludes both waste from industrial processes and ash, inert rock, concrete, concrete block, foundry brick, asphalt, dirt, and sand. Failure to maintain the minimum recovery rate specified in this section is a violation enforceable under Metro Code Sections 5.01.320 and 5.01.330. After December 31, 2008, the requirements of this subsection are not applicable to licensees or franchisees unless the Council determines that this standard should be reinstated to replace the processing residual standard established in 5.01.260(c).~~
- (c) ~~Effective January 1, 2009, a~~ A licensee or franchisee subject to subsection (a) must:
- (1) Process non-putrescible waste accepted at the facility and delivered in drop boxes and self-tipping trucks to recover cardboard, wood, and metals, including aluminum. The processing residual may not contain more than 15 percent, by total combined weight, of cardboard or wood pieces of greater than 12 inches in size in any dimension and metal pieces greater than eight inches in size in any dimension.
  - (2) Take quarterly samples of processing residual that are statistically valid and representative of the facility's residual (not less than a 300-pound sample) and provide results of the sampling to Metro in the monthly report due the month following the end of that quarter.
- (d) Based on observation, audits, inspections and reports, Metro inspectors will conduct or require additional analysis of waste residual at the facility in accordance with Section 5.01.290(c). Failure to maintain the recovery level specified in Section 5.01.260(c)(1) is a violation enforceable under Metro Code. Metro will not impose a civil penalty on the first two violations of this subsection by a single licensee or franchisee.
- (e) Failure to meet the reporting requirements in subsection (c)(2) is a violation enforceable under Metro Code.
- (f) A transfer station franchisee:
- (1) Must accept putrescible waste originating within the Metro boundary only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
  - (2) Must not accept hazardous waste unless the franchisee provides written authorization from the DEQ or evidence of exemption from such requirement.

- (3) Is limited in accepting putrescible waste during any year to an amount of putrescible waste as established by the Council in approving the transfer station franchise application.
- (4) Must provide an area for collecting source-separated recyclable materials without charge at the franchised solid waste facility, or at another location more convenient to the population being served by the franchised solid waste facility.
- (g) A reload facility licensee must ~~deliver-transport~~ all non-putrescible waste received at the facility to a solid waste facility authorized by Metro to recover useful materials from solid waste.
- (h) A solid waste facility licensee or franchisee cannot crush, grind or otherwise reduce the size of non-putrescible waste unless the:
  - (1) Size reduction is a specific step in the facility's material recovery operations, reload operations, or processing residual consolidation or loading operations; and
  - (2) Licensee or franchisee described the size reduction in a Metro-approved operating plan. [Ord. 98-762C, Secs. 30-31; Ord. 00-866, Sec. 5; Ord. 01-916C, Sec. 4; Ord. 02-952A, Sec. 1; Ord. 03-1018A, Sec. 16; Ord. 07-1147B, Sec. 3; Ord. 12-1272, Sec. 3; Ord. 13-1306, Sec. 3; Ord. 16-1387.]

### 5.01.270 Direct Haul of Putrescible Waste

A franchisee authorized by Metro to deliver putrescible waste directly to a disposal site must:

- (a) ~~Deliver-Transport~~ the putrescible waste to Metro's contract operator for disposal of putrescible waste;
- (b) Comply with the performance standards for management of unacceptable waste adopted by the Chief Operating Officer pursuant to Section 5.01.280; and
- (c) Provide transportation or arrange for transportation by a transportation service provider that complies with the following performance standards for long-haul transportation by highway:
  - (1) All solid waste transported through the city limits of Arlington, Oregon, is subject to any routing, timing, parking or other operational requirements established by the city of Arlington.
  - (2) All equipment satisfies all federal, state, and local regulations. In addition, the use of exhaust brakes is prohibited.
  - (3) All solid waste is transported in completely sealed containers with leak-proof design considered wind-, water-, and odor-tight, and is capable of withstanding arduous, heavy-duty, repetitive service associated with the long-haul transport of solid waste. Containers

using tarps or flip-tops are prohibited. Any spillage from the transport vehicles is prohibited.

- (4) The average weight of solid waste payloads transported during each calendar month is not less than 25 tons.
- (5) Any staging areas used is located in areas outside or excluded from the Columbia River Gorge National Scenic Area (NSA).
- (6) All transport vehicles use only designated stopping points outside the Columbia River Gorge NSA except in cases of emergency.
- (7) Use of rest areas, turnouts, scenic vista points, and state parks is limited to cases of emergency.
- (8) Transportation is prohibited in the Columbia River Gorge NSA during the following times:
  - (A) 4:00 p.m. to 10:00 p.m. Friday afternoons in June, July, August, and September.
  - (B) Daylight hours on Saturdays in June, July, August, and September.
  - (C) All hours on Sunday in June, July, August, and September.
- (9) All solid waste is transported by use of vehicles utilizing splash and spray suppressant devices behind each wheel, and utilizing rain suppressant side flaps on all non-turning axles.
- (10) All solid waste is transported by use of vehicles and equipment that is suitably painted and presents an acceptable appearance.
- (11) A franchisee representative and its transportation carrier must annually meet with the gorge communities and interested parties to receive input and discuss issues related to transportation of solid waste.
- (12) The franchisee must report to Metro any accidents, citations, and vehicle inspections involving vehicles of the franchisee's transportation carrier during the transporting of solid waste on behalf of the franchisee.
- (13) A franchisee representative and its transportation carrier must meet monthly with Metro to discuss operational problems, complaints and any extraordinary occurrences.
- (14) The franchisee must immediately report any violations of this subsection to Metro. [Ord. 98-762C, Secs. 32-33; Ord. 02-974; Ord. 16-1387.]



## **REGULATORY ADMINISTRATION OF SOLID WASTE FACILITIES**

### **5.01.280 Authority of Chief Operating Officer to Adopt and Amend Rules, Standards, and Forms**

- (a) The Chief Operating Officer may adopt or amend rules, performance standards, and forms to implement any provision of this chapter. Any rule, performance standard, or form adopted or amended under this section has the same force and effect as any other chapter provision.
- (b) Before the Chief Operating Officer adopts or amends a rule or performance standard under this section, the Chief Operating Officer will provide an opportunity for public comment for a period of at least 30 days. The Chief Operating Officer will provide notice of the public comment period in a manner reasonably calculated to reach interested parties. The notice will include a brief description of the proposed rule or performance standard; the location at which a person may obtain a copy of the full text of the proposed rule or performance standard; the method for submitting public comments; and the deadline for submitting public comments.
- (c) In addition to public comments, the Chief Operating Officer will also hold a public hearing on any proposed rule or performance standard or amendment to an existing rule or performance standard. The public hearing will take place not less than 14 days from the deadline for submitting public comments. The Chief Operating Officer will give public notice of the hearing not less than 10 days nor more than 30 days before the hearing. The notice will include the time, place, and purpose of the public hearing, a brief description of the proposed rule or performance standard, and the location at which a person may obtain copies of the full text of the proposed rule or performance standard.
- (d) During the public hearing, the Chief Operating Officer will receive any offered written or oral testimony regarding the proposed rule, including any written comments received during the public comment period.
- (e) After the public hearing is closed, the Chief Operating Officer may adopt the rule as originally proposed, adopt a modified version of the proposed rule, or reject the proposed rule. If the Chief Operating Officer intends to adopt a substantially modified version of the proposed rule, the Chief Operating Officer must mail a notice of opportunity to comment on the proposed modifications along with a copy of the text of the new proposed changes to each person who has either submitted written comments on the proposal, testified at the public hearing, or asked to receive a notice of proposed modifications. Metro must also post the notice on its website. The public has 15 days from the mailing date to provide written comment on the proposed modifications, but no further public hearing is required. After the 15-day comment period ends, the Chief Operating Officer may adopt the proposed rule.
- (f) Any rule or performance standard adopted under this section takes effect 30 days after the Chief Operating Officer adopts it, unless the Chief Operating Officer specifies a later effective date.

- (g) Notwithstanding subsections (b) and (c), the Chief Operating Officer may adopt an interim rule or performance standard without prior public notice, comment or hearing upon a written finding that a failure to act promptly will result in serious prejudice to the public interest or the interest of an affected party. The Chief Operating Officer must include the specific reasons for the serious prejudice. Any rule or performance standard adopted pursuant to this subsection expires no later than 180 days from its effective date.
- (h) If the Metro Council enacts an ordinance establishing rulemaking procedures that are applicable agency-wide, then the rulemaking procedures set forth in this chapter are superseded by the agency-wide procedures. However, the procedures set forth in this chapter will still apply to the adoption or amendment of performance standards and forms.
- (i) Any form, performance standard, or administrative rule (formerly known as an “administrative procedure”) that is in effect on the date of this ordinance’s adoption remains in effect unless otherwise repealed or amended.
- (j) For purposes of ORS 34.020, any rule adopted by the Chief Operating Officer under this section is considered a final decision. [Ord. 98-762C, Secs. 34-35; Ord. 01-916C, Sec. 5; Ord. 02-974; Ord. 07-1138, Sec. 3; Ord. 12-1272, Sec. 5; Ord. 16-1387.]

**5.01.290 Inspections, Audits, and other Investigations of Solid Waste Facilities**

- (a) The Chief Operating Officer is authorized to make such inspection, audit, or other investigation as the Chief Operating Officer considers appropriate to ensure compliance with this chapter, the Code, the franchise or license, and administrative rules and performance standards adopted pursuant to Section 5.01.280. Licensed or franchised facilities must allow access to the facility premises, and all other solid waste facilities, at all reasonable times during business hours with or without notice, and during non-business hours with 24 hours notice.
- (b) Inspections, audits, or other investigations authorized under subsection (a) will occur regularly and as the Chief Operating Officer determines necessary. The Chief Operating Officer will report the results of each inspection, audit, or other investigation in the format approved by the Chief Operating Officer.
- (c) The Chief Operating Officer may access and examine any records during the inspections, audits, or other investigations if the Chief Operating Officer considers the records pertinent to the license or franchise, or to the provisions of this chapter. These records include but are not limited to the licensee’s, franchisee’s or solid waste facility operator’s books, papers, records, equipment, blueprints, operation and maintenance records, logs and operating rules and procedures. As part of the inspections, audits, or other investigations, the Chief Operating Officer may take samples and conduct analysis of any waste or other material, including storm water runoff, water treatment or holding facilities, leachate, soil and solid waste. The Chief Operating Officer will coordinate any sampling or follow-up activities with DEQ or local jurisdictions as necessary to avoid redundant requirements on operations.

- (d) Any violation discovered by an inspection, audit, or other investigation is subject to the penalties provided in Section 5.01.330. [Ord. 98-762C, Secs. 36-37; Ord. 02-974; Ord. 03-1018A, Sec. 18; Ord. 07-1147B, Sec. 4; Ord. 16-1387.]

#### **5.01.300 Regional System Fees**

- (a) Pursuant to Chapter 5.02, regional system fees apply to solid waste facilities and disposal sites that Metro owns, operates, licenses or franchises, or which are liable for payment of the fees pursuant to a special agreement with Metro.
- (b) Regional system fees are in addition to any other fee, tax or charge imposed upon a solid waste facility or disposal site.
- (c) Regional system fees must be separately stated upon records of the solid waste facility or disposal site.
- (d) Regional system fees and finance charges on those fees must be paid as specified in Metro Code Chapter 5.02. [Ord. 81-111, Sec. 16; Ord. 86-214, Sec. 1; Ord. 91-422B, Sec. 4; Ord. 93-509, Sec. 2; Ord. 95-621A, Sec. 7; Ord. 98-762C, Sec. 41; Ord. 00-866, Sec. 6; Ord. 02-974; Ord. 03-1018A, Sec. 19; Ord. 14-1332; Ord. 16-1387.]

#### **5.01.310 Determination of Rates**

- (a) The Council may establish facility rates if it finds that setting facility rates is in the public interest as a matter of metropolitan concern.
- (b) Notwithstanding any other provision of this section:
  - (1) Licensees are exempt from all rate setting; and
  - (2) Franchisees are exempt from rate setting unless Metro requires rate setting as a franchise condition. [Ord. 81-111, Sec. 19; Ord. 82-136, Sec. 4; Ord. 91-436A, Sec. 2; Ord. 98-762C, Sec. 43-44; Ord. 03-1018A, Sec. 20; Ord. 16-1387.]

### **ENFORCEMENT AND APPEALS**

#### **5.01.320 Enforcement Provisions**

- (a) Any person who violates any provision of this chapter or who fails to comply with a license or franchise condition is subject to the fines and penalties set forth in this chapter.
- (b) The Chief Operating Officer may investigate whether there is sufficient cause to suspend, modify or revoke a franchise or license. If there is sufficient evidence to suspend, modify, or to revoke a franchise or license, the Chief Operating Officer will notify the franchisee or licensee in writing of the alleged violation, and the necessary steps the violator must take to correct the violation. If the franchisee or licensee is unable to or refuses to correct the violation within a reasonable time after Metro sends notice, the Chief Operating Officer may provide notice to the franchisee or licensee that Metro will impose penalties pursuant to Section 5.01.330 or that Metro will suspend, modify or revoke the franchise or license.

- (c) The Chief Operating Officer will send the notice upon finding that the franchisee or licensee has:
- (1) Violated the franchise or license, the administrative rules or performance standards issued by the Chief Operating Officer, this chapter, the Code, state law, local ordinance or the rules promulgated there under or any other applicable law or regulation;
  - (2) Misrepresented material facts or information in the franchise or license application, or other information that Metro requires the licensee or franchisee to submit;
  - (3) Refused to provide adequate service at a licensed or franchised site, facility or station, after Metro provides written notification and reasonable opportunity to do so;
  - (4) Misrepresented the gross receipts from the operation of the licensed or franchised site, facility or station;
  - (5) Failed to pay when due the fees required under this chapter; or
  - (6) Violated a city or county ordinance if the ordinance requires licensees or franchisees to comply with the Metro solid waste facility regulation code.
- (d) Except as provided in subsection (e), if the Chief Operating Officer revokes, modifies or suspends a license or franchise, it does not become effective until Metro gives the licensee or franchisee an opportunity to request a contested case hearing under Metro Code 2.05.
- (e) If Metro finds a serious danger to the public health or safety as a result of the actions or inactions of a franchisee or licensee, the Chief Operating Officer may in accordance with Code Chapter 2.05 immediately suspend the franchise or license and may take whatever steps may be necessary to abate the danger. In addition, in the case of a franchise, the Chief Operating Officer may authorize another franchisee or another person to provide service or to use and operate the site, station, facilities and equipment of an affected franchisee for reasonable compensation in order to provide service or abate the danger for so long as the danger continues. If Metro immediately suspends a franchise, the franchisee has 30 days from the suspension date to request a contested case hearing under Code Chapter 2.05.
- (f) If Metro revokes a franchise or license, all franchisee or licensee rights in the franchise or license become void. [Ord. 81-111, Sec. 20; Ord. 82-136, Sec. 5; Ord. 95-621A, Sec. 8; Ord. 91-436A, Sec. 2; Ord. 98-762C, Sec. 45; Ord. 02-974; Ord. 03-1018A, Sec. 21; Ord. 14-1332; Ord. 16-1387.]

### **5.01.330 Penalties**

- (a) Each violation of this chapter is punishable by a fine of not more than \$500.00. Each day a violation continues constitutes a separate violation. Metro may join separate offenses in one Notice of Violation in several counts.

- (b) If the Chief Operating Officer finds that a licensee or franchisee is in violation of this chapter, the Code, the license or franchise, or the administrative rules or performance standards adopted pursuant to Section 5.01.280, the Chief Operating Officer will provide written notice to the violator describing the violation and requiring the violator to correct the violation within the time specified in the notice.
- (c) If a licensee or franchisee fails to correct the violation within the specified time period, the Chief Operating Officer will issue a Notice of Violation, indicating the continuing violation, the date of re-inspection and the fine imposed as specified in subsection (a).
- (d) If after re-inspection, the Chief Operating Officer finds the licensee or franchisee has failed to correct the violation, the violation is punishable by a fine as specified in subsection (a). Metro will give notice of a final deadline for correcting the violation at the time of re-inspection.
- (e) If the licensee or franchisee fails to correct the violation after the final deadline, the licensee or franchisee must cease the activity resulting in the violation.
- (f) Metro will conduct further inspections to ensure that the licensee or franchisee suspends the offending activity. If the licensee or franchisee fails to suspend the offending activity, the Chief Operating Officer may:
  - (1) Impose a remedy suitable to Metro to be implemented by and at the expense of the licensee or franchisee;
  - (2) Suspend all solid waste activities on site;
  - (3) Impose a lien on the property for the amount of the fines; or
  - (4) Suspend, modify or revoke the license or franchise pursuant to Section 5.01.320.
- (g) In addition to subsection (a), Metro may enjoin any violation of this chapter upon suit in a court of competent jurisdiction, and the violator may also be subject to a civil penalty not to exceed \$500.00 per day for each day of violation. [Ord. 81-111, Sec. 22; Ord. 91-436A, Sec. 2; Ord. 98-762C, Sec. 47; Ord. 98-767, Sec. 6; Ord. 02-974; Ord. 03-1018A, Sec. 22; Ord. 14-1332; Ord. 16-1387.]

### **5.01.340 Appeals**

- (a) Any applicant, franchisee or licensee may request a contested case hearing pursuant to Code Chapter 2.05 upon the suspension, modification, revocation or refusal by the Council or Chief Operating Officer, as appropriate, to issue, renew, modify or transfer a franchise or license or to grant a variance.
- (b) Except as provided in subsection (d), if the Council refuses to renew a franchise or the Chief Operating Officer refuses to renew a license, the refusal does not become effective until Metro affords the franchisee or licensee an opportunity for a contested case hearing if one is requested.

- (c) The refusal by either the Council or Chief Operating Officer to grant a variance, or to issue, modify or transfer a franchise or license is effective immediately. The franchisee, licensee or applicant may request a hearing on the refusal within 30 days of notice of the refusal.
- (d) Upon a finding of serious danger to the public health or safety, the Chief Operating Officer may suspend a franchise or license or the Council or Chief Operating Officer may refuse to renew a franchise or license and that action is effective immediately. If a franchise or license renewal is refused, the franchisee or licensee has 30 days from the date of the action to request a contested case hearing. [Ord. 81-111, Sec. 11; Ord. 95-621A, Sec. 6; Ord. 02-974; Ord. 03-1018A, Sec. 14; Ord. 16-1387.]

## **MISCELLANEOUS PROVISIONS**

### **5.01.350 Miscellaneous Provisions**

- (a) The Chief Operating Officer is responsible for the administration and enforcement of this chapter.
- (b) Metro's granting of a license or franchise does not vest any right or privilege in the licensee or franchisee to receive specific quantities of solid waste during the license or franchise term.
- (c) Metro has the power to regulate, in the public interest, the exercise of the privileges it grants by a license or franchise. Metro may establish or amend rules, regulations or standards regarding matters within Metro's authority and enforce those requirements against licensees or franchisees.
- (d) No waiver of any license or franchise condition is effective unless it is in writing and signed by the Chief Operating Officer. If Metro waives a license or franchise condition, that waiver does not waive or prejudice Metro's right to require performance of the same condition or any other condition.
- (e) Metro will construe, apply and enforce a license or franchise in accordance with the laws of the State of Oregon.
- (f) If a court of competent jurisdiction determines that any license or franchise provision is invalid, illegal or unenforceable in any respect, that determination does not affect the validity of the remaining provisions in the license or franchise.
- (g) Nothing in this chapter limits the power of a federal, state, or local agency to enforce any provision of law relating to any solid waste facility or disposal site that it is authorized or required to enforce or administer.
- (h) Nothing in this chapter should be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies, including but not limited to, local health departments, regional water quality control boards, local land use authorities, and fire authorities. [Ord. 98-762C, Secs. 52-53; Ord. 02-974; Ord. 03-1018A, Sec. 24; Ord. 14-1332; Ord. 16-1387.]

## **STAFF REPORT**

IN CONSIDERATION OF ORDINANCE NO. 17-1411 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.01 TO ESTABLISH LICENSING REQUIREMENTS FOR CERTAIN FACILITIES THAT RECEIVE AND PROCESS SOURCE-SEPARATED RECYCLABLE MATERIALS AND MAKE HOUSEKEEPING CHANGES

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September 22, 2017

Prepared by: Dan Blue  
503-797-1863

Adoption of Ordinance No. 17-1411 will amend Metro Code Chapter 5.01 (Solid Waste Facility Regulation) to establish licensing requirements for certain facilities that receive and process source-separated recyclable materials, and exempt certain conversion technology and specific material recycler facilities from licensing. This ordinance will also make various other non-substantive technical amendments to the chapter to improve clarity and ease of understanding.

This ordinance is a companion to Ordinance 17-1410 which proposes adding two new definitions to Metro Code Chapter 5.00 (Solid Waste Definitions) which are related to implementing the Code amendments proposed under this ordinance. The Metro Council will consider both of these ordinances collectively at its meetings on October 5 and October 26, 2017.

### **BACKGROUND**

In an effort to shape the future solid waste system to better attain public benefits and improve 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. Concurrently with this effort, staff seeks to provide a more consistent, transparent, and equitable regulatory framework for the regional solid waste system. Metro will further support this effort by developing the Regional Solid Waste Management Plan during 2017 and 2018.

In August 2015, Metro staff proposed a wide range of changes to Metro's solid waste code (Metro Code Title V). Metro received feedback from the public requesting a more thorough and transparent process for considering the proposed code changes. In October 2015, Metro Council directed staff to implement an improved and more rigorous process for developing and soliciting feedback on proposed changes to Metro's solid waste code. As directed by Metro Council, staff implemented a thorough public engagement process for soliciting input on the proposed code changes.

Because Metro is the agency tasked with planning, management, and oversight of the region's solid waste system, it has an obligation to the public to ensure the waste intended for reuse,

recycling and other purposes is handled properly and sent to appropriate markets and that all other waste is safely managed and disposed.

Metro Code currently exempts from licensing certain material recovery and conversion technology facilities that exclusively receive non-putrescible source-separated recyclable materials that are collected through a curbside residential or commercial collection program. However, collection methods, material composition, and market conditions for source-separated recyclable materials have changed significantly since Metro initially established that regulatory exemption. These significant changes over the years have resulted in greater potential for material degradation at recovery facilities and adverse impacts on neighboring communities.

In December 2015, Metro's Solid Waste Alternatives Advisory Committee (SWAAC) commissioned a subcommittee to consider whether material recovery and conversion technology facilities that receive source-separated recyclable materials should be subject to Metro's licensing and inspection requirements similar to that of other solid waste facilities. Also, if so, the subcommittee was with charged identifying which licensing requirements were appropriate for such material recovery and conversion technology facilities.

The 15-member subcommittee, comprised of industry, local government, nonprofit, and general public representatives, held a series of meetings throughout 2016 and recommended that Metro establish regulatory requirements for certain material recovery and conversion technology facilities that receive and process source-separated recyclable materials. The subcommittee's recommendation was subsequently endorsed by SWAAC. The proposed code amendments described in this ordinance, as well as the companion Ordinance No. 17-1410, reflect SWAAC and the subcommittee's recommendations.

On May 10, 2017, SWAAC recommended that Metro solicit input from the public on the proposed changes and open a 60-day review and comment period. A formal public comment period was open from May 12 through July 14, 2017. The comments received and staff's response to those comments is provided as Attachment 1.

Staff presented the comments received and responses to those comments to SWAAC at its meeting on August 9, 2017. Staff then reviewed the proposed code changes with Metro Council at its work session meeting on September 19 and Council directed staff to bring the proposed code changes forward for formal consideration.

#### **PUBLIC OUTREACH AND ENGAGEMENT:**

As directed by Metro Council in October 2015, staff conducted extensive public outreach and solicited input on the proposed changes to Chapter 5.01. The public outreach for the proposed code changes included:



1. SWAAC review and SWAAC Subcommittee review :
  - (a) December 2015 – SWAAC commissioned a 15-member subcommittee to consider regulation of material recovery and conversion technology facilities. The subcommittee held seven meetings (between January and October 2016) and recommended that Metro establish authorization requirements for material recovery and conversion technology facilities.
  - (b) October 2016 – SWAAC endorsed the subcommittee’s recommendations.
  - (c) May 2017- SWAAC endorsed staff’s draft code changes and the opening of a 60- public review period.
  - (d) August 2017– SWAAC reviewed the public comments received by Metro, staff’s responses, and proposed revisions. SWAAC endorsed presenting the final proposal to Metro Council.
  
2. Public review and comment period:
  - (a) Metro opened a 60-day public review and comment period from May 15 through July 14, 2017.
  - (b) Metro also held two public workshops on May 31 and June 13, 2017 to review the proposal and answer questions.
  - (c) Metro received three written comments related to the proposed code changes (see Attachment 1).
  - (d) Staff prepared a detailed response to the written comments received during the public review period (see Attachment 1).
  
3. Other outreach:
  - (a) Metro established a dedicated web page that was used to post the proposed code change information and related documents at <http://www.oregonmetro.gov/regional-leadership/metro-advisory-committees/solid-waste-alternatives-advisory-committee/material>
  - (b) Staff sent routine status updates and other correspondence to interested parties via email.

## **PROPOSED AMENDMENTS TO CHAPTER 5.01**

Metro Code Chapter 5.01 (Solid Waste Facility Regulation) governs the regulation of solid waste facilities and disposal sites within the region. The Chief Operating Officer (COO) recommends the proposed changes to Chapter 5.01 as described below and further detailed in Exhibit A.

### **1. Establish Licensing Requirements for Material Recovery Facilities that Receive Source-Separated Recyclables.**

Currently, facilities that exclusively receive non-putrescible source-separated recyclable materials that are collected through a curbside residential or commercial collection program are exempted from Metro’s licensing and franchising requirements. However,

there have been significant changes in the solid waste system over the years such as an increased practice of “commingled” collection (mixing most recyclables together in a cart or container which has increased contamination), the consistently changing composition of materials placed out at the curb for recovery, and the volatile nature of recycling markets locally, nationally, and globally. These significant changes over the years have increased the potential for material degradation and adverse impacts from facilities on neighboring communities. The COO finds that it is in the public’s interest for Metro to implement greater regulatory oversight of the facilities that receive and process source-separated recyclable materials. The COO recommends removing the current licensing exemption for this class of facilities and requiring that these facilities be subject to Metro’s licensing, inspection, and reporting requirements similar to other solid waste facilities.

2. Create Exemption for Specific Material Recyclers.

The COO recommends that facilities that exclusively receive and process a single type of non-putrescible recyclable material that holds intrinsic value in established reuse or recycling markets be exempted from the requirement to obtain a solid waste license. For purposes of Metro Code, specific material recyclers are defined as facilities that receive and process materials that include, but are not limited to, scrap metal, plastic, paper, or other similar commodities. Specific material recyclers do not include facilities that processes commingled source-separated recyclables collected through curbside residential or commercial collection programs.

3. Create Exemption for Certain Conversion Technology Facilities.

The COO recommends that conversion technology facilities that exclusively receive non-putrescible waste for use as feedstock that has been (A) extracted from other solid waste and (B) processed to meet prescribed specifications for direct introduction into a conversion technology process be exempted from the requirement to obtain a solid waste license.

4. General Housekeeping Changes (Non-Substantive).

In addition to the changes described above, the COO recommends amending Metro Code Chapter 5.01 with several non-substantive housekeeping changes which include deleting a reference to a requirement that is no longer effective, correcting a misnumbered cross-reference, and clarifying when certain documents and payments are due.

## **ANALYSIS / INFORMATION**

### **1. Known Opposition**

One operator of a material recovery facility within the region is known to oppose the proposed code amendments and licensing requirements for material recovery facilities

that receive and process source-separated recyclable material (see Attachment 1). A representative of the facility operator participated on the SWAAC subcommittee which considered this issue and the operator also had the opportunity to provide further input throughout the subsequent public engagement process.

The SWAAC subcommittee and SWAAC subsequently endorsed the proposed code amendments to establish additional regulatory oversight for material recovery and conversion technology facilities that receive and process source-separated recyclable materials.

## **2. Legal Antecedents**

Any change to the Metro Code requires a legislative action of the Metro Council. Metro Code Section 2.01.070 states that the legislative action of Metro shall be by ordinance.

## **3. Anticipated Effects**

Approval of this ordinance would amend Metro Code Chapter 5.01 to establish licensing requirements for certain facilities that receive and process source-separated recyclable materials, and exempt certain conversion technology and specific material recycler facilities from licensing as provided in Exhibit A. If Council adopts this ordinance, then material recovery and conversion technology facilities that receive non-putrescible source-separated recyclable materials would be required to apply for and obtain a solid waste license by January 1, 2019.

## **4. Budget Impacts**

There are no expected budget impacts associated with the adoption of this ordinance.

## **RECOMMENDED ACTION**

The COO recommends adoption of Ordinance No. 17-1411

**Material Recovery Facility & Conversion Technology Facility Project (MRF/CT)**  
**Compilation of Feedback Received, Metro Response, and Actions Taken**  
**Topic: Proposed Changes to Title V, Chapters 5.00 and 5.01**  
**August 1, 2017**

On May 12 2017, Metro opened a 60-day public review and comment period to solicit input on proposed changes to Metro Code Chapters 5.00 and 5.01 related to the regulation of certain material recovery facilities (MRFs) and conversion technology (CT) facilities. The public comment period closed on July 14, 2017. At that time, Metro also posted preliminary drafts of two proposed administrative rules associated with the Code amendments for informal review and comment. If Metro Council were to adopt amendments to Metro Code, then Metro would subsequently open a formal public review and comment period for the proposed administrative rules as provided in Metro Code Section 5.01.280.

The following is a summary of the written comments that Metro received during the public comment period and Metro's responses to those comments related specifically to the proposed changes to Metro Code. All comments were received in writing by email. A copy of each comment received is also attached to this document.

All documents related to this project are located on Metro's website here:

<http://www.oregonmetro.gov/regional-leadership/metro-advisory-committees/solid-waste-alternatives-advisory-committee/material>

*For questions or concerns regarding the project please contact Dan Blue at 503-797-1863 or [dan.blue@oregonmetro.gov](mailto:dan.blue@oregonmetro.gov).*

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**NOTE:** Due to the length and varied nature of the comments received and for clarity, pertinent sections of the comments are italicized. Responses to those comments are in *bold and are italicized*. Copies of all comments received are attached to the end of this document.

**Scott Farling (SF) representing Agilyx, by email on July 13, 2017:**

**Comment 1.** *5.01.030 (b) should include "conversion to petrochemical products" along with reuse and recycling as accepted means of disposal for source-separated recyclable materials. (Note: 5.01.040 (b) refers back to 5.01.030 (a), (b), (d), and (f).)*

***Metro Response: This suggested change is outside the scope of the current proposed changes to 5.00 and 5.01. No change made.***

**Comment 2.** *5.01.040(a)(4) should include the information under the heading "Characteristics of CT Facilities Exempt from Obtaining a Metro License" from page 10 of the MRF-CT Recommendations for SWAAC Final.*

CT facilities that receive feedstocks that have already been extracted from mixed solid waste and otherwise processed to conform to prescribed specifications and largely resemble commodity feedstocks (material streams) for direct introduction into a conversion technology process may have the following characteristics:

- The facility does not accept unprocessed, mixed solid waste from collection trucks/containers, reload facilities, or other solid waste generators.
- A majority of feedstock material is used productively in conversion process.
- Feedstock specifications are prescribed to conform to the specific conversion technology industrial process requirements.

- Shredding, mixing, right-sizing or other similar treatment of already sorted and processed feedstocks typical in a manufacturing process does not constitute “processing of solid waste”.
- The facility’s receipt and processing of the feedstock presents low potential risk to the environment, or to neighboring businesses and residential communities (e.g., odors, dust, noise, vectors, litter, fire safety etc.).

***Metro Response: The “Characteristics of CT Facilities Exempt from Obtaining a Metro License” were developed to inform the discussion and deliberation of the MRF/CT Subcommittee which led to the Subcommittee’s subsequent recommendations to Metro’s Solid Waste Alternatives Advisory Committee (SWAAC). While this language helps to clarify what types of facilities would be exempt under the proposed code changes, Metro staff does not concur that this level of specificity is needed in the Code and recommends that the proposed code language is sufficient. Metro staff will consider including this level of detail in the draft administrative rules should Council elect to modify the Code as proposed. No change made.***

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**Matt Cusma, Representing Schnitzer Steel, by letter sent by email July 14, 2017:**

Schnitzer Steel Industries appreciates the opportunity to submit these comments on the proposed amendments to Metro Code Chapters 5.00 and 5.01 dated May 12, 2017. The proposed amendments are the result of many months of effort by the Solid Waste Alternatives Advisory Committee’s MRF/CT Subcommittee, other stakeholders, and Metro staff. Schnitzer believes this collaborative approach and deliberate effort to involve stakeholders in the Metro Solid Waste Code revision process improved on the code revisions originally proposed in 2015. Schnitzer commends Metro on this renewed commitment to collaboration and stakeholder engagement at the outset of any discussions regarding whether changes to Metro’s Solid Waste Code are necessary and, if so, what those changes should be.

One purpose of the proposed amendments is to clarify that recyclers that receive and process non-putrescible recyclable material that holds intrinsic value in established reuse and recycling markets (e.g., scrap metal, plastic, paper, and similar commodities) will remain exempt from Metro’s solid waste license and franchise requirements. See Proposed Sec. 5.01.040(a)(5). This exemption appropriately recognizes that these types of recyclable materials are managed as valuable commodities, not waste, and present little risk of harm to human health or the environment. Much of this recyclable material never enters the solid waste stream because of its recycling value. Based on these considerations and others, Metro has long recognized facilities that process such materials as a unique type of commercial recycling facility and has exempted them from solid waste facility licensing requirements. The proposed amendments appropriately codify a specific exemption that covers these types of facilities: the “Specific Material Recycler” exemption.

Schnitzer fully supports the clarification of the Specific Material Recycler exemption, but believes the proposed language is unnecessarily narrow. As drafted, the exemption applies to: “Specific material recyclers that receive and process a single type of nonputrescible recyclable material that holds intrinsic value in established reuse and recycling markets such as scrap metal, plastic, paper, or other similar commodities.” But for recyclers that receive recyclable materials with intrinsic value and manage those materials as valuable commodities, it should not matter whether the recycler receives and processes only a single type of material. That is, eligibility for the exemption should depend on the type of material accepted by the recycler (i.e., recyclable materials that hold intrinsic value in established markets), not whether the recycler accepts more than one type of such material.

**Comment 1.** To address this issue, Schnitzer urges Metro to remove the phrase “a single type of” from the exemption, so that the exemption would apply to specific material recyclers that receive and process “nonputrescible recyclable materials that hold intrinsic value in established reuse and recycling markets, such as scrap metal, paper, or other similar commodities.” The phrase “a single type of” would also need to be removed from the definition of “specific material recycler,” which Metro is proposing to add to Section 5.00.010.

This limited expansion of the Specific Material Recycler exemption would be consistent with the purposes of Metro's solid waste facility regulations. See Sec. 5.01.010(a). Because Schnitzer's proposed changes would not expand or change the types of materials that would fall within the exemption, the proposed changes would not undermine Metro's ability to protect and preserve the health, safety, and welfare of its residents. See Sec. 5.01.010(a)(1). Moreover, the proposed changes would create additional incentive for facilities that receive and process recyclable materials with intrinsic value to reduce the volume of solid waste disposal. See Sec. 5.01.010(a)(4). Schnitzer would welcome the opportunity to discuss this proposed revision to the Specific Material Recycler exemption with Metro staff.

***Metro Response: Use of the phrase "a single type of" is intended to distinguish between a facility that predominately receives multiple homogeneous types of source-separated recyclable materials from a facility that receives commingled source-separated recyclables from curbside commercial and residential collection programs. Staff finds that removing the phrase "a single type of" from the definition of Specific Material Recycler may cause confusion for facility operators as to which types of facilities would be exempted, and which would not. Staff has revised the proposed definition of Specific Material Recycler to include the following statement for additional clarification: "The exemption does not apply to facilities receiving commingled source-separated recyclables collected through curbside residential or commercial collection programs." Staff will also consider providing further clarification of this distinction as part of administrative rule.***

***As such, the proposed definition in Metro Code Section 5.00.010 has been revised to read: "Specific material recycler" means a facility that processes a single type of non-putrescible recyclable material that holds intrinsic value in established reuse or recycling markets. These materials include, but are not limited to, scrap metal, plastic, paper, or other similar commodities. The exemption does not apply to facilities receiving commingled source-separated recyclables collected through curbside residential or commercial collection programs.***

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**Jeff Murray, Representing EFI, by letter send by email July 14, 2017:**

EFI has an interest in and would be effected by the Proposed Ordinances because EFI is located within the Metro Region and receives significant volumes of Commercial Commingled Recyclables collected by EFI trucks and licensed refuse haulers from businesses located inside and outside the Metro Region. A majority of the recycling that EFI processes at its facility on Swan Island is source segregated recyclables (ie OCC, Office Paper and other various grades of recyclables separated by the generator by grade). *Competitors that only receive and process source segregated recyclables will not be subject to licensing by Metro and the requirements associated with licensing, placing EFI in a competitive disadvantage with these facilities.*

**Comment 1.** *EFI opposes the Proposed Ordinances because it is a dramatic change in Metro Code that violates a stated policy in the Metro RSWMP and is in violation of Oregon State Statute (ORS 459A.075).*

***Metro Response: Metro has thoroughly discussed and evaluated the need for this ordinance with a stakeholder subcommittee, SWAAC, the public and Metro Council over the last two years. While EFI states its opposition to this ordinance, Metro staff finds that the proposed amendments to Metro Code are in the public interest. Metro staff has found that many in the solid waste industry, local government officials, and the public are in support of these changes. The 2008 Metro Regional Solid Waste Management Plan (RSWMP) states that certain facilities including those that exclusively handle source-separated recyclable materials "are not required to obtain authorization from Metro to operate." That statement is found in the section of the***

***RSWMP entitled “Current System,” which is intended to simply describe Metro’s current solid waste system. It is a factual statement and not intended to be a policy statement or a prohibition on future regulation.***

***The state law exemption in ORS 459A.075 is not relevant to the proposed Code change. To enjoy this exemption, the recyclable material must be “Purchased from or exchanged by the generator for fair market value for recycling or reuse.” The source-separated recyclable materials covered by the proposed Metro Code changes and administrative rules are not “purchased from or exchanged by the generator for fair market value.” Accordingly, commingled source-separated recyclables from residential and commercial curbside collection programs do not align with this exemption because the collection hauler, under the terms of a solid waste franchise or license with the local government, is providing that collection service and transporting that material to a recovery facility for further processing. There is no direct exchange or purchase from the generator for fair market value for recycling or reuse. Finally, Metro’s definition of solid waste includes source-separated recyclables. No change made.***

***Comment 2. Past reports by staff have downplayed the potential negative impacts of the Proposed Ordinances and we have deep concerns that licensing can place facilities, such as EFI, that handle commingled recyclables and that are located within the Metro Region at a strong disadvantage to those outside the Region.***

***Metro Response: Metro is responsible for and has broad regulatory authority over all solid waste within the region and, in particular, has identified concerns about potential nuisance, odor, litter and dust generated by some facilities. Metro currently issues licenses or franchises to over 30 solid waste facilities within the region to ensure that the region’s solid waste is managed appropriately and that nearby residents and business are not adversely impacted. Currently some MRFs inside the region are subject to Metro authorization while others are not. The proposed legislation would establish similar and consistent requirements for solid waste facilities performing similar functions. No change necessary.***

***Comment 3. The Proposed Ordinances would, through licensing, allow Metro to impose unnecessary requirements on source separated recycling facilities, including design requirements, operating requirements, performance standards and reporting of detailed, confidential account information.***

***Metro Response: No performance standards are being proposed at this time. Operating, design and reporting requirements are being proposed with the full and unanimous support of the MRF/CT Subcommittee and SWAAC and are contained within the draft administrative rules that accompany the proposed Code amendments. No change necessary.***

***Comment 4. To this point there has only been discussion related to already existing administrative rules.***

***Metro Response: Metro does not currently have administrative rules related to the operation or regulation of MRFs that receive source-separated recyclables (SSR). The preliminary administrative rules that staff posted for public review are proposed in draft form for information only.***

***Metro will not adopt an administrative rule related to regulation of SSR MRFs unless the Metro Council first adopts Code amendments that authorizes regulation of SSR MRFs. To date Metro staff has engaged with stakeholders in a variety of ways to solicit input on potential operating requirements for SSR MRFs including initiating an “informal” public comment process related to proposed administrative rules.***

***As part of the public engagement process, the proposed amendments to Code, and preliminary drafts of administrative rules, were provided to SWAAC, MRF/CT Subcommittee members and interested parties on May 2, 2017 and discussed at the May 10, 2017 SWAAC meeting. A stakeholder workshop was held on May 31, 2017 to discuss proposed changes to Code chapters 5.00 and 5.01 as well as draft administrative rules. A second public workshop was also held on June 12, 2017.***

***If the Metro Council adopts the proposed Code changes and requires that SSR MRFs obtain authorization from Metro, then Metro will subsequently open a formal public comment process and hold a public hearing for any proposed administrative rules as provided in Metro Code Chapter 5.01. No change necessary.***

**Comment 5.** *We have two specific concerns related to the administrative rules: 1) Are there more administrative rules to come specifically related to source separated commingle facilities?*

**Metro Response:** *Much useful input was received on the draft administrative rules for both CT and for SSR MRFs during the two stakeholder workshops on May 31 and June 12, 2017 as well as the initial “informal” public comment period on the rules that closed July 14, 2017. If the Metro Council adopts the proposed Code amendments, then staff will revise the draft administrative rules based on the preliminary stakeholder input that has already been provided and will open another public comment period on a revised set of administrative rules as provided in Metro Code Chapter 5.01. No change necessary.*

**Comment 6.** *2) If there are more administrative rules, will there be a committee established to help developed these rules before Metro Council votes on the Proposed Ordinances? Without finalized Administrative Rules, we do not yet know what the full implication of licensing will mean to our business.*

**Metro Response:** *The proposed administrative rules that will accompany the Code amendment package will be open to a formal public review period and hearing process if the proposed Code changes are adopted by Metro Council. Adoption of any subsequent amendments or new administrative rules would be considered as provided in Metro Code Section 5.01.280. No change necessary.*

EFI may be harmed and the regional refuse / recycling system as a whole may suffer unintended consequences by the Proposed Ordinances for the following reasons:

- 1) Within the City of Portland, recycling facilities in the appropriate zones have outright use. Solid waste facilities are not allowed within some of the zones and need conditional use in the limited number of zones that they are allowed.

**Comment 7.** *In the event that EFI became a licensed solid waste facility, we may need conditional use to make any significant changes to our facility. This is particularly troubling if Metro were to require the changes.*

**Metro Response:** *Metro staff has researched this issue, which was raised and discussed in the MRF/CT Subcommittee and with city of Portland officials. Metro has not received any evidence suggesting that local land use decisions would, or have been, influenced by the issuance of a Metro solid waste license. The actual “use” of EFI’s property remains unchanged regardless of Metro’s proposed licensing requirements. Because land use regulations are based on “use” of the property, then a Metro requirement to license a facility should not automatically change any land use decisions affecting that property if the use remains the same. As indicated in the referenced “attachment A” Table 140-1 (a City of Portland planning document) “Industrial Service (Includes Recycling)” is an outright approved use. No change made.*

- 2) Currently, most of the commingled recyclables collected in the state of Oregon are received and sorted at facilities within the Metro region. In the event that Metro were to license commingle recycling facilities within the region the following may happen:

**Comment 8.**

- a. *Commingled recyclables collected outside the region that are currently delivered to facilities within the region may travel to facilities currently outside the region. This would raise the cost per ton to receive and sort the material that continues to be delivered to the facilities*



within the Metro region. Fewer commingle tons also raises the per ton cost to handle source segregated recyclables (separated by type), placing EFI at a competitive disadvantage on our segregated portion of our business.

- b. Commingled recyclables collected in the region may be delivered, or reloaded and delivered to facilities outside the region. There is a commingled recycling facility located in Salem, OR that may draw commingle material from the south end of the region and there are a number of facilities in the Puget Sound area that are currently running under capacity. The facilities in the Puget Sound market are much closer to the port. A few dollars difference in pricing and more stringent controls on the commingled material may be enough to send the material north to facilities owned by haulers that also provide collection service in the metro area.
- c. Licensing of commingle recycling facilities in the Metro region may cause recyclers currently in the region to relocate outside the region.

**Metro Response:** *The concerns outlined in a – c above are speculative. Metro’s intent in this Code change package is to ensure that nuisance, odor, vector, dust and litter impacts for residents and businesses located nearby MRFs and CT facilities are minimized. There is no evidence to suggest that the proposed changes to Code are likely to result in any of the impacts outlined above (comments a. – c.) for facilities that are already meeting the minimum standards proposed in the rules. No change necessary.*

**Comment 9.** *The result of Metro licensing facilities that handle commingled recycling may result in giving Metro and local governments less information about and control over the source separated commingled recyclables collected in the region.*

**Metro Response:** *This is both speculative and contrary to the expected outcome of the proposed changes. Staff believes that adoption of these changes will result in a much better understanding of the regional solid waste system and that many information gaps will be filled in that will better inform future policy choices and planning efforts. No change made.*

#### **Metro’s Authority to Regulate Solid Waste**

**Comment 10.** *EFI does not question Metro’s authority to regulate solid waste; however, we do not agree that source separated recycling and / or source separated commingled recycling are solid waste, therefore Metro does not have the authority to license source separated recycling facilities. The primary document that gives Metro its authority over disposal and solid waste also exempts source separated recyclables that meet specific, yet broad criteria.*

**459A.075 Exemptions.** *Nothing in ORS 459.005, 459.015, 459.035, 459.250, 459.992, 459.995 and 459A.005 to 459A.665 applies to recyclable material which is: (1) Source separated by the generator; and (2) Purchased from or exchanged by the generator for fair market value for recycling or reuse. [Formerly 459.192]. The source separated recycling described above is exempted from all pertinent sections of 459 and 459A.*

**Metro Response:** *Metro staff recommends the following passage of the Oregon Recycling Opportunity Act in 1983 as a point of reference. In 1984, the Oregon Department of Environmental Quality (DEQ) sought legal advice from the Oregon Attorney General as to whether recyclable material was still considered “solid waste” for regulatory purposes under state law. The specific question was whether facilities “that receive only source separated recyclable materials [were] now exempt by definition, from the Department’s solid waste management rules?” (See Oregon Department of Justice letter to William Dana, DEQ, dated June 21, 1984.) The Oregon Department of Justice unequivocally stated that “recyclable material” is considered “solid waste” for regulatory purposes. The Attorney General’s Office further explained:*

*“The overall policy of the Act, the expressed concerns of individual legislators, and the specific language of particular sections all indicate that the Legislative Assembly intended that ‘recyclable material’ continue to be a sub-category of ‘solid waste,’ and that facilities for collecting and sorting recyclable materials continue to be regulated as ‘disposal sites.’*

*\* \* \**

*[I]t appears to be the intent that DEQ continue to have power to regulate materials which meet the definition of ‘solid waste,’ whether such materials are recyclable or not.”*

*For similar Oregon Department of Justice interpretations, see Memorandum from Assistant Attorney General Larry Edelman to DEQ, dated February 27, 1996, and Letter from Assistant Attorney General Larry Edelman to Mark Morford, dated November 4, 2002.*

*In addition, ORS 268.317(8) gives Metro explicit statutory authority to “Receive, accept, process, recycle, reuse and transport solid and liquid wastes.” This statute indicates that the legislature considers “recyclable materials” as a sub-category of “solid waste.” Further, the definition of “Solid Waste Management” in ORS 459.005 (25) references “recycling” from “solid waste.”*

*Finally, it is not entirely clear what is meant by the comment: “The primary document that gives Metro its authority over disposal and solid waste also exempts source separated recyclables that meet specific, yet broad criteria.” Metro’s sources of solid waste legal authority are its home rule Charter, the Metro Code, the RSWMP, Oregon Revised Statutes (ORS) Chapters 268, 459 and 459A.*

*NOTE: The state law exemption in ORS 459A.075 is not relevant to the proposed Code change. To enjoy this exemption, the recyclable material must be “Purchased from or exchanged by the generator for fair market value for recycling or reuse.” The source-separated recyclable materials covered by the proposed Metro Code changes and administrative rules are not “purchased from or exchanged by the generator for fair market value.” Accordingly, commingled source-separated recyclables from residential and commercial curbside collection programs do not align with this exemption because the collection hauler, under the terms of a solid waste franchise or license with the local government, is providing that collection service and transporting that material to a recovery facility for further processing. There is no direct exchange or purchase from the generator for fair market value for recycling or reuse. No change made.*

### **Why Regulate Commingle Recycling Facilities?**

The answers that we have been given by staff were primarily related to storage of recycling and “house-keeping”. Local regulators had concerns that certain recycling facilities were stock-piling large volumes recyclable materials outside. In a few cases, for extended period. This caused a concern that the facilities were becoming nuisances and that the material would degrade and become unmarketable. There was also a general concern related to the house-keeping at these same facilities. Before the MRF / CT Subcommittee held its last meeting, the electronics recycler in Washington County was cited by DEQ and closed its doors shortly thereafter, and a commingle facility that was of concern shuttered its business.

**Comment 11.** *Metro has stated in the 2008 RSWMP: “Certain facilities, such as those exclusively handling inert wastes or source-separated recyclable materials, are not required to obtain authorization from Metro to operate. However, Metro retains the authority to inspect and audit these operations to periodically confirm compliance with Metro Code.” Similar language also existed in the 1995 RSWMP. EFI asks the following questions: 1) When and how often has Metro exercised this Authority?*

**Metro Response:** *Metro staff have periodically visited SSR MRFs over the years to determine if they meet the exemption criteria provided in Metro Code Section 5.01.040(a)(3) i.e. exclusively accepting source-separated recyclable materials. However, under current Code requirements, such visits are typically pre-scheduled with the operator and performed for the purpose of determining whether the facility exclusively receives source-separated recyclable materials for reuse or recycling. Currently, SSR MRFs are not subject to licensing or franchising requirements and Metro does not have any authorization mechanisms in place to establish and enforce operating conditions at these types of facilities.*

**Comment 12.** *2) What has the response been by facilities that handle commingled recyclables when Metro has informed the facility operators that the facility is out of compliance?*

**Metro Response:** *As explained in Metro's response above, SSR MRFs are not subject to licensing or franchising requirements under current Metro Code. Metro does not have any authorization mechanisms in place at this time to establish and enforce operating conditions at these types of facilities. As stated earlier, Metro's intent with these proposed changes is to minimize nuisance, odor, vector, litter and dust from these operations, and to avoid material degradation due to improper handling. Given that local, national and global commodity markets ebb and flow, it is critical that periodic unannounced, random site visits are conducted to reduce undue impacts on communities.*

**Comment 13.** *3) Has any facility that handles source separated commingled recyclables turned down a request by Metro to enter the property or to respond in a positive manner when metro staff has recommended / requested a change to improve their operation?*

**Metro Response:** *As explained in Metro's response above, Metro staff have periodically visited SSR MRFs over the years to determine if they meet the exemption criteria provided in Metro Code Section 5.01.040(a)(3). Currently, such visits are typically pre-scheduled, limited in scope, and subject to approval by the operator. Metro staff has found that SSR MRF operators have generally accommodated Metro's requests to allow site access over the years. However, Metro does not have any authorization mechanisms in place to require site access or other operating conditions at these types of facilities.*

**Comment 14.** *Regulation of commingle facilities will have little if any positive impact on the quality of the outgoing product from commingle facilities.*

**Metro Response:** *Improving the quality of outgoing materials is not an objective of this proposed Code change. However, the proposed regulations will likely have a positive impact in those cases in which source-separated recyclable materials are either stored or mishandled in such a way as to lead to significant degradation of that material (as Metro staff has observed at one MRF in the region) making that material unmarketable. Additionally, the proposed regulations will likely have a positive impact on the people living and working nearby these types of facilities in that it will result in establishing operating requirements that will help minimize nuisance conditions such as litter, dust, and vectors.*

#### **Material recovery facility (MRF) and conversion technology (CT) Subcommittee**

EFI has several concerns regarding the process followed in developing the final draft recommendations. A primary concern is that the end product is no different than what was presented at the end of summer, 2015.

**Comment 15.** *The committee process did not address the initial concerns of the recycling community and local governments that brought about their initial support for oversight / regulation of these facilities.*

**Metro Response:** *The MRF/CT Subcommittee was charged with considering whether MRFs that process source-separated recyclable materials and facilities that convert waste to energy, fuel, or other products should be subject to authorization and inspection similar to other facilities and if so to identify which requirements were appropriate. The MRF/CT Subcommittee deliberated over the course of seven meetings*

*with the result being unanimous support for a set of recommendations that included authorizing material recovery facilities processing source-separated recyclables and establishing operating standards for those facilities. The MRF/CT Subcommittee, SWAAC, and Metro Council were clear that the scope of the subcommittee did not include performance standards (material quality) and that consideration of performance standards should be addressed through the upcoming regional waste planning process. No change made.*

**Comment 16.** *Further, I brought forward a motion to recommend Certification of Commingle Recycling Facilities as an alternative to licensing and staff interrupted the motion and later made their own. (Attachment B)*

**Metro Response:** *The MRF/CT subcommittee did receive a copy of Mr. Murray's certification proposal, and did discuss third-party certification as well as a Metro-issued certificate, license, or franchise. Through deliberation, the subcommittee elected to focus on a broader statement recommending that such facilities be subject to a Metro "authorization." Metro Code provides for two types of facility authorizations - solid waste license or franchise. Rather than creating a third type of authorization and developing an additional apparatus in Code, staff recommended removing the current licensing exemption for this type of facility. Therefore, Metro staff recommends using a solid waste license as the form of authorization for this particular class of facility. This approach is consistent with current Code, and Metro's current regulatory oversight of the region's solid waste system.*

**Comment 17.** *Why didn't Metro staff tell members at this second meeting that their list of issues would NOT be addressed in the sub-committee?*

**Metro Response:** *The deliberation of the Subcommittee, taken in whole, addressed many of the issues included in Mr. Murray's comment letter attached to this document. Those issues not specifically addressed in the subcommittee were identified to be better suited to the upcoming regional waste planning process.*

*This information was clearly articulated, as mentioned in these public comments, at the Subcommittee's March 17 meeting (Meeting No. 3). The summary notes for the above-mentioned meeting are available on the Metro website at: <http://www.oregonmetro.gov/regional-leadership/metro-advisory-committees/solid-waste-alternatives-advisory-committee/material>.*

*Mr. Murray began his presentation indicating that it had been mentioned many times in the Subcommittee that so called "clean mrf's" and "dirty mrf's" were similar now, and that his presentation was to show that they are still very different. Mr. Murray then showed a series of slides from both types of facilities indicating that dry waste facilities and SSR MRFs were indeed different in terms of the mixes of materials they receive and the composition of materials leaving the facilities (both to markets and to landfill). Mr. Murray showed a short video from a dry waste MRF and clarified that the outgoing residuals from the two different types of facilities were quite different with far more residuals going to landfill from the dry waste facilities that what comes out of the SSR MRF's.*

*During the same meeting Jeff made a motion to consider Certification as an option. The motion was interrupted by staff and staff asked if they could first give their presentation.*

**Comment 18.** *Jeff was not given another opportunity to present his motion.*

**Metro Response:** *At the May 20 meeting the various available options for "authorization" of these types of facilities was discussed. The Subcommittee discussed the certification option, and coalesced around the suggested language that ultimately became the key recommendation contained in the*

*MRF/CT Recommendation Memo. Mr. Murray's (and EFIs) focus on the certification is acknowledged and was well-represented in Subcommittee discussions, however the rest of the MRF/CT Subcommittee seemed comfortable with the broader term "authorization" for its recommendations going forward and reliance on staff to recommend the exact type of appropriate authorization. This position is further evidenced by the thorough review, editing, and subsequent adoption of the final MRF/CT Recommendation Memo dated October 5, 2016. Finally, it is Metro staff's recommendation that licenses are the appropriate legal form of authorization for this class of facility. Metro licenses can be developed to address conditions specific to a class of facilities. A Metro-issued certificate would only be a different name for a Metro-issued authorization – and it would not be any more restrictive or expansive than a license.*

**Has Metro Council and / or staff discussed the possibility of:**

**Comment 19.** *1) Building or utilizing an existing facility the purpose of sorting source separated commingled recycling collected within the Metro region?*

*2) Bidding out the processing of source separated commingled recycling collected within the Metro region?*

*3) Flow controlling source separated commingled recycling collected within the Metro region to either a publicly or privately-owned facility?*

**Metro Response:** *The three questions above are not relevant to the proposed changes to Metro Code Chapters 5.00 and 5.01 for which Metro has sought public comment. Metro entering into any of the activities described above would be the result of a policy decision. Policy direction comes from Metro Council. Metro Council has not directed staff to explore any of the three activities described in the questions above.*

**Comment 20.** *EFI requests that Metro re-instate the policy stated in Objective 4.3 of the Metro 1995 RSWMP in the RSWMP currently under development.*

**Metro Response:** *Thank you for this comment. It is, however, not related to the proposed changes to Metro Code. Please be sure to provide these comments through the Regional Waste Plan process. Information is available here: <http://www.oregonmetro.gov/public-projects/future-garbage-and-recycling>. No change made.*

**Conclusion**

In summary, EFI appreciates the opportunity to comment on the Proposed Ordinances. We request that Metro staff and Council give serious consideration to the concept of certification of source separated commingled recycling facilities. We continue to ask the question:

**Comment 21.** *Why does Metro need to license source separated commingled recycling facilities when they have not fully exercised their "authority to inspect and audit these operations to periodically confirm compliance with Metro Code."*

**Metro Response:** *While code provides "authority to inspect and audit these operations to periodically confirm compliance with Metro Code" the Code does not include sufficient details or operating requirements related to the operation of these types of facilities. The MRF/CT Subcommittee and SWAAC, have endorsed additional regulatory oversight including establishing design and operating standards as well as reporting for SSR MRFs. The proposed removal of the licensing exemption for*

***this class of facilities accomplishes the recommendations of the Subcommittee and SWAAC. No change made.***

**Administrative Rule Process:**

The comments received and responded to in this document were focused entirely on the proposed changes to Metro Code Chapters 5.00 and 5.01. When the proposed code changes were put out for public comment, Metro also posted preliminary drafts of two proposed administrative rules associated with the Code amendments for informal review and comment. Staff received comments on the draft administrative rules from the following:

- Keith Ristau, Far West Recycling
- Andy Kahut, KB Recycling
- Dave Claugus, Pioneer Recycling
- Chris McCabe, Northwest Pulp and Paper Association

If Metro Council adopts the proposed changes to Metro Code Chapters 5.00 and 5.01, Metro will subsequently adopt administrative rules as provided in Metro Code Section 5.01.280. Specifically, staff will post revised, draft administrative rules for public review and comment which will take into consideration the preliminary input that Metro received during the informal comment period that ended on July 14, 2017. At the conclusion of the next public comment period for the proposed rules, Metro staff will provide written responses to all comments received during the formal public comment period.

All project materials are located on Metro's website here: <http://www.oregonmetro.gov/regional-leadership/metro-advisory-committees/solid-waste-alternatives-advisory-committee/material>

Questions or concerns regarding the project can be directed to Dan Blue at 5023-797-1863 or [dan.blue@oregonmetro.gov](mailto:dan.blue@oregonmetro.gov).

Materials following this page were distributed at the meeting.

# **Metro**

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**Metro**

## **Minutes**

**Thursday, September 28, 2017**

**2:00 PM**

**Metro Regional Center, Council chamber**

**Council meeting**



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**1. Call to Order and Roll Call**

Council President Tom Hughes called the Metro Council meeting to order at 2:01 p.m.

**Present:** 7 - Council President Tom Hughes, Councilor Sam Chase, Councilor Carlotta Collette, Councilor Shirley Craddick, Councilor Craig Dirksen, Councilor Kathryn Harrington, and Councilor Bob Stacey

**2. Citizen Communication**

Art Lewellan, City of Portland: Mr. Lewellan testified in support of transit improvements around the region and proposed options such as a Marquam Bridge replacement, a MAX subway, and additional transit on Barbur Boulevard.

**3. Presentations****3.1 Office of the Auditor Annual Report FY 2016-2017**

Council President Hughes introduced Metro Auditor Brian Evans for a brief presentation on the annual auditor's report for fiscal year 16-17. Mr. Evans highlighted how the report served a number of purposes, including to demonstrate the value and mission of Metro's auditor office, to brief Metro Council and the public on what the auditor's office had accomplished over the past year, and to detail how many resources had been used to accomplish those items. Mr. Evans spoke to how the report demonstrated the values of accountability and transparency by reporting information publically about performance and using that information to make changes when performance had not been what was expected. Mr. Evans shared an overview of the audits performed, how time and resources were spent, and reports received by the Office of the Auditor over the past year. He highlighted five performance measures: average hours to complete an audit, number of audits completed/number of audits completed per fulltime equivalent employees in the Office of the Auditor, total hours spent per department, audit feedback, and the audit

implementation rate.

*Council Discussion*

Council President Hughes thanked the auditor for the comprehensive report.

#### 4. Consent Agenda

##### Approval of the Consent Agenda

**A motion was made by Councilor Chase, seconded by Councilor Harrington, to adopt items on the consent agenda. The motion passed by the following vote:**

**Aye:** 7 - Council President Hughes, Councilor Chase, Councilor Collette, Councilor Craddick, Councilor Dirksen, Councilor Harrington, and Councilor Stacey

- 4.1 Consideration of the Council Meeting Minutes for September 14, 2017
- 4.2 Resolution No. 17-4842, For the Purpose of Filling a Vacancy on the Metro Central Station Community Enhancement Committee
- 4.3 Resolution No. 17-4843, For the Purpose of Establishing the Southwest Corridor LUFO Steering Committee

#### 5. Resolutions

- 5.1 Resolution No. 17-4831, For the Purpose of Authorizing the Chief Operating Officer to Grant an Easement to the Sunrise Water Authority for Existing Facilities

Council President Hughes called on Mr. Dan Moeller, Metro staff, to present Resolution No. 17-4831. Mr. Moeller explained that each year, Metro received requests for easements for non-park uses in parks and natural areas. He noted that such requests were reviewed and analyzed per guidance and policy established by the Metro Council via Resolution No. 97-2539B, also known as Metro's easement policy. Mr. Moeller stated that some of Metro's Scouter's Mountain Nature Park, which was developed in 2005 and covered by existing easements, included certain infrastructure that was installed in 1971 without recorded easement. He noted that water lines that were installed in

1971 needed to be replaced and upgraded to ensure safe drinking water. Mr. Moeller explained that as a result, the Sunrise Water Authority submitted a formal easement request consistent with Metro's easement policy. He noted that staff had reviewed the application and determined it met the established requirements. He provided an overview of the proposed project and noted that staff recommended approval of the request.

*Council Discussion*

Councilor Dirksen asked if the construction would have an impact on access to the park; Mr. Shepherd explained that the design, included in the easement agreement, was such that one travel lane would be kept open to allow access during construction. Councilor Craddick asked about the prevalence of easements on Metro's properties. Mr. Moeller replied that such easements were fairly unusual and occurred on a minority of Metro's properties. Councilor Collette asked about the location of the area in question. Councilor Harrington thanked staff for all of their work caring for Metro's properties and preserving public access.

**A motion was made by Councilor Collette, seconded by Councilor Craddick, that this item be adopted. The motion passed by the following vote:**

**Aye:** 7 - Council President Hughes, Councilor Chase, Councilor Collette, Councilor Craddick, Councilor Dirksen, Councilor Harrington, and Councilor Stacey

5.2 Resolution No. 17-4829, For the Purpose of Declaring Certain Property Surplus and Authorizing the Execution of a Lease

Council President Hughes called on Mr. Paul Slyman, Director of Metro's Property and Environmental Services, and Ms. Rory Greenfield, Metro staff, to present Resolution No. 17-4829. Mr. Slyman provided an overview of Metro's properties, including the Metro Regional Center (MRC), Apotheker Plaza, and the exterior and interior parking garages, before introducing Ms. Greenfield to provide an

overview of the resolution. Ms. Greenfield shared a background of Metro's garages and the rates charged, spoke about the proposed arrangement with LandRover outlined in the staff report, and explained the information staff took into account to determine the various impacts the proposal would have on parking, staff, and visitors. She noted that the lease, if approved, would provide additional revenue while still allowing all current monthly customers to use the remaining three floors of the garage. She explained that Metro intended to invest the additional revenue to help fund much needed maintenance and repairs around the MRC campus.

Mr. Slyman then introduced Mr. Owen Ronchelli, Executive Director of Go Lloyd, the transportation management association for Metro's neighborhood, to share an overview of parking in the Lloyd District. Mr. Ronchelli noted that Go Lloyd produced a parking study for the neighborhood each year, focused on how parking was affected in Lloyd but also how it interrelated to transportation demand management options and services. He shared an overview of the latest study from 2016, including changing transportation needs and options, and highlighted that there continued to be a lot of surplus parking in the neighborhood.

*Council Discussion*

Councilor Chase asked about the balance between residential and commercial parking. Councilor Craddick inquired about the potential impacts of the new Oregon Convention Center hotel and its parking structure. Mr. Ronchelli spoke to how the changing dynamics of the neighborhood could affect parking in the future.

**A motion was made by Councilor Harrington, seconded by Councilor Craddick, that this item be adopted. The motion passed by the following vote:**

**Aye:** 7 - Council President Hughes, Councilor Chase, Councilor Collette, Councilor Craddick, Councilor Dirksen, Councilor Harrington, and Councilor Stacey

**6. Chief Operating Officer Communication**

Ms. Martha Bennett asked Mr. Paul Slyman, Director of Property and Environmental Services, to provide an update on Metro Central Station. Mr. Slyman explained that there had been an evacuation at Metro Central that morning, highlighted how the situation was dealt with, and noted that the station was back open and in operation. Ms. Bennett thanked Mr. Slyman for the work performed by him and his team. Councilor Chase asked how air quality issues were determined and when neighborhoods needed to be notified in such events. Mr. Slyman provided an overview of the protocol. Ms. Bennett also informed the Metro Council that Metro and several local partners worked together the previous week to remove garbage from the banks along Interstate 84. She also recognized the Metro's Human Resources team for their work ratifying a union contract with the International Union of Operating Engineers that represented certain employees in Metro's venues.

**7. Councilor Communication**

Councilors provided updates on the following meetings or events: the Metro Policy Advisory Committee (MPAC), the Right Brain Initiative fundraiser, the Cornelius Place groundbreaking event and tour of two East Council Creek properties, the 72Foster groundbreaking, the White Oak Savanna Park celebration, and the best practices trip to RailVolution in Denver. Councilor Dirksen thanked Mr. Craig Beebe, Metro staff, for his work coordinating the trip. Council President Hughes asked the Metro Council to sign on to a letter asking that a study focused on increasing the

resiliency of the Portland Metropolitan Levee System be included as a New Start Study in the U.S. Army Corps of Engineers' FY2018 work plan; Metro Council approved.

**8. Adjourn**

There being no further business, Council President Hughes adjourned the Metro Council meeting at 3:18 p.m. The Metro Council will convene the next regular council meeting on October 5 at 2:00 p.m. at the Metro Regional Center in the council chamber.

Respectfully submitted,



Nellie Papsdorf, Legislative and Engagement Coordinator

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF SEPTEMBER 28, 2017**

<b>ITEM</b>	<b>DOCUMENT TYPE</b>	<b>DOC DATE</b>	<b>DOCUMENT DESCRIPTION</b>	<b>DOCUMENT No.</b>
<b>2.0</b>	Handout	09/28/17	Art Lewellan Communication/Materials to Council	092817c-01
<b>3.1</b>	PowerPoint	09/28/17	Annual Report FY 2016-17	092817c-02
<b>4.1</b>	Minutes	09/28/17	Council Meeting Minutes from September 14, 2017	092817c-03
<b>5.1</b>	PowerPoint	09/28/17	Scouters Mountain Nature Park	092817c-04
<b>5.2</b>	PowerPoint	09/28/17	Lloyd Parking 2016 Data Summary	092817c-05
<b>7.0</b>	Handout	09/28/17	Councilor Hughes letter to Mr. Mulvaney	092817c-06





# News from the Oregon Zoo

Sheri Horiszny  
Deputy Director

# Integrated Conservation Action Plan



# Condor Program wins conservation award



# Condor Program wins conservation award



# Adding two new breeding pairs of condors



# The remodeling homestretch!



**Polar Passage**  
In Design



2020

**Primate Forest**  
In Design



2019

**Rhino Habitat**  
In Design



2019

**Education Center**



2017

**Elephant Lands**



2015

**Condors of the Columbia**



2014

**Penguinarium Filtration**



2012

**Veterinary Medical Center**



2012



# Final three projects

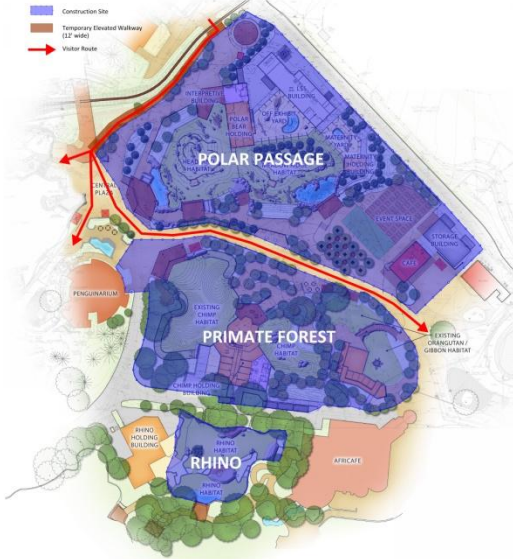


# Three habitats, one construction project

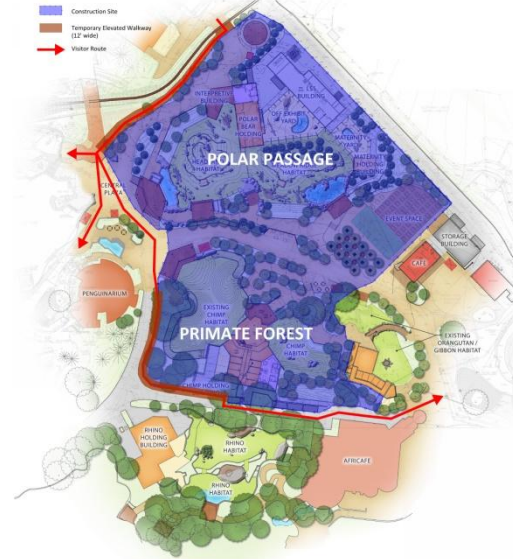




**PHASE 1**  
Spring 2018 - Early Spring 2019



**PHASE 2**  
Early Spring 2019 - Fall 2019



**PHASE 3**  
Fall 2019 - Winter 2019



**PHASE 4**  
Winter 2019 - Summer 2020



# Animal transitions



# 2019: Primate Forest



2019: Expanded rhino habitat



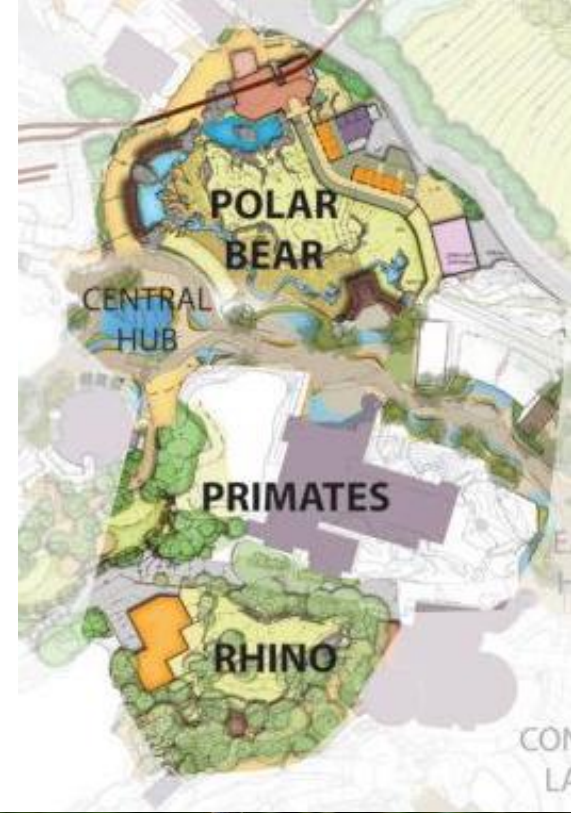
# Grand finale in 2020: Polar Passage



Great visitor experience



**MORE INFORMATION | [OregonZoo.org](http://OregonZoo.org)**





**To: Metro Council**  
**From: Sheri Horiszny, Oregon Zoo Deputy Director**  
**Date: October 3, 2017**  
**RE: Oregon Zoo Bond Construction Homestretch**

With five of the eight major bond-funded projects completed, the Oregon Zoo is entering the final period of construction. The remaining three projects – new habitats for polar bears and primates and an expanded habitat for rhinos – are centrally located and adjacent. Combining these projects reduces the duration of construction and allows for a variety of other efficiencies, from staging materials to visitor access management. The Metro Council approved this approach in April 2017.

While this improves construction efficiencies and lowers construction costs, combining three projects into one with a larger footprint and longer combined duration than any single project creates significant impacts that will be felt across the zoo for nearly two years. These include animal relocations, management of major events, food and beverage services and sales, daily campus maintenance, staff and visitor safety, and revenue. While construction does not begin until March, the zoo is taking a proactive approach to be fully prepared in time for ground breaking with plans to see us through the entire construction period.

The zoo has convened a taskforce comprised of staff from every division to identify the many areas of impact, develop and implement mitigation plans and create new appealing and meaningful experiences for zoo visitors, program participants and private event clients. While full plans are still in the works, the following is an overview of anticipated impacts and initial solutions:

### **Construction**

The bond team and contractors have divided the construction period into four phases, mapped the construction footprint and developed visitor- and construction-equipment routing plans. These are helping zoo staff anticipate challenges to visitor and staff movement during each phase. Primate Forest and Rhinos will be completed first, opening in 2019. Polar Passage will be the finale, opening in 2020.

### **Animal care and management**

Unlike previous projects, together these entail the relocation of 20 species and closure of a number of exhibits--changes that will affect the visitor experience and that require considerable attention to animal welfare by our Living Collections staff.

As you know, Nora the polar bear is settling in at the Hogle Zoo in Salt Lake City, where she will meet another young bear named Hope. The old polar bear exhibit at our zoo is now permanently closed. Pools were drained immediately to save water and the cost of maintenance. That building and adjacent sun bear and warty pig exhibits will be torn down.

Future residents of Polar Passage will be determined in collaboration with the Association of Zoos and Aquariums Species Survival Plan. Priority will be on selecting compatible bears that are ready to support priority conservation science work. The world is changing rapidly. It is unclear whether the Oregon Zoo will breed polar bears or adopt bears needing homes, such as those removed from their Arctic habitats due to negative encounters with humans. We're working closely with the polar bear SSP, which, closer to the opening of Polar Passage, will recommend specific bears as its first residents.

The greatest site impacts will come from the Primate Forest project. This project, opening in 2019, will provide vastly improved habitat for an expanded chimp family. Visitors will learn about these amazing apes and the challenges they face from loss of their forest habitat, primarily as it is cleared to make way



for palm oil plantations. Red Ape Reserve will still feature orangutans and gibbons but with updated interpretive displays, also focused on deforestation.

To create these new habitats, we must demolish the old primate building, temporarily close Red Ape Reserve and Chimps, and permanently close the Flooded Forest and New World monkey exhibits in that building. Some of these animals will move to temporary locations within the zoo. Others will go to temporary or permanent homes at other zoos.

The Rhino Project is an expansion of the current habitat. When completed, the rhinos will have access to the space currently occupied by hippos and the hippo pool will be filled, leading to significant water savings. In preparation, hippos will move to a new home in Fort Worth, Texas. Living Collections staff are still working out details for temporary placement of our rhinos.

All relocations to other zoos must be done within the seasonal window of safe temperatures for transfer. We have attached the current list of animal moves. This information is tentative, updated regularly as arrangements are firmed up.

### **Safety**

Staff and visitor safety is paramount. As always, the zoo will work closely with contractors to ensure a safe and healthy workplace. The zoo is identifying ways to maintain emergency access during construction, minimize areas where visitors, staff and construction intersect and raise staff awareness of construction boundaries and policies on access. Fencing, signage and education will all be used to achieve our “Target Zero” goal for injuries and accidents.

### **Visitor Experience**

With so much happening in the center of the zoo during construction, we’re giving extra attention to maintaining an excellent visitor experience and reaching revenue projections. Through our web site, social media and on-site signage, the zoo will regularly inform visitors about featured activities and ways to optimize their visit. Construction will be its own attraction as many visitors enjoy watching the big equipment and witnessing the transformation of their zoo. Staff are exploring a wide variety of options. Here are a few examples:

- Expand the hugely popular giraffe feeding program
- Relocate the carousel
- Promote a one-way route for visitors that highlights animal experiences and features some of the less visited zones of the zoo including Cascade Canyon
- Add keeper talks, “animal talker-” and “construction talker-” volunteers, program animals and activities along pathways to enhance and deepen the visitor experience
- Highlight Bond Program accomplishments and plans for new habitats
- Engage visitors in construction through peek-a-boo holes in construction fences and a play site for children that includes tools and hardhats, giant Legos or building blocks
- Provide more touch and learn opportunities featuring animal artifacts (pelts, teeth, claws, etc.)
- Give special attention to clear and updated wayfinding

### **Event management**

A team is also developing (and already implementing!) new and exciting events such as Oktoberfest, which occurred last weekend with great success, bringing in over \$10,000 in food and beverage sales, Breakfast with Santa and new events geared towards adults such as an over-21 ZooLights. These new events will not only provide opportunities for additional revenues, they will also create excitement and potentially reach new audiences or bring in visitors to the zoo during “off peak” times.

## **Food & Beverage**

The current picnic area will be lost during construction. This is an important source of revenue for the zoo so, in the interim, Food and Beverage staff are exploring an alternative “Picnic Lands” using the AfriCafe terraces and concert lawn and combining the Education Center Conservation Hall and Discovery Plaza for an additional picnic area. Bear Walk Café will be closed for one year, returning in a new incarnation on the opposite side of Zoo Street. To accommodate the needs of visitors and maintain revenue, we’re expanding our food cart partnership program to draw in Portland’s best food options. Central Plaza will become a bit more of a snack hub with elephant ears, a new food cart, and cold snacks.

## **Storage / Staff Relocation Plan**

As we prepare for demolition of major facilities, the zoo is working on relocating staff offices and building contents. Storage is an ongoing challenge at the zoo. We are taking additional measures to reduce storage needs, including digitizing documents and using a zoo-wide strategy in “Smash, Trash and Recycle.” This effort is already underway and teams from all departments are engaged. Our Life Support Systems staff and others are in the process of vacating impacted offices and moving into temporary office spaces.

## **Campus maintenance**

Finally, path closures and temporary routes create challenges for moving equipment and materials that are part of the everyday operations at the zoo. This includes everything from bulk salt deliveries at Steller Cove to transporting browse cuttings to the animals. Zoo operations staff are coordinating efforts with the Bond Team and Lease Crutcher Lewis to manage the flow of people and materials around the construction site.

The zoo anticipates reporting to the Metro Council in early 2018 on final designs for these projects and updated plans for managing this final stage of construction. This work will complete our commitment to our metro area community for the 2008 Oregon Zoo Bond and the first 10 years of our 20-year master plan. We’re ready to share the homestretch excitement and celebrate this amazing accomplishment with our community.

The zoo will report to the Metro Council in February 2018 on accomplishments toward achieving operational sustainability.

**Animal exhibits closed for construction:**

- Polar bear (reopens in 2020)
- Sun bear (permanent)
- Visayan warty pigs (permanent)
- Flooded forest (permanent)
- New world monkeys (Cotton top tamarins, howlers, saki monkeys – permanent)
- Hippos (permanent)
- Rhinos (reopens in 2020)
- Orangs and Chimps (reopen in 2020)

**Animal relocations for construction:**

<b>Species</b>	<b>Destination</b>	<b>Timeframe</b>	<b>Notes</b>
Orangutan	VMC for a portion of construction	TBD	once construction starts
Gibbon	VMC for a portion of construction	TBD	once construction starts
Chimpanzee	Red Ape Reserve for a portion of construction	TBD	2-3 months after the initial construction starts
Sakis Lionel and Jackie	Virginia Zoo	October 2017	Next week?
Saki Galaxy	Dallas World Aquarium	October 2017	Waiting on weather
Saki Marcello	TBD	TBD	Waiting for SSP rec
Cotton top tamarin	TBD	TBD	Relocated within zoo to continue SSP recommended breeding
Howler Monkeys	Brevard Zoo	October 2017	Next week?
Mandrill	Columbus Zoo	Oct 2017	Waiting on preship results
Polar bear	Hogle Zoo	September	Complete
Sun Bear	Pueblo Zoo	November	
Milo warty pig	San Diego Zoo	September	Complete (10/5)
Warty pig group	Austin Zoo	November	
Arrau turtles	Steinhart Aquarium	October	Leaving 10/6
Dwarf Caiman	Wildlife Discovery	October	
Piranha, discus, plecostomus	Moody Gardens	October	
Emerald tree boa and Milky tree frogs	Miller Park Zoo	September	
Basilisk lizards	Sacramento Zoo	October	Complete
Caiman Lizard	Dallas Zoo	October/November	SSP Rec
Caiman Lizard	Salisbury Zoo	September	Complete
Caiman lizard	Brookfield Zoo	September/October	SSP Rec
Green Anaconda	National Zoo	TBD	Pending Permitting
Rhinos	TBD	TBD	
Hippos	Fort Worth Zoo	Spring 2018	