

Council meeting agenda

Thursday, October 31, 2019

2:00 PM

Metro Regional Center, Council chamber

REVISED 10/28

1. Call to Order and Roll Call

2. Safety Briefing

3. Public Communication

4. Consent Agenda

- 4.1 Resolution No. 19-5037, For the Purpose of Adding or Amending Existing Projects to the 2018-21 Metropolitan Transportation Improvement Program Involving Four Projects Impacting Portland, TriMet, Tualatin, and Washington County (OC20-02-OCT) [RES 19-5037](#)

Attachments: [Resolution No. 19-5037](#)
[Exhibit A to Resolution No. 19-5037](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)

- 4.2 Resolution No. 19-5039, For the Purpose of Authorizing the Execution of TriMet a Park & Ride Agreement at the Portland Expo Center [RES 19-5039](#)

Attachments: [Resolution No. 19-5039](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)

- 4.3 Consideration of the Council Meeting Minutes for October 17, 2019 [18-5307](#)

- 4.4 Consideration of the Council Meeting Minutes for October 24, 2019 [18-5298](#)

5. Resolutions

- 5.1 Resolution No. 19-5022, For The Purpose Of Approving [RES 19-5022](#)
the Solid Waste Facility Franchise Renewal Application of
GSS Transfer, LLC, and Authorizing the Chief Operating
Officer to Issue a Renewed Solid Waste Facility Franchise
To Operate a Transfer Station

Presenter(s): Roy Brower, Metro
Joanna Dyer, Metro

Attachments: [Resolution No. 19-5022](#)
[Exhibit A to Resolution No. 19-5022](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)

- 5.1.1 Public Hearing for Resolution No. 19-5022, For The Purpose Of Approving
the Solid Waste Facility Franchise Renewal Application of GSS Transfer,
LLC, and Authorizing the Chief Operating Officer to Issue a Renewed Solid
Waste Facility Franchise To Operate a Transfer Station

- 5.2 Resolution No. 19-5023, For The Purpose Of Approving [RES 19-5023](#)
the Solid Waste Facility Franchise Renewal Application of
Pride Recycling Company, and Authorizing the Chief
Operating Officer to Issue a Renewed Solid Waste Facility
Franchise to Operate a Transfer Station

Presenter(s): Roy Brower, Metro
Joanna Dyer, Metro

Attachments: [Resolution No. 19-5023](#)
[Exhibit A to Resolution No. 19-5023](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)
[Attachment 2 to Staff Report](#)

- 5.2.1 Public Hearing for Resolution No. 19-5023, For The Purpose Of Approving
the Solid Waste Facility Franchise Renewal Application of Pride Recycling
Company, and Authorizing the Chief Operating Officer to Issue a Renewed
Solid Waste Facility Franchise to Operate a Transfer Station

- 5.3 Resolution No. 19-5024, For The Purpose Of Approving [RES 19-5024](#)
the Solid Waste Facility Franchise Renewal Application of
Waste Management of Oregon, Inc., and Authorizing the
Chief Operating Officer to Issue a Renewed Solid Waste
Facility Franchise to Operate Forest Grove Transfer Station
- Presenter(s): Roy Brower, Metro
Joanna Dyer, Metro
- Attachments: [Resolution No. 19-5024](#)
[Exhibit A to Resolution No. 19-5024](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)
[Attachment 2 to Staff Report](#)
- 5.3.1 Public Hearing for Resolution No. 19-5024, For The Purpose Of Approving
the Solid Waste Facility Franchise Renewal Application of Waste
Management of Oregon, Inc., and Authorizing the Chief Operating Officer
to Issue a Renewed Solid Waste Facility Franchise to Operate Forest
Grove Transfer Station
- 5.4 Resolution No. 19-5025, For The Purpose Of Approving [RES 19-5025](#)
the Solid Waste Facility Franchise Renewal Application of
Waste Management of Oregon, Inc., and Authorizing the
Chief Operating Officer to Issue a Renewed Solid Waste
Facility Franchise to Operate Troutdale Transfer Station
- Presenter(s): Roy Brower, Metro
Joanna Dyer, Metro
- Attachments: [Resolution No. 19-5025](#)
[Exhibit A to Resolution No. 19-5025](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)
[Attachment 2 to Staff Report](#)
- 5.4.1 Public Hearing for Resolution No. 19-5025, For The Purpose Of Approving
the Solid Waste Facility Franchise Renewal Application of Waste
Management of Oregon, Inc., and Authorizing the Chief Operating Officer
to Issue a Renewed Solid Waste Facility Franchise to Operate Troutdale
Transfer Station
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- 5.5 Resolution No. 19-5026, For The Purpose Of Approving [RES 19-5026](#)
the Solid Waste Facility Franchise Renewal Application of
Willamette Resources Inc., and Authorizing the Chief
Operating Officer to Issue a Renewed Solid Waste Facility
Franchise to Operate a Transfer Station

Presenter(s): Roy Brower, Metro
Joanna Dyer, Metro

Attachments: [Resolution No. 19-5026](#)
[Exhibit A to Resolution No. 19-5026](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)
[Attachment 2 to Staff Report](#)

- 5.5.1 Public Hearing for Resolution No. 19-5026, For The Purpose Of Approving
the Solid Waste Facility Franchise Renewal Application of Willamette
Resources Inc., and Authorizing the Chief Operating Officer to Issue a
Renewed Solid Waste Facility Franchise to Operate a Transfer Station

- 5.6 Resolution No. 19-5027, For The Purpose Of Approving a [RES 19-5027](#)
One Year Term Extension and Authorizing the Chief
Operating Officer to Issue an Amended Solid Waste
Facility Franchise For City Of Roses Disposal & Recycling
To Operate COR Transfer Station

Presenter(s): Roy Brower, Metro
Joanna Dyer, Metro

Attachments: [Resolution No. 19-5027](#)
[Exhibit A to Resolution No. 19-5027](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)

- 5.6.1 Public Hearing for Resolution No. 19-5027, For The Purpose Of Approving
a One Year Term Extension and Authorizing the Chief Operating Officer to
Issue an Amended Solid Waste Facility Franchise For City Of Roses
Disposal & Recycling To Operate COR Transfer Station

6. Chief Operating Officer Communication

7. Councilor Communication

8. Adjourn

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ការការពារសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬដើម្បីទទួលបានកាតបណ្តឹងរើសអើងសូមចូលទស្សនាក្រេតាមទីតាំង www.oregonmetro.gov/civilrights។ បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1700 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ មុនថ្ងៃប្រជុំដើម្បីអាចឱ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក ។

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Gresham Channel 30 - MCTV <i>Web site:</i> www.metroeast.org <i>Ph:</i> 503-491-7636 Call or visit web site for program times.	Washington County and West Linn Channel 30– TVC TV <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 Call or visit web site for program times.
Oregon City and Gladstone Channel 28 – Willamette Falls Television <i>Web site:</i> http://www.wftvmedia.org/ <i>Ph:</i> 503-650-0275 Call or visit web site for program times.	

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times. Agenda items may not be considered in the exact order. For questions about the agenda, call the Metro Council Office at 503-797-1540. Public hearings are held on all ordinances second read. Documents for the record must be submitted to the Regional Engagement and Legislative Coordinator to be included in the meeting record. Documents can be submitted by e-mail, fax or mail or in person to the Regional Engagement and Legislative Coordinator. For additional information about testifying before the Metro Council please go to the Metro web site www.oregonmetro.gov and click on public comment opportunities.

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Gresham Channel 30 - MCTV <i>Web site:</i> www.metroeast.org <i>Ph:</i> 503-491-7636 Call or visit web site for program times.	Washington County and West Linn Channel 30– TVC TV <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 Call or visit web site for program times.
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Agenda Item No. 4.1

Resolution No. 19-5037, For the Purpose of Adding or Amending Existing Projects to the 2018-21 Metropolitan Transportation Improvement Program Involving Four Projects Impacting Portland, TriMet, Tualatin, and Washington County (OC20-02-OCT)

Consent Agenda

Metro Council Meeting
Thursday, October 31, 2019
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADDING OR	)	RESOLUTION NO. 19-5037
AMENDING EXISTING PROJECTS TO THE)	
2018-21 METROPOLITAN TRANSPORTATION	)	Introduced by: Chief Operating Officer
IMPROVEMENT PROGRAM INVOLVING FOUR	)	Andrew Scott in concurrence with
PROJECTS IMPACTING PORTLAND,	)	Council President Lynn Peterson
TUALATIN, TRIMET, AND WASHINGTON)	
COUNTY (OC20-02-OCT))	

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, MTIP amendments now must also include assessments for required performance measure compliance, expanded RTP consistency, and strive to meet annual Metro and statewide obligation targets resulting in additional MTIP amendment processing practices and procedures; and

WHEREAS, Metro, Portland, and TriMet have agreed upon a fund exchange to swap out the unobligated federal Congestion Mitigation Air Quality improvement program funding with local funds to allow the Central City In Motion active transportation and transit improvement project to be delivered faster and more efficiently; and

WHEREAS, the October 2019 Formal MTIP amendment is replacing the CMAQ funds with local funds for the Central City In Motion project in Key 19299 now that required local Intergovernmental Agreement (IGA) among Metro, Portland, and TriMet is close to be completed; and

WHEREAS, the Federal Transit Administration (FTA) has confirmed TriMet's approved Section 5309 Small Starts discretionary funding at approximately \$87.5 million dollars for their Division Transit Project which will implement bus rapid transit (BRT) from Portland's Central Business District east to Gresham; and

WHEREAS, to ensure TriMet can complete and is awarded their FTA Transit Award Management System (TrAMS) grant for the 5309 funds by December 2019, MTIP programming adjustments are being made to cancel TriMet's FY 2019 allocation and advance their FY 2021 5309 allocation to 2020 via a separate administrative modification in the MTIP to meet FTA's 5309 Small Starts grant approval deadline for the Division Transit project; and

WHEREAS, the city of Tualatin received a 2019-21 Regional Flexible Fund Allocation (RFFA) of \$625,000 of federal Surface Transportation Block Grant (STBG) funds in support of project development activities for their SW Herman Rd to support the construction of bike lanes and sidewalks along a half-mile stretch of Herman Road from SW 124th Ave to SE Cheyenne Way and now wish to complete the project development activities with local funds; and

WHEREAS, Metro, Tualatin, and Washington County have agreed to a fund exchange where the SW Herman Rd STBG will be transferred to Washington County's Basalt Creek Parkway Extension project and committed to the Preliminary Engineering (PE) phase with Washington County providing Metro with \$625,000 of local funds from the project to then be used by Tualatin to support project development activities for their SW Herman Rd project; and

WHEREAS, the October 2019 Formal MTIP Amendment was subject to MTIP review factors that included project eligibility/proof of funding, RTP consistency with the financially constrained element, consistency with RTP goals and strategies, determination of amendment type, inclusion in the Metro transportation regional models, determination of Regional Significance, fiscal constraint verification, completing a performance measurements assessment, and compliance with MPO MTIP federal management responsibilities to ensure the changes were in compliance with 23 CFR 450.300-338 and accomplished legally; and

WHEREAS, the MTIP's financial constraint finding is maintained as all projects proof of funding has been verified; and

WHEREAS, no negative impacts to air conformity will exist as a result of the changes completed through the October 2019 Formal MTIP Amendment; and

WHEREAS, all projects included in the October 2019 Formal MTIP Amendment successfully completed a required 30-day public notification/opportunity to comment period without any significant issues raised; and

WHEREAS, Metro's Transportation Policy and Alternatives Committee (TPAC) received their notification, amendment summary overview, and recommended approval to Metro Joint Policy Advisory Committee on Transportation (JPACT) on October 4, 2019; and

WHEREAS, JPACT received their notification on October 17, 2019 and provided an approval recommendation to Metro Council; now therefore

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT on October 31, 2019 to formally amend the 2018-21 MTIP to include the October 2019 Formal Amendment bundle consisting of four projects.

ADOPTED by the Metro Council this ____ day of _____ 2019.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

**2018-2021 Metropolitan Transportation Improvement Program
Exhibit A to Resolution 19-5037**



Proposed October 2019 Formal Amendment Bundle Amendment Type: Formal/Full Amendment #: OC20-02-OCT Total Number of Projects: 4					
ODOT Key #	MTIP ID #	Lead Agency	Project Name	Project Description	Description of Changes
19299	70677	Portland	Portland Central City Safety Project Phase 2 Central City In Motion	The project will develop a strategy that identifies multimodal safety projects and prioritizes investments in the Portland Central City.	FUND EXCHANGE: The amendment replaces the current federal CMAQ funds with local funds. The project will proceed through all implementation phases as a locally funded project. The fund swap is made possible through a fund exchange among Portland, Metro, and TriMet.
20844	70930	TriMet	Division Transit Project (2019)	High capacity transit on Division from Portland Central Business District to Gresham Town Center.	CANCEL PROJECT: The amendment cancels the project from the MTIP as the approved 5309 Small Starts funding for the Division Trans Project will originate from Keys 20445 and 2046 per FTA guidance and direction. The 5309 Small Starts funds are not required as a result to support the Division Transit Project and is being cancelled from the MTIP as a result to avoid funding over programming.
20815	70881	Tualatin	SW Herman Rd: SW 124th Ave - SW Cheyenne Way	In the city of Tualatin on SW Herman Rd between SW 124th Ave and SW Cheyenne Way, complete project development activities to support constructing bike lanes and sidewalks along a half-mile stretch of Herman Road (2019-21 RFFA Awarded Project).	CANCEL PROJECT: The amendment cancels the project from the MTIP as the result of a three-way fund exchange among Metro Tualatin, and Washington County. The \$625,000 of Surface transportation Program funding is being transferred to Washington County's Basalt Creek project in Key 19358. Washington County will provide \$625k of local funds from Key 19358 to Metro. Metro will then reimburse Tualatin as the Herman Rd project development study is completed.

19358	70789	Washington County	Basalt Creek Ext: Grahams Ferry to Boones Ferry Rd	<p>This project will complete Basalt Creek Parkway, the key new arterial roadway providing industrial freight access identified in the Basalt Creek Planning Area, a Regionally Significant Industrial Area.</p> <p><u>FUND EXCHANGE:</u> The formal amendment completes the Washington County portion to the three-way fund swap among Metro, Tualatin, and Washington County. \$625,000 of Surface Transportation funds from Tualatin's SW Herman Rd project on Key 20815 (also this amendment bundle). The STP funds are being added to the PE phase (along with required match). Washington County is then providing Metro with \$625,000 of local funds that will be used to reimburse Tualatin's SW Herman Rd project in Key 20815. Metro will monitor three way fund exchange through a separate multi-agency Intergovernmental Agreement</p>
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Metro
2018-21 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

Formal Amendment
FUND EXCHANGE
 5th Amendment to Project

Lead Agency: Portland	Project Type: Active Trns	ODOT Key: 19299
Project Name: Portland Central City Safety Project – Phase 2 Central City in Motion	ODOT Type: Active Trns	MTIP ID: 70677
Project Status: 2 = Pre-design/project development activities (pre-NEPA) (ITS = ConOps.)	Performance Meas: Yes	Status: 2
Short Description: The project will develop a strategy that identifies multimodal safety projects and prioritizes investments in the Portland Central City.	Capacity Enhancing: No	Comp Date: 12/31/2022
	Conformity Exempt: Yes	RTP ID: 11832
	On State Hwy Sys: No	RFFA ID: 50218
	Mile Post Begin: N/A	RFFA Cycle: 2016-18
	Mile Post End: N/A	UPWP: Yes
	Length: N/A	UPWP Cycle: SFY 18
	1st Year Program'd: 2018	Past Amend: 4
	Years Active: 3	OTC Approval: No

Detailed Description: The project will develop a strategy that identifies multimodal safety projects and prioritizes investments in the Portland Central City. The project will also fund the preliminary development of a new greenway trail south of the Marquam Bridge, providing access to the new transit bridge serving South Waterfront.

STIP Description: (Planning Study description): Develop a strategy that identifies multimodal safety projects and prioritizes investments

PROJECT FUNDING DETAILS

Fund Type	Fund Code	Year	Planning	Preliminary Engineering	Right of Way	Other (Utility Relocation)	Construction	Total
Federal Funds								
CMAQ	Mult	2016	\$ 852,000					\$ 852,000
CMAQ	Z400	2020		\$ 648,000				\$ -
CMAQ	Z400	2021			\$ 100,000			\$ -
CMAQ	Z400	2021					\$ 3,900,000	\$ -
CMAQ Planning program codes used = M40E, Z400, M400, L40E, & L400							Federal Totals:	\$ 852,000
Federal Fund Obligations:			\$ 852,000					Federal Aid ID
EA Number:			C3265210					5900(288)
Initial Obligation Date:			9/21/2016					
State Funds								
								\$ -
							State Total:	\$ -

State Fund Obligations:							
EA Number:							
Initial Obligation Date:							
Local Funds							
Local	Match	2016	\$ 97,515				\$ 97,515
Local	Match	2020	-	\$ 74,166			\$ -
Other	Local	2020		\$ 722,166			\$ 722,166
Local	Match	2021			\$ 11,445		\$ -
Other	Local	2021			\$ 111,445		\$ 111,445
Local	Match	2021				\$ 446,372	\$ -
Other	Local	2021				\$ 4,346,372	\$ 4,346,372
							\$ -
						Local Total	\$ 5,179,983
Phase Totals Before Amend:		\$ 949,515	\$ 722,166	\$ 111,445	\$ -	\$ 4,346,372	\$ 6,129,498
Phase Totals After Amend:		\$ 949,515	\$ 722,166	\$ 111,445	\$ -	\$ 4,346,372	\$ 6,129,498
Year Of Expenditure (YOE):							\$ 6,129,498
Notes and Summary of Changes:							
Red font = prior amended funding or project details. Blue font = amended changes to funding or project details. Black font indicates no change has occurred.							
Amendment Summary:							
The formal amendment de-programs the PE, ROW, and Construction phase CMAQ from the project and replaces it with local funds from Portland. Portland's will initially complete the project with their local funds. The proposed projects identified in the planning study raised some delivery efficiency questions with the use of CMAQ to complete the project. As a result, Metro, TriMet, and Portland developed a project fund exchange to complete Portland's Central City project with local funds.							
The fund exchange has been approved with TriMet to commit the CMAQ to an appropriate CMAQ eligible project. TriMet will provide Metro with the local funds as part of the fund exchange. Metro will reimburse Portland as required. Portland's project will be locally administered and monitored by Metro through a separate IGA. The Central City Safety Project will remain in the 2018-21 MTIP, but will not need to be carried over into the 2021-2026 MTIP. TriMet will use the CMAQ funds to purchase electric buses.							
RTP References:							
> RTP IDs: 11832 - Central City Multimodal Safety Improvements, Phase 2							
> RTP Description: Construct high-priority bikeways, pedestrian improvements, and transit priority treatments in the Central City, identified through the Central City Multimodal Project planning phase.							
> Will Performance Measurements Apply: Appears Yes							
Fund Codes:							
> CMAQ = Federal Congestion Mitigation Air Quality improvement program funds. CMAQ funds provide funding to support projects that provide a maximum air quality improvement benefit. CMAQ funds are allocated to Metro via a statewide formula allocation							
> Local = General local funds provided by the lead agency as part of the required match or to cover overmatching project costs and needs							
> Other = Additional local funds contributing to the project beyond the required match.							

Amendment Review and Development Personnel:

- > Exemption Status: Exempt project .
- > Project is located on the NHS: No
- > Located on the Metro Modeling network: YES. Candidate projects are located along various identified pedestrian parkways or Regional Pedestrian Corridors in the Metro Pedestrian modeling network. The final selected projects will be incorporated into the Pedestrian model as appropriate.
- > Regionally Significant Project: The location of the candidate projects on the Pedestrian model result in the project being identified as Regionally Significant
- > ODOT LAL: . Daniel Ramirez-Cornejo
- > Project Manager or Agency Contact(s): Gabriel Graff, PBOT
- > Metro MTIP Programming Manager: Ken Lobeck.
- > ODOT Region 1 STIP Coordinator: Gabriela Garcia



Metro
2018-21 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

Formal Amendment
CANCELLED PROJECT
 5th Amendment to Project

Lead Agency: TriMet	Project Type: Transit	ODOT Key: 20844
Project Name: Division Transit Project (2019)	ODOT Type: Transit	MTIP ID: 70930
	Performance Meas: Yes	Status: T22
	Capacity Enhancing: No	Comp Date: N/A
	Conformity Exempt: Yes	RTP ID: 11590
	On State Hwy Sys: No	RFFA ID: N/A
Project Status: T22 = Programming actions in progress or programmed in current MTIP	Mile Post Begin: N/A	RFFA Cycle: N/A
	Mile Post End: N/A	UPWP: No
	Length: N/A	UPWP Cycle: N/A
	1st Year Program'd: 2018	Past Amend: 4
	Years Active: 3	OTC Approval: No

Detailed Description: None	CANCELLED PROJECT
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STIP Description: High capacity transit on Division from Portland CBD to Gresham TC.

PROJECT FUNDING DETAILS

Fund Type	Fund Code	Year	Planning	Preliminary Engineering	Right of Way	Construction	Other/Transit	Total
Federal Funds								
5309-SS	FF40	2020					\$ 7,718,985	\$ 7,718,985
							\$	-
CMAQ Planning program codes used = M40E, Z400, M400, L40E, & L400							Federal Totals:	\$ 7,718,985
Federal Fund Obligations:								Federal Aid ID
EA Number:								
Initial Obligation Date:								
State Funds								
							\$	-
							State Total:	\$ -
State Fund Obligations:								
EA Number:								
Initial Obligation Date:								

Local Funds								
Local	Match	2020	-				\$ 5,145,990	\$ 5,145,990
							\$	-
							Local Total	\$ -
Phase Totals Before Amend:			\$ -	\$ -	\$ -	\$ -	\$ 7,718,985	\$ 7,718,985
Phase Totals After Amend:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Year Of Expenditure (YOE):								\$ 175,000,000

Notes and Summary of Changes:

Red font = prior amended funding or project details. Blue font = amended changes to funding or project details. Black font indicates no change has occurred.

Amendment Summary:

The formal amendment cancels the 5309 small starts funds from the 2019 Division Transit Project allocation as for 2019. FTA will approve the FY 2020 and 2021 allocations from Keys 20845 and 20846. Together, they total \$90 million. The project's final approval amount at a 50% federal contribution rate is approximately \$87.5 million of 5309 small start funds. TriMet's grant approval in TrAMS. is estimated to occur by December 2019. Obligating the funds using Keys 20845 and 20846 simplifies the grant approval process for FTA. Key 20844 was slipped into FY 2020 via the STIP Re-Balancing amendment during late July and now is being cancelled from the MTIP. . Key 20846 is currently programmed in 2021 with \$34,688,806 and will be administratively advanced to FY 2020. Deleting Key 20844 does not negatively impact the project. By advancing Key 20846 into 2020, Key 20844 becomes an unnecessary project in the MTIP.

The Division Transit Project:

TriMet proposes to implement bus rapid transit (BRT) from Portland's Central Business District east to Gresham. The route provides access across the Willamette River over the Tilikum Crossing bridge, which currently is only open to pedestrians, bicycles, and light rail vehicles making its way to the Portland Transit Mall. The Project includes a portion of the reconstruction and expansion of Powell Garage to accommodate and maintain the BRT fleet. The project also includes transit signal priority, a real-time bus arrival information system and the purchase of 33 uniquely branded vehicles. The service is planned to operate every six minutes during weekday peak periods, every 12 minutes during weekday off-peak periods, and every 15 minutes during weekday evenings and weekends. Project Purpose: The Project is intended to improve travel between Downtown Portland, Southeast and East Portland and Gresham with easier, faster and more reliable bus service. It is expected to minimize travel times while providing important transit connections.

The estimated construction total project cost is \$175 million dollars, The funding originates from multiple sources including FTA (via the FTA Section 5309 Small Starts grant supporting 50% of the project cost, CMAQ funds from Metro/FHWA, State contributions, and various local contributions. The funding contribution split is approximately \$113.84 in federal funds, 0.75 million in state funds and \$60.09 million in local funds . Service is expected to be initiated in 2022. Additional project details can be found on TriMet's website at <https://trimet.org/division/>.

RTP References:

> RTP IDs: 11590 - HCT: Division Transit Project: Capital Construction

> RTP Description: The Division Transit Project will improve travel between Downtown Portland, Southeast and East Portland and Gresham with easier, faster and more reliable bus service.

Will Performance Measurements Apply: Appears Yes

Fund Codes:

- > 5309 Small Starts = Federal Section 5309 Small Starts funding allocated by FTA in a discretionary basis to support capital transit improvements.
- > Local = General local funds provided by the lead agency as part of the required match or to cover overmatching project costs and needs
- > Other = Additional local funds contributing to the project beyond the required match.

Amendment Review and Development Personnel:

- > Exemption Status: Exempt project .
- > Project is located on the NHS: No
- > Located on the Metro Modeling network: YES. Candidate projects are located along various identified pedestrian parkways or Regional Pedestrian Corridors in the Metro Pedestrian modeling network. The final selected projects will be incorporated into the Pedestrian model as appropriate.
- > Regionally Significant Project: The location of the candidate projects on the Pedestrian model result in the project being identified as Regionally Significant
- > ODOT LAL: . Daniel Ramirez-Cornejo



Metro
2018-21 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

Formal Amendment
CANCELLED PROJECT
 2nd Amendment to Project

Lead Agency: Tualatin	Project Type: Planning	ODOT Key: 20815	
Project Name: SW Herman Rd: SW 124th Ave - SW Cheyenne Way	ODOT Type: Planning	MTIP ID: 70881	
	Performance Meas: No	Status: A	
	Capacity Enhancing: No	Comp Date: N/A	
	Conformity Exempt: Yes	RTP ID: 10715	
Project Status: A = In approved MTIP moving forward to obligate funds	On State Hwy Sys: No	RFFA ID: 50292	
	Mile Post Begin: N/A	RFFA Cycle: 2019-21	
Short Description: In the city of Tualatin on SW Herman Rd between SW 124th Ave and SW Cheyenne Way, complete project development activities to support constructing bike lanes and sidewalks along a half-mile stretch of Herman Road (2019-21 RFFA Awarded Project).	Mile Post End: N/A	UPWP: No	
	Length: N/A	UPWP Cycle: N/A	
	1st Year Program'd: 2019	Past Amend: 1	
	Years Active: 2	OTC Approval: No	

Detailed Description: In the city of Tualatin on SW Herman Rd between SW 124th Ave and SW Cheyenne Way, complete project development activities to support constructing bike lanes and sidewalks along a half-mile stretch of Herman Road (2019-21 RFFA Awarded Project) (UPWP Regionally Significant Project)

STIP Description: Complete project development activities to support constructing bike lanes and sidewalks along a half-mile stretch of Herman Rd

PROJECT FUNDING DETAILS

Fund Type	Fund Code	Year	Planning	Preliminary Engineering	Right of Way	Other (Utility Relocation)	Construction	Total
Federal Funds								
STBG-U	2230	2020	\$ 625,000					\$ -
							Federal Totals:	\$ -
Federal Fund Obligations:								Federal Aid ID
EA Number:								
Initial Obligation Date:								
State Funds								
								\$ -
							State Total:	\$ -

State Fund Obligations:							
EA Number:							
Initial Obligation Date:							
Local Funds							
Local	Match	2020	\$ 71,534				\$ -
Local	Match	2020	\$ 28,466	-			\$ -
							\$ -
						Local Total	\$ -
Phase Totals Before Amend:			\$ 725,000	\$ -	\$ -	\$ -	\$ 725,000
Phase Totals After Amend:			\$ -	\$ -	\$ -	\$ -	\$ -
Year Of Expenditure (YOE):							\$ -
Notes and Summary of Changes:							
Red font = prior amended funding or project details. Blue font = amended changes to funding or project details. Black font indicates no change has occurred.							
Amendment Summary:							
The formal amendment de-programs the STBG and transfers it to Washington County's Basalt Creek Pkwy improvement project in Key 19358. Tualatin has agreed to provide Washington County the STBG in exchange for local funds to complete the Herman Rd project development effort. Washington County will provide Metro the \$625,000 of local funds. Tualatin will complete reimbursements through Metro to complete project development activities for Herman Rd. The 625,000 of STBG will be re-programmed to the Basalt Creek Parkway's PE phase in Key 19358. As a result of the three-way fund exchange, Tualatin's Herman Road project will only require local funds and can be canceled from the MTIP and STIP, Metro will provide local oversight of the Herman Rd project development project study.							
RTP References:							
> RTP IDs: 10715 - Herman							
> RTP Description: To improve safety and add active transportation options: Upgrade this road section to urban standards with sidewalks, bicycle lanes and curbs/gutters.							
Will Performance Measurements Apply: Appears No							
Fund Codes:							
> STBG = Federal Surface Transportation Block Grant funds allocated to Metro. Metro then awards a portion of the STBG annual allocation to eligible Regional Flexible Fund Allocation (RFFA) awarded projects. STBG funds may be used for various transportation system improvements.							
> Local = General local funds provided by the lead agency as part of the required match or to cover overmatching project costs and needs							
> Other = Additional local funds contributing to the project beyond the required match.							
Amendment Review and Development Personnel:							
> Exemption Status: Exempt project . Project is located on the NHS: No Located on the Metro Modeling network: YES. Minor Arterial in the Motor Vehicle Network							
> Regionally Significant Project: N/A ODOT LAL: . N/A Metro Manager: Grace Cho Project Manager or Agency Contact(s): N/A							
> Metro MTIP Programming Manager: Ken Lobeck. ODOT Region 1 STIP Coordinator: Gabriela Garcia							



Metro
2018-21 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

Formal Amendment
FUND EXCHANGE
 2nd Amendment to Project

Lead Agency: Washington County	Project Type:	Modern	ODOT Key:	19358
Project Name: Basalt Creek Ext: Grahams Ferry to Boones Ferry Rd	ODOT Type	Capital	MTIP ID:	70789
	Performance Meas:	Yes	Status:	4
Project Status: 4 = (PS&E) Planning Specifications, & Estimates (final design 30%, 60%,90% design activities initiated).	Capacity Enhancing:	Yes	Comp Date:	1/31/2023
	Conformity Exempt:	No	RTP ID:	11470
Short Description: This project will complete Basalt Creek Parkway, the key new arterial roadway providing industrial freight access identified in the Basalt Creek Planning Area, a Regionally Significant Industrial Area.	On State Hwy Sys:	No	RFFA ID:	50296
	Mile Post Begin:	N/A	RFFA Cycle:	2019-21
	Mile Post End:	N/A	UPWP:	No
	Length:	N/A	UPWP Cycle:	N/A
	1st Year Program'd:	2016	Past Amend:	1
	Years Active:	5	OTC Approval:	No

Detailed Description: This project will complete Basalt Creek Parkway, the key new arterial roadway providing industrial freight access identified in the Basalt Creek Planning Area, a Regionally Significant Industrial Area. The extension of Basalt Creek Pkwy would have an east-west alignment that would cross the Seely Ditch with a 600 ft long bridge at a location that minimizes bridge length and provides excellent slopes to support a bridge structure.

STIP Description: Construct a new arterial roadway providing industrial freight access in the Basalt Creek Planning Area. The extension of the parkway is an east-west alignment crossing the Seely Ditch with a 600 ft long bridge.

PROJECT FUNDING DETAILS

Fund Type	Fund Code	Year	Planning	Preliminary Engineering	Right of Way	Other (Utility Relocation)	Construction	Total
Federal Funds								
STP-U	Z230	2016		\$ 2,132,000				\$ -
STP-U	Z230	2016		\$ 2,757,000				\$ 2,757,000
STBG-U	Z230	2020			\$ 2,805,879			\$ 2,805,879
								\$ -
							Federal Totals:	\$ 5,562,879
Federal Fund Obligations:				\$ 2,132,000				Federal Aid ID
EA Number:				PE002708				C067(109)
Initial Obligation Date:				8/16/2019				
State Funds								
								\$ -
							State Total:	\$ -

State Fund Obligations:											
EA Number:											
Initial Obligation Date:											
Local Funds											
Local	Match	2016	\$ 244,017				\$	-			
Local	Match	2016		\$	315,551		\$	315,551			
Local	Match	2020			\$	321,145		\$	321,145		
Other	OVM	2020			\$	873,976		\$	873,976		
Other	OTH0	2021					\$ 28,798,000	\$	-		
Other	OTH0	2021					\$ 28,173,000	\$	28,173,000		
								\$	-		
								\$	-		
							Local Total	\$	29,683,672		
Phase Totals Before Amend:			\$	-	\$ 2,376,017	\$	4,001,000	\$	-	\$ 28,798,000	\$ 35,175,017
Phase Totals After Amend:			\$	-	\$ 3,072,551	\$	4,001,000	\$	-	\$ 28,173,000	\$ 35,246,551
Year Of Expenditure (YOE):										\$	35,246,551
Notes and Summary of Changes:											
Red font = prior amended funding or project details. Blue font = amended changes to funding or project details. Black font indicates no change has occurred.											
Amendment Summary:											
The formal amendment adds \$625,000 of federal STP funds to the PE phase to support continued PE activities to complete the PS&E package. STP funds originate from Key 20815, Tualatin's SW Herman Rd - SW 124th Ave to SW Cheyenne Way project development project. The second part of the fund exchange requires Washington County to provide Metro with \$625,000 of local funds (pulled from the Construction phase. At this time the construction phase does not require backfill. If the Construction phase is higher, a project amendment will occur at the 90% design/plans completion point. Through a multi-agency IGA, Metro will reimburse Tualatin for costs to complete their SW Herman Rd project. Tualatin will complete their project now with only local funds. The net change to Washington County's Basalt Rd project is that it increases by \$71,534 to an estimated \$35,246,551.											
RTP References:											
> RTP IDs: 11470 - Basalt Creek Parkway											
> RTP Description: Extend new 5 lane Arterial with bike lanes, sidewalks and street lighting.											
> Will Performance Measurements Apply: Appears Yes											
Fund Codes:											
> STP/STBG-U = Federal Surface Transportation Program/Surface Transportation Block Grant allocated to Metro through an annual formula allocation. A portion of these funds are awarded on a competitive basis to local agencies through the Regional Flexible Fund Allocation (RFFA) program											
> Local = General local funds provided by the lead agency as part of the required match or to cover overmatching project costs and needs											
> Other = Additional local funds contributing to the project beyond the required match.											
Amendment Review and Development Personnel:											
> Exemption Status: Non Exempt project. The new Basalt Rd extension has been modeled in the 2018 RTP Motor Vehicle network											
> Project is located on the NHS: No Located on the Metro Modeling network: YES. Will be come a major arterial in the Metro Motor Vehicle modeling network											
> Regionally Significant Project: Yes - federal funds and inclusion in the motor vehicle network											
> ODOT LAL: . Justin Bernt Project Manager or Agency Contact(s): Melissa De Lyser, Public Affairs and Communications Manager											
> Metro MTIP Programming Manager: Ken Lobeck. ODOT Region 1 STIP Coordinator: Gabriela Garcia											

Memo



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Date: Friday, October 18, 2019
To: Metro Council and Interested Parties
From: Ken Lobeck, Funding Programs Lead, 503-797-1785
Subject: October 2019 MTIP Formal Amendment & Approval Request of Resolution 19-5037

STAFF REPORT

FOR THE PURPOSE OF ADDING OR AMENDING EXISTING PROJECTS TO THE 2018-21 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM INVOLVING FOUR PROJECTS IMPACTING PORTLAND, TUALATIN, TRIMET, AND WASHINGTON COUNTY (OC20-02-OCT)

BACKGROUND

What This Is:

The October 2019 Formal Metropolitan Transportation Improvement Program (MTIP) Formal/Full Amendment bundle (for FFY 2020) contains required changes and updates impacting Portland, Tualatin, TriMet, and Washington County. Four projects comprise the amendment bundle.

What is the requested action?

JPACT recommends Metro Council approval for Resolution 19-5037 and the October 2019 Formal MTIP Amendment to be amended correctly into the 2018 MTIP and with final approval to occur from USDOT.

Proposed October 2019 Formal Amendment Bundle Amendment Type: Formal/Full Amendment #: OC20-02-OCT Total Number of Projects: 4					
ODOT Key #	MTIP ID #	Lead Agency	Project Name	Project Description	Description of Changes
19299	70677	Portland	Portland Central City Safety Project - Phase 2 Central City In Motion	The project will develop a strategy that identifies multimodal safety projects and prioritizes investments in the Portland Central City.	FUND EXCHANGE: The amendment replaces the current federal CMAQ funds with local funds. The project will proceed through all implementation phases as a locally funded project. The fund swap is made possible through a fund exchange among Portland, Metro, and TriMet.
20844	70930	TriMet	Division Transit Project (2019)	High capacity transit on Division from Portland Central Business District to Gresham Town Center.	CANCEL PROJECT: The amendment cancels the project from the MTIP as the approved 5309 Small Starts funding for the Division Trans Project will originate from Keys 20445 and 2046 per FTA guidance and direction. The 5309 Small Starts funds are not required as a result to support the Division Transit Project and is being cancelled from the MTIP as a result to avoid funding over programming.

20815	70881	Tualatin	SW Herman Rd: SW 124th Ave - SW Cheyenne Way	In the city of Tualatin on SW Herman Rd between SW 124th Ave and SW Cheyenne Way, complete project development activities to support constructing bike lanes and sidewalks along a half-mile stretch of Herman Road (2019-21 RFFA Awarded Project).	<u>CANCEL PROJECT:</u> The amendment cancels the project from the MTIP as the result of a three-way fund exchange among Metro Tualatin, and Washington County. The \$625,000 of Surface transportation Program funding is being transferred to Washington County's Basalt Creek project in Key 19358. Washington County will provide \$625k of local funds from Key 19358 to Metro. Metro will then reimburse Tualatin as the Herman Rd project development study is completed.
19358	70789	Washington County	Basalt Creek Ext: Grahams Ferry to Boones Ferry Rd	This project will complete Basalt Creek Parkway, the key new arterial roadway providing industrial freight access identified in the Basalt Creek Planning Area, a Regionally Significant Industrial Area.	<u>FUND EXCHANGE:</u> The formal amendment completes the Washington County portion to the three-way fund swap among Metro, Tualatin, and Washington County. \$625,000 of Surface Transportation funds from Tualatin's SW Herman Rd project on Key 20815 (also this amendment bundle). The STP funds are being added to the PE phase (along with required match). Washington County is then providing Metro with \$625,000 of local funds that will be used to reimburse Tualatin's SW Herman Rd project in Key 20815. Metro will monitor three way fund exchange through a separate multi-agency Intergovernmental Agreement

A detailed summary of the amended projects is provided in the tables on the following pages.

Project 1:		Portland Central City Safety Project – Phase 2 (Central City In Motion)	
Lead Agency:	Portland		
ODOT Key Number:	19299	MTIP ID Number:	70677
Projects Description:	Project Snapshot:		
	<ul style="list-style-type: none">Proposed improvements (Project Development Phase):<ul style="list-style-type: none">The project will develop a strategy that identifies multimodal safety projects and prioritizes investments in the Portland Central City.The project will also fund the preliminary development of a new greenway trail south of the Marquam Bridge, providing access to the new transit bridge serving South Waterfront.The final deliverable will be a list of projects to fund pedestrian and bicycle improvementsThe implementation phase will use the remaining Regional Flexible Fund Allocation (RFFA) award to fund specific projects that emerge from the project development study.Source: Existing MTIP projectFunding: FHWA Congestion Mitigation Air Quality (CMAQ) funds to complete project development activities awarded from 2008-11 RFFA project callType: Active Transportation/Transit/SafetyLocation: The PBOT “Central City In Motion” project development study recommends a total of 18 projects to provide various active transportation, transit, and safety upgrades throughout the Portland central city region.Cross Streets: N/A – various locations recommendedMile Post Limits: N/A		

- Current Status Code: 2 = Pre-design/project development activities (pre-NEPA) (ITS = ConOps.) Project is now ready to move out of pre-NEPA, project development into NEPA and Preliminary Engineering (PE)
- STIP Amendment Number: TBD
- MTIP Amendment Number: OC20-02-OCT

AMENDMENT ACTION: FUND EXCHANGE

Originally named the Central City Safety Improvement Project – Phase 2, the revised project name of Central City In Motion will complete a formal MTIP amendment to de-program the remaining awarded unobligated CMAQ funding with local funds.

A total of \$5.5 million of federal RFFA funds were awarded to the project from the 2008-2011 RFFA call. \$852,000 of CMAQ (and local match) was programmed in support of required project development activities. \$4,648,000 remain of awarded RFFA funds to support PE, Right-of-Way (ROW), and Construction phase needs.

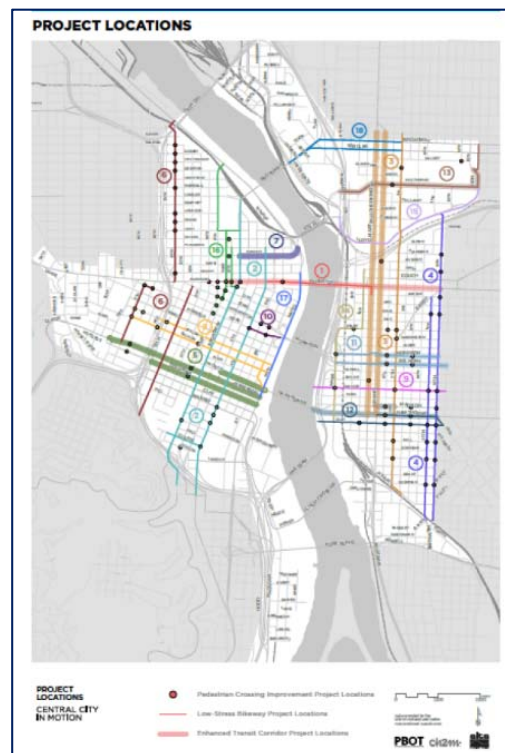
LEAD AGENCY		Portland					
PROJECT NAME		Portland Central City Safety Project - Phase 2					
Project IDs		Project Description				Project Type	
ODOT KEY	19299	The project will develop a strategy that identifies multimodal safety projects and prioritizes investments in the Portland Central City.				Bike	
MTIP ID	70677						
RTP ID	10232						
Phase		Year	Fund Type	Federal Amount	Minimum Local Match	Other Amount	Total Amount
Preliminary engineering		2020	CMAQ - Urban	\$648,000	\$74,166	\$0	\$722,166
Purchase right of way		2021	CMAQ - Urban	\$100,000	\$11,445	\$0	\$111,445
Construction		2021	CMAQ - URBAN	\$3,900,000	\$446,372	\$0	\$4,346,372
FY 18-21 Totals				\$4,648,000	\$531,983	\$0	\$5,179,983
Prior Years' Totals				\$852,000	\$97,515	\$0	\$949,515
Estimated Project Cost (VOES)				\$5,500,000	\$629,498	\$0	\$6,129,498

What is changing?

The Central City In Motion project was designed to be implemented in two stages. First, Portland would complete the project development study to develop a final list of priority projects eligible for CMAQ funds. Second, a portion of the final list of projects would be funded with the awarded CMAQ from the Metro RFFA call.

\$5,179,983 of CMAQ and local match from the total award was committed and programmed in the MTIP for the Construction phase. However, upon receipt of the Central City In Motion Implementation Plan, delivery discussions began to emerge.

The estimated costs of the 18 recommended projects covering an implementation period of five years totaled \$35.7 million which greatly exceed the \$4.3 construction phase funding amount. Questions emerged concerning how much “bang for the buck” could be achieved if the selected



	<p>projects remained federalized. PBOT indicated they could deliver the projects faster if they were locally funded and maximize funding efficiencies.</p> <p>Recommended projects for implementation</p> <p>1-5 Year Project Recommendations Projects are not listed in priority order</p> <table><tr><th>#</th><th>NAME/DESCRIPTION</th><th>APPROXIMATE COST</th><th colspan="3">PRIMARY ELEMENTS</th></tr><tr><th></th><th></th><th></th><th>Transit Priority</th><th>Safer Crossings</th><th>Low-stress Bikeways</th></tr><tr><td>1</td><td>Burnside (from W 10th to E 12th)</td><td>\$5.5M</td><td>x</td><td>x</td><td>x</td></tr><tr><td>2</td><td>Broadway (from SW Grant to Broadway Bridge) 4th Avenue (from SW Caruthers to NW Flanders) , and SW College</td><td>\$6.6M</td><td></td><td>x</td><td>x</td></tr><tr><td>3</td><td>NE/SE 7th Avenue (from Sullivan's Span to Division)</td><td>\$4.5M</td><td></td><td>x</td><td>x</td></tr><tr><td>3</td><td>Grand</td><td>\$900K</td><td>x</td><td>x</td><td></td></tr><tr><td>5</td><td>SW Madison (from SW 5th to SW 1st)</td><td>\$170K</td><td>x</td><td></td><td></td></tr><tr><td>6</td><td>NW 14th (from Burnside to Front)</td><td>\$530K</td><td></td><td>x</td><td>x</td></tr><tr><td>7</td><td>NW Everett (from Broadway to Steel Bridge)</td><td>\$1M</td><td>x</td><td></td><td></td></tr><tr><td>8</td><td>SW Salmon/SW Taylor/SW 1st</td><td>\$3.9M</td><td></td><td>x</td><td>x</td></tr><tr><td>9</td><td>SE Salmon</td><td>\$490K</td><td></td><td>x</td><td>x</td></tr><tr><td>12</td><td>SE Hawthorne (from viaduct to 12th)</td><td>\$1.2M</td><td>x</td><td>x</td><td>x</td></tr><tr><td>13</td><td>NE Multnomah</td><td>\$3.8M</td><td>x</td><td>x</td><td>x</td></tr><tr><td>15</td><td>NE Lloyd (from MLK to 12th)</td><td>\$740K</td><td></td><td>x</td><td>x</td></tr><tr><td>16</td><td>Pedestrian crossings of Burnside</td><td>\$870K</td><td></td><td>x</td><td></td></tr><tr><td>17</td><td>Naito</td><td>\$4M</td><td></td><td></td><td>x</td></tr><tr><td>18</td><td>NE Broadway/Weidler (phase I)</td><td>\$1.5M</td><td></td><td>x</td><td>x</td></tr><tr><td colspan="2">TOTAL 1-5 YEAR PROGRAM COST</td><td>\$35.7M</td><td></td><td></td><td></td></tr></table> <p>As a result of these questions, Metro, ODOT, and PBOT began examining other funding options. Metro and PBOT approached TriMet to evaluate if a local fund exchange was feasible. Discussions began around November 2018 to work through the logistics of the fund exchange with a conceptual agreement finally reached among the three agencies around June 2019. Development of a locally developed Intergovernmental Agreement (IGA) is now at the final draft/review stage allowing the MTIP de-programming action to occur. TriMet will provide the local funds in exchange for the CMAQ funds.</p> <p>Key 19299 will now become a locally funded project in the MTIP. Metro will monitor delivery of the project through a separate IGA. The project will not be carried over into the 2021-2026 MTIP when it is updated.</p> <p>The CMAQ funds de-programmed from the central City Safety Project Phase 2 will be committed to TriMet for their later purchase of electric buses.</p>	#	NAME/DESCRIPTION	APPROXIMATE COST	PRIMARY ELEMENTS						Transit Priority	Safer Crossings	Low-stress Bikeways	1	Burnside (from W 10th to E 12th)	\$5.5M	x	x	x	2	Broadway (from SW Grant to Broadway Bridge) 4th Avenue (from SW Caruthers to NW Flanders) , and SW College	\$6.6M		x	x	3	NE/SE 7th Avenue (from Sullivan's Span to Division)	\$4.5M		x	x	3	Grand	\$900K	x	x		5	SW Madison (from SW 5th to SW 1st)	\$170K	x			6	NW 14th (from Burnside to Front)	\$530K		x	x	7	NW Everett (from Broadway to Steel Bridge)	\$1M	x			8	SW Salmon/SW Taylor/SW 1st	\$3.9M		x	x	9	SE Salmon	\$490K		x	x	12	SE Hawthorne (from viaduct to 12th)	\$1.2M	x	x	x	13	NE Multnomah	\$3.8M	x	x	x	15	NE Lloyd (from MLK to 12th)	\$740K		x	x	16	Pedestrian crossings of Burnside	\$870K		x		17	Naito	\$4M			x	18	NE Broadway/Weidler (phase I)	\$1.5M		x	x	TOTAL 1-5 YEAR PROGRAM COST		\$35.7M			
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Additional Details:	Additional details about the Central City In Motion program can be found at: https://www.portlandoregon.gov/transportation/71158																																																																																																												
Why a Formal amendment is required?	A formal/full amendment is occurring to complete the required changes due to the complexity of the fund exchange among the three agencies.																																																																																																												
Total Programmed Amount:	The total project programming amount remains unchanged at \$6,129,498																																																																																																												
Added Notes:																																																																																																													

Project 2: Division Transit Project (2019)	
Lead Agency:	TriMet
ODOT Key Number:	20844
	MTIP ID Number: 70930
Projects Description:	<p>Project Snapshot:</p> <ul style="list-style-type: none"> Proposed improvements: High capacity transit on Division from Portland Central Business District to Gresham Town Center. Source: Existing MTIP project.

- Funding: Federal Transit Administration (FTA) Section 5309 Small Starts funds
- Type: Transit
- Location: The alignment is from Portland's Central Business District east to Gresham. The route provides access across the Willamette River over the Tilikum Crossing bridge and east along Division St to Gresham the Cleveland station Park-n-Ride
- Cross Streets: Multiple
- Overall Mile Post Limits: N/A
- Current Status Code: T22 = Programming actions in progress or programmed in current MTIP
- STIP Amendment Number: TBD
- MTIP Amendment Number: SP20-01-SEP



AMENDMENT ACTION: CANCEL PROJECT

This formal amendment to the MTIP removes TriMet's Division Transit Project (2019) allocation from the 2018-21 MTIP.

TriMet's Division Transit project is funded from FTA discretionary Section 5309 Small Starts funding program. The overall project cost is approximately \$175 million has been awarded up to \$87.5 million of 5309 Small Starts funding. Since the funding awards are very large, FTA often allocates the funding over a multiple year period.

Once an agency receives confirmation of the funding, MTIP programming can then occur. MTIP programming is required to obligate the funds. However, MTIP programming may occur very early in the life of the project based on initial funding estimates.

What is changing?

In the 2018-21 MTIP, three years of 5309 Small Starts funds along with required match were programmed over FY 2019-21 as part of the 2018 MTIP Update. The programming logic at that time indicated the following allocation could occur:

LEAD AGENCY		TriMet				
PROJECT NAME		Division Transit Project (2019)				
Project IDs		Project Description				Project Type
ODOT KEY	20844	High capacity transit on Division from Portland Central Business District to Gresham Town Center.				Transit
MTIP ID	70930					
RTP ID						
Phase	Year	Fund Type	Federal Amount	Minimum Local Match	Other Amount	Total Amount
Transit	2019	5309 Small Starts	\$7,718,985	\$5,145,990	\$0	\$12,864,975
FY 18-21 Totals			\$7,718,985	\$5,145,990	\$0	\$12,864,975
Estimated Project Cost (YOE\$)			\$7,718,985	\$5,145,990	\$0	\$12,864,975

LEAD AGENCY		TriMet				
PROJECT NAME		Division Transit Project (2020)				
Project IDs		Project Description				Project Type
ODOT KEY	20845	Hight capacity transit on Division from Portland Central Business District to Gresham Town Center.				Transit
MTIP ID	70931					
RTP ID						
Phase	Year	Fund Type	Federal Amount	Minimum Local Match	Other Amount	Total Amount
Transit	2020	5309 Small Starts	\$56,005,914	\$37,337,276	\$0	\$93,343,190
FY 18-21 Totals			\$56,005,914	\$37,337,276	\$0	\$93,343,190
Estimated Project Cost (YOE\$)			\$56,005,914	\$37,337,276	\$0	\$93,343,190

LEAD AGENCY		TriMet				
PROJECT NAME		Division Transit Project (2021)				
Project IDs		Project Description				Project Type
ODOT KEY	20846	Hight capacity transit on Division from Portland Central Business District to Gresham Town Center.				Transit
MTIP ID	70932					
RTP ID						
Phase	Year	Fund Type	Federal Amount	Minimum Local Match	Other Amount	Total Amount
Transit	2021	5309 Small Starts	\$34,688,806	\$23,125,871	\$0	\$57,814,677
FY 18-21 Totals			\$34,688,806	\$23,125,871	\$0	\$57,814,677
Estimated Project Cost (YOE\$)			\$34,688,806	\$23,125,871	\$0	\$57,814,677

The three-year 5309 programming totals \$98,413,705. As mention previously, FTA has authorized approximately \$87.5 to support the Division Transit Project. TriMet is now ready to secure the grant award through FTA's TrAMS system to implement the project.

FTA has requested that the 5309 Small Start funding be sourced from Keys 20845 and 20846 since together they are above the needed \$87.5 million threshold. Because these two projects contain the required 509 Small Starts funds, the FY 2019 programming in Key 20844 is now not required. As a result Key 20844 can be canceled from the MTIP as the programmed funds are not required to support the Division Transit Project.

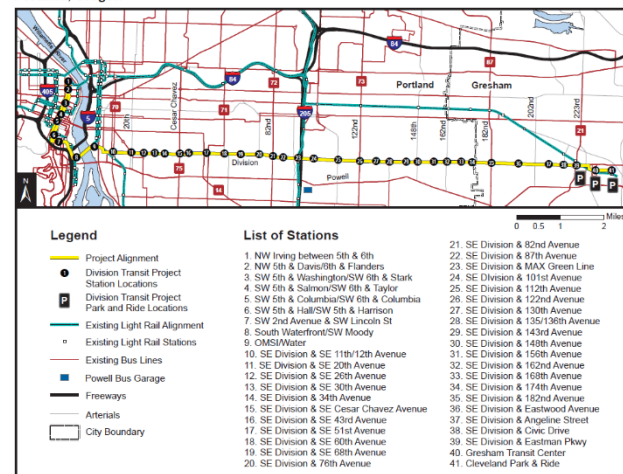
Key 20846 also will be advanced from FY 2021 via separate Administrative Modification per guidance from FTA.

Additional Details:

The TriMet Division Transit Project:

TriMet proposes to implement bus rapid transit (BRT) from Portland's Central Business District east to Gresham. The route provides access across the Willamette River over the Tilikum Crossing bridge, which currently is only open to pedestrians, bicycles, and light rail vehicles making its way to the Portland Transit Mall. The Project includes a portion of the reconstruction and expansion of Powell


Division Transit Project
Portland, Oregon

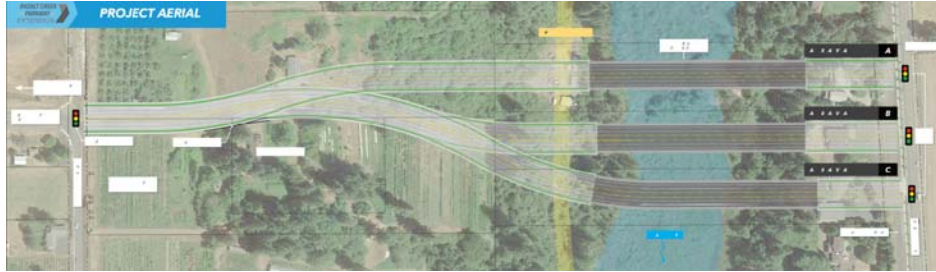
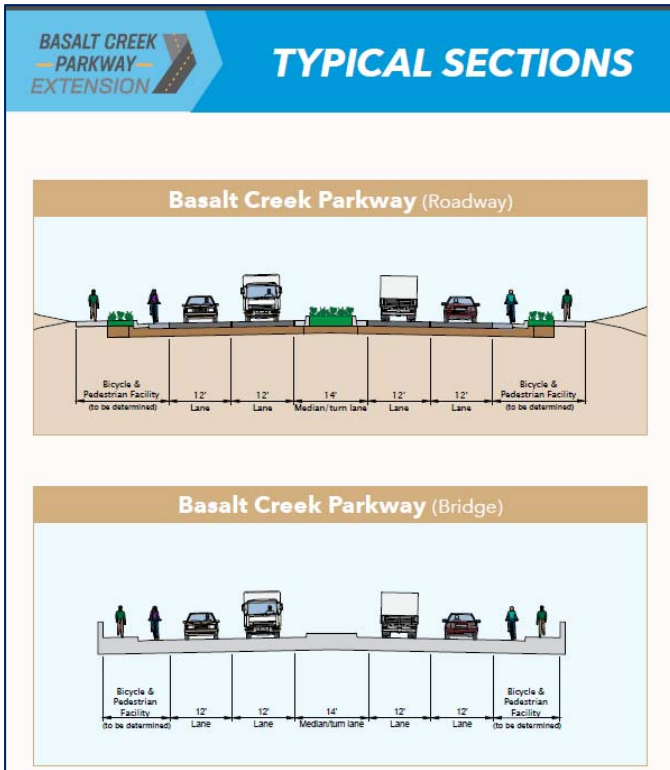


	<p>Garage to accommodate and maintain the BRT fleet. The project also includes transit signal priority, a real-time bus arrival information system and the purchase of 33 uniquely branded vehicles. The service is planned to operate every six minutes during weekday peak periods, every 12 minutes during weekday off-peak periods, and every 15 minutes during weekday evenings and weekends. Project Purpose: The Project is intended to improve travel between Downtown Portland, Southeast and East Portland and Gresham with easier, faster and more reliable bus service. It is expected to minimize travel times while providing important transit connections.</p> <p>Service is expected to be initiated in 2022. Additional project entails can be found on TriMet's website at https://trimet.org/division/.</p>
Why a Formal amendment is required?	Per the FHWA/FTA/ODOT/MPO Amendment Matrix, adding or cancelling a project to the MTIP requires a formal amendment
Total Programmed Amount:	The total project programming amount for Key 20844 decreases from \$7,718,985 to \$0
Added Notes:	

Project 3: SW Herman Rd: SW 124th Ave - SW Cheyenne Way	
Lead Agency:	Tualatin
ODOT Key Number:	20815 MTIP ID Number: 70881
Projects Description:	<p>Project Snapshot:</p> <ul style="list-style-type: none"> Proposed improvements: Complete project development activities to support constructing bike lanes and sidewalks along a half-mile stretch of Herman Road Source: Existing MTIP project. Funding: Federal STBG funds awarded from the 2019-21 RFFA project call Type: Planning/Project Development Location: On SE Herman Rd Cross Streets: Between SW 124th Ave and SW Cheyenne Way Overall Mile Post Limits: N/A Current Status Code: A = In approved MTIP moving forward to obligate funds STIP Amendment Number: TBD MTIP Amendment Number: OC20-02-OCT
What is changing?	<p>AMENDMENT ACTION: CANCEL PROJECT</p> <p>The formal amendment cancels the project from the 2018-21 MTIP.</p> <p>Tualatin's SW Herman Rd improvement project is a FY 2019-21 RFFA awarded project in support of required project development activities prior to starting Preliminary Engineering. Ongoing reviews of this project determined that it could be delivered faster as a locally funded project and improve implementation efficiencies.</p> <p>The SW Herman Rd project proposes various active transportation (pedestrian and bicycle) improvements between SW 124th Ave and Cheyenne Way. The project intends to provide a much needed safety corridor for bikes and pedestrians connecting residential neighborhoods with Tualatin's major employment district. The project will also improve Herman Rd to allow for more transit stops on the existing last mile transit shuttle served by Ride Connection. The RFFA award to the project totaled \$625,000 of federal STBG funds.</p> <p>Ongoing reviews of this project determined that it could be delivered faster as a locally funded project and improve implementation efficiencies.</p>

	<p>Tualatin and Washington County contacted Metro to discuss the feasibility of de-federalizing the SW Herman Rd improvement project through a possible fund exchange. A three-way fund exchange has now been approved among Tualatin, Metro, and Washington County.</p> <p>The unobligated \$625,000 of STBG from the Herman Rd project in Key 20815 is being de-programmed and transferred to Washington County's Basalt Creek Parkway Extension project in Key 19358. Washington County will provide Metro with \$625,000 of local funds from the Key 19358. Tualatin will continue project development actions for their SW Herman Rd project and seek reimbursements through Metro.</p>
Additional Details:	A separate three-way IGA has been developed and executed among Metro, Tualatin, and Washington County to complete the fund exchange. This now allows Tualatin's SW Herman Rd project to continue project development activities as a locally funded project. As such, the project is not required to be in the MTIP and is being removed now that the IGA has been executed.
Why a Formal amendment is required?	Per the FHWA/FTA/ODOT/MPO Amendment Matrix, adding or cancelling a new project to the MTIP requires a formal amendment
Total Programmed Amount:	The total project programming amount decreases from \$725,000 to \$0
Added Notes:	

Project 4: Basalt Creek Ext: Grahams Ferry Rd to Boones Ferry Rd	
Lead Agency:	Washington County
ODOT Key Number:	19358 MTIP ID Number: T70789
Projects Description:	<p>Project Snapshot:</p> <ul style="list-style-type: none"> Proposed improvements: Construct a new Basalt Creek Pkwy extension from Grahams Ferry Rd to Boone Ferry Rd Source: Existing MTIP project Funding: Federal RFFA Award funds along with Washington County MSTIP local funding allocation Type: Capacity enhancing roadway improvement Location: In SW Washington County west of I-5 and south of Tualatin Cross Street Limits: Grahams Ferry Rd to Boones Ferry Rd Overall Mile Post Limits: N/A (arterial) Current Status Code: = 4 (PS&E) Planning Specifications, & Estimates (final design 30%, 60%, 90% design activities initiated). STIP Amendment Number: TBD MTIP Amendment Number: OCT20-01-OCT 
What is changing?	<p>AMENDMENT ACTION: FUND EXCHANGE</p> <p>The formal amendment adds \$625,000 of STBG and required match to the PE phase in Key 19358. The STBG originates from Tualatin's SW Herman Rd project in Key 20815 (also included in this amendment bundle). The additional STBG will support require final design requirements form Washington County to complete the Project Specifications, and Estimates (PS&E) package which is required prior to authorizing the construction phase.</p>

	<p>As part of the fund exchange Washington, County will transfer \$625,000 of local funds from Key 19358 (Basalt Creek Parkway Extension) to Metro. Tualatin will then seek reimbursement for these local funds in support of their project development scope for the SW Herman Rd project.</p>
Additional Details:	<p>Washington County's Basalt Creek Extension will lengthen the Basalt Creek Parkway from Grahams Ferry Rd to Boones Ferry Rd, west of I-5. The possible alignments and planned section configuration are shown below.</p>  
Why a Formal amendment is required?	The fund exchange is tied to Tualatin's SW Herman Rd project in Key 20815 which is being cancelled through this amendment bundle. For consistency, the unexchange is completing a formal amendment as well.
Total Programmed Amount:	The total project programming amount slightly increases from \$35,175,017 to \$35,246,551
Added Notes:	

Note: The Amendment Matrix located on the next page is included as a reference for the rules and justifications governing Formal Amendments and Administrative Modifications to the MTIP that the MPOs and ODOT must follow.

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 multiple MTIP programming review factors that originate from 23 CFR 450.316-328. The programming factors include:

- Verification as required to programmed in the MTIP:
 - Awarded federal funds and is considered a transportation project
 - Identified as a regionally significant project.
 - Identified on and impacts Metro transportation modeling networks.
 - Requires any sort of federal approvals which the MTIP is involved.
- Passes fiscal constraint verification:
 - Project eligibility for the use of the funds
 - Proof and verification of funding commitment
 - Requires the MPO to establish a documented process proving MTIP programming does not exceed the allocated funding for each year of the four year MTIP and for all funds identified in the MTIP.
- Passes the RTP consistency review:
 - Identified in the current approved constrained RTP either as a stand- alone project or in an approved project grouping bucket
 - RTP project cost consistent with requested programming amount in the MTIP
 - If a capacity enhancing project – is identified in the approved Metro modeling network
- Satisfies RTP goals and strategies consistency: Meets one or more goals or strategies identified in the current RTP.
- Determined the project is eligible to be added to the MTIP, or can be legally amended as required without violating provisions of 23 CFR450.300-338 either as a formal Amendment or administrative modification:
 - Does not violate supplemental directive guidance from FHWA/FTA's approved Amendment Matrix.
 - Adheres to conditions and limitation for completing technical corrections, administrative modifications, or formal amendments in the MTIP.
 - Is eligible for special programming exceptions periodically negotiated with USDOT as well.

ODOT-FTA-FHWA Amendment Matrix	
Type of Change	
FULL AMENDMENTS	
1. Adding or cancelling a federally funded, and regionally significant project to the STIP and state funded projects which will potentially be federalized	
2. Major change in project scope. Major scope change includes:	
• Change in project termini - greater than .25 mile in any direction	
• Changes to the approved environmental footprint	
• Impacts to AQ conformity	
• Adding capacity per FHWA Standards	
• Adding or deleting worktype	
3. Changes in Fiscal Constraint by the following criteria:	
• FHWA project cost increase/decrease:	
• Projects under \$500K – increase/decrease over 50%	
• Projects \$500K to \$1M – increase/decrease over 30%	
• Projects \$1M and over – increase/decrease over 20%	
• All FTA project changes – increase/decrease over 30%	
4. Adding an emergency relief permanent repair project that involves substantial change in function and location.	
ADMINISTRATIVE/TECHNICAL ADJUSTMENTS	
1. Advancing or Slipping an approved project/phase within the current STIP (If slipping outside current STIP, see Full Amendments #2)	
2. Adding or deleting any phase (except CN) of an approved project below Full Amendment #3	
3. Combining two or more approved projects into one or splitting an approved project into two or more, or splitting part of an approved project to a new one.	
4. Splitting a new project out of an approved program-specific pool of funds (but not reserves for future projects) or adding funds to an existing project from a bucket or reserve if the project was selected through a specific process (i.e. ARTS, Local Bridge...)	
5. Minor technical corrections to make the printed STIP consistent with prior approvals, such as typos or missing data.	
6. Changing name of project due to change in scope, combining or splitting of projects, or to better conform to naming convention. (For major change in scope, see Full Amendments #2)	
7. Adding a temporary emergency repair and relief project that does not involve substantial change in function and location.	

- Programming determined to be reasonable of phase obligation timing and is consistent with project delivery schedule timing.
- Reviewed and initially assessed for Performance Measurement impacts to include:
 - Safety
 - Asset Management - Pavement
 - Asset Management – Bridge
 - National Highway System Performance Targets
 - Freight Movement: On State Freight Network System
 - Congestion Mitigation Air Quality (CMAQ) impacts
 - Transit Asset Management impacts
 - RTP Priority Investment Areas support
 - Climate Change/Greenhouse Gas reduction impacts
 - Congestion Mitigation Reduction impacts
- MPO responsibilities completion:
 - Completion of the required 30 day Public Notification period:
 - Project monitoring, fund obligations, and expenditure of allocated funds in a timely fashion.
 - Acting on behalf of USDOT to provide the required forum and complete necessary discussions of proposed transportation improvements/strategies throughout the MPO.

APPROVAL STEPS AND TIMING

Metro's approval process for formal amendment includes multiple steps. The required approvals for the October 2019 Formal MTIP amendment will include the following:

<u>Action</u>	<u>Target Date</u>
● Initiate the required 30-day public notification process.....	September 27, 2019
● TPAC notification and approval recommendation.....	October 4, 2019
● JPACT approval and recommendation to Council.....	October 17, 2019*
● Completion of public notification process.....	October 28, 2019
● Metro Council approval.....	October 31, 2019

Notes:

- * If any notable comments are received during the public comment period requiring follow-on discussions, they will be addressed by JPACT.

USDOT Approval Steps:

<u>Action</u>	<u>Target Date</u>
● Metro development of amendment narrative package	November 5, 2019
● Amendment bundle submission to ODOT for review.....	November 6, 2019
● Submission of the final amendment package to USDOT.....	November 6, 2019
● ODOT clarification and approval.....	Late November, 2019
● USDOT clarification and final amendment approval.....	Late November to early December, 2019

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. **Metro Budget Impacts:** None to Metro

RECOMMENDED ACTION FOR JPACT:

JPACT recommends the approval of Resolution 19-5037.

- JPACT approval date: October 17, 2019
- TPAC approval date: October 4, 2019

Attachment: Project Location Maps

Date: Friday, October 18, 2019
From: Ken Lobeck, Funding Programs Lead, 503-797-1785
Subject: Attachment 1 to the October 2019 MTIP Formal Amendment Staff Report – Project Location Maps

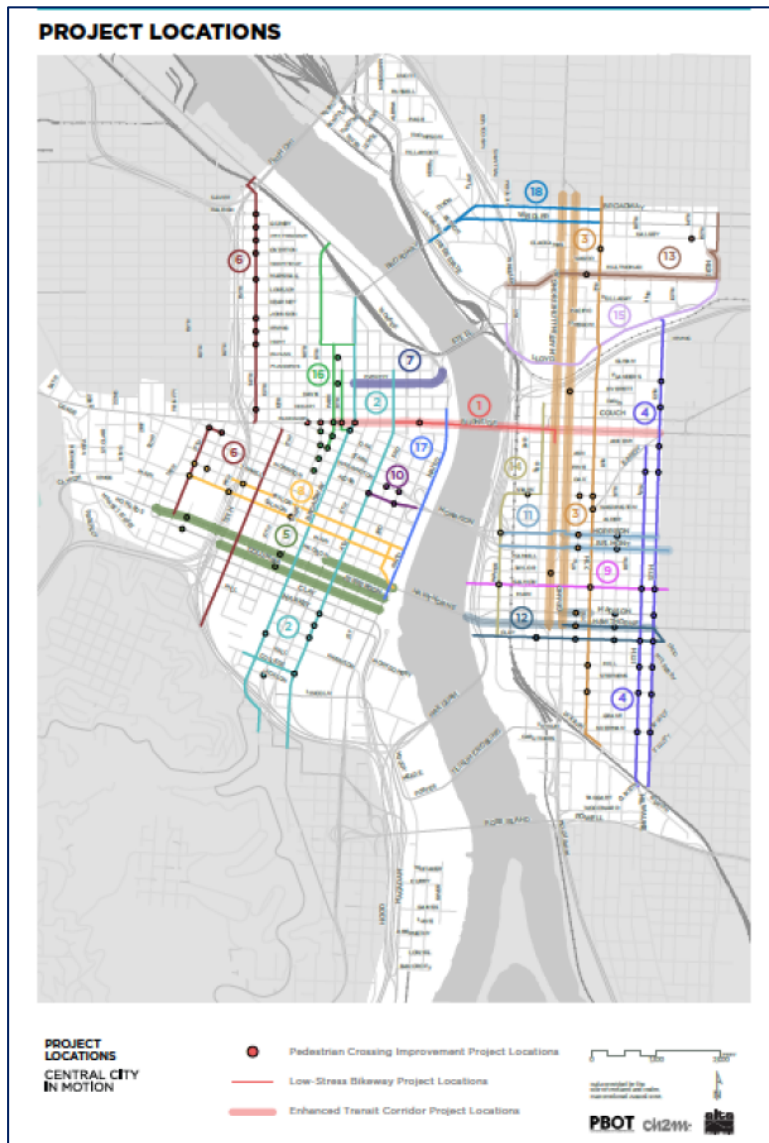
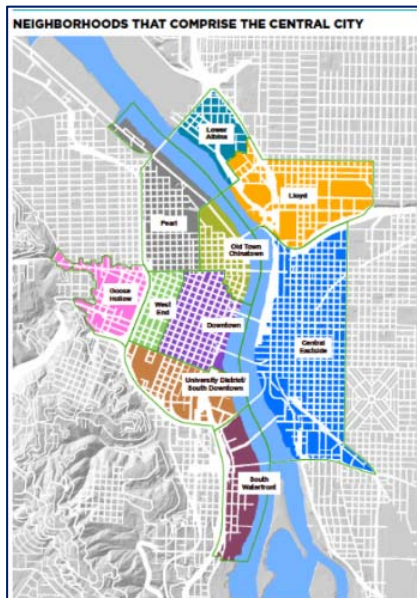
BACKGROUND

Available project location maps are included for reference to their applicable projects and include:

- Page 2:
Key 19299: Portland Central City Safety Project Phase 2 (Also Central City In Motion)
- Page 3:
Key 20844: TriMet Division Transit Project
- Page 4:
Key 20815: SW Herman Rd – SW 124th Ave to Cheyenne Way
- Page 5:
Key 19358: Basalt Creek Parkway Extension

Key 19299

Portland Central City Safety Project Phase 2/Central City In Motion

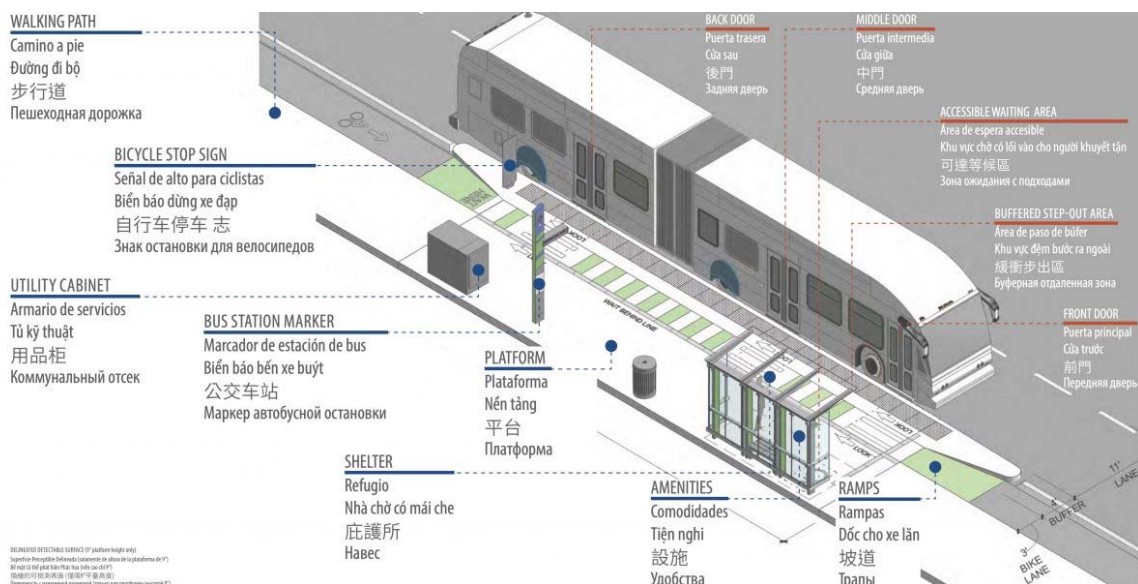
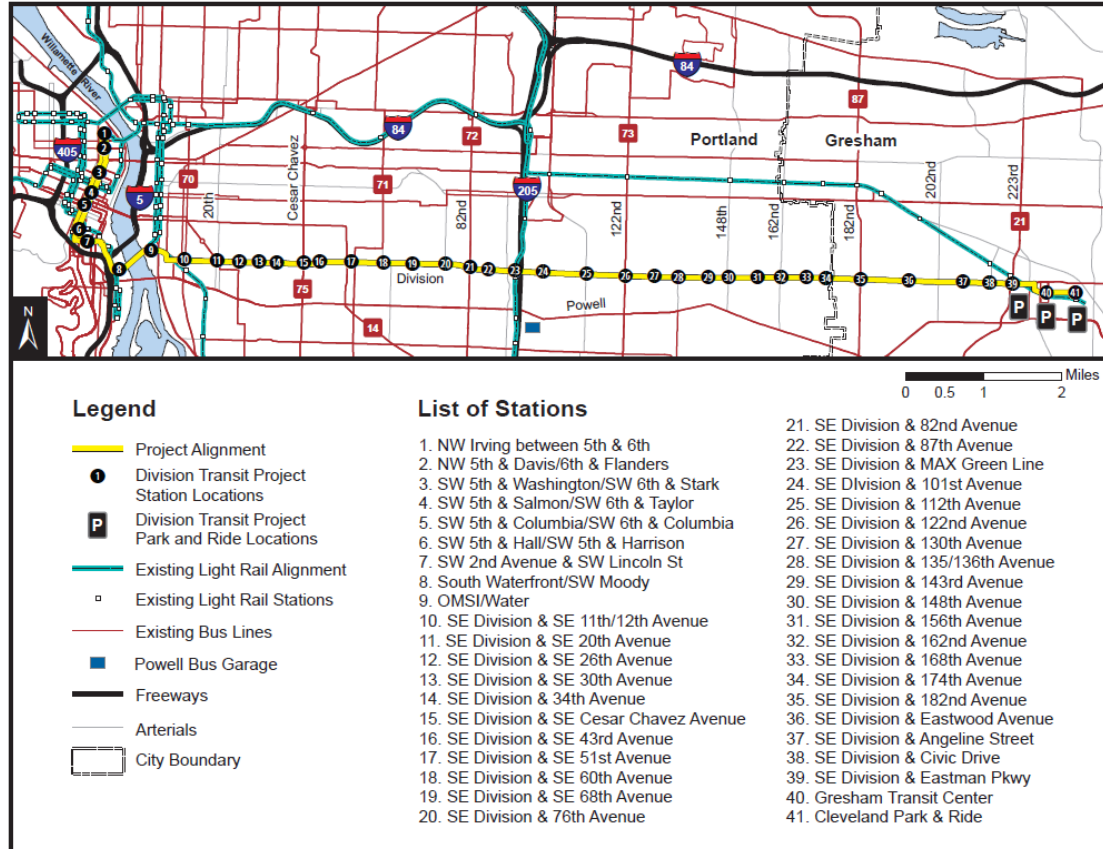


Key 20844

TriMet Division Transit Project

Division Transit Project

Portland, Oregon



Key 20815

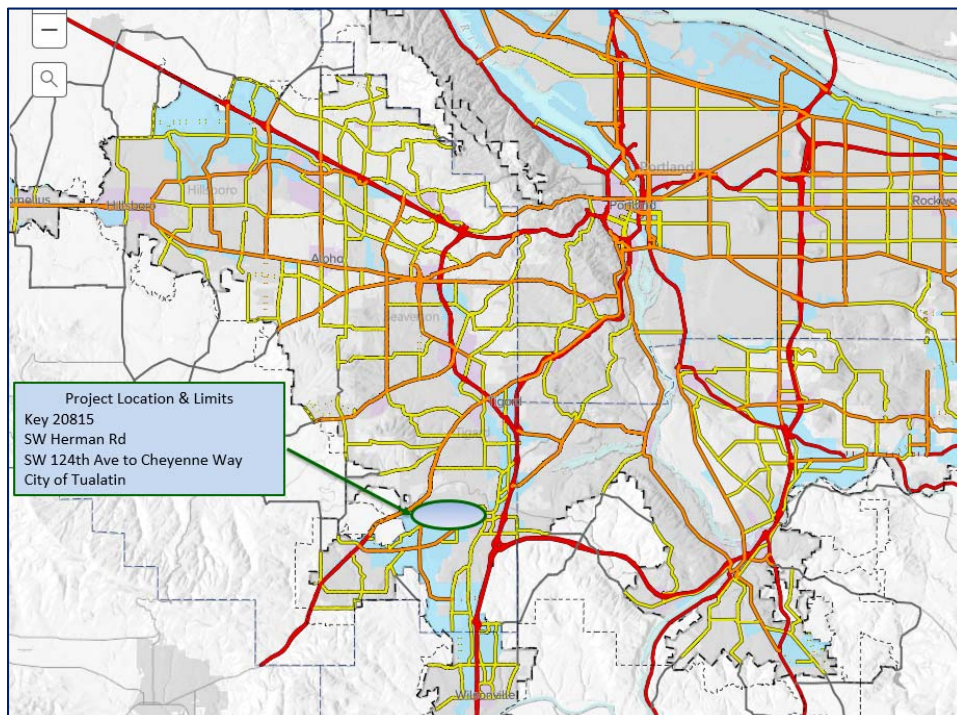
SW Herman RD: SW 124th Ave – SW Cheyenne Way

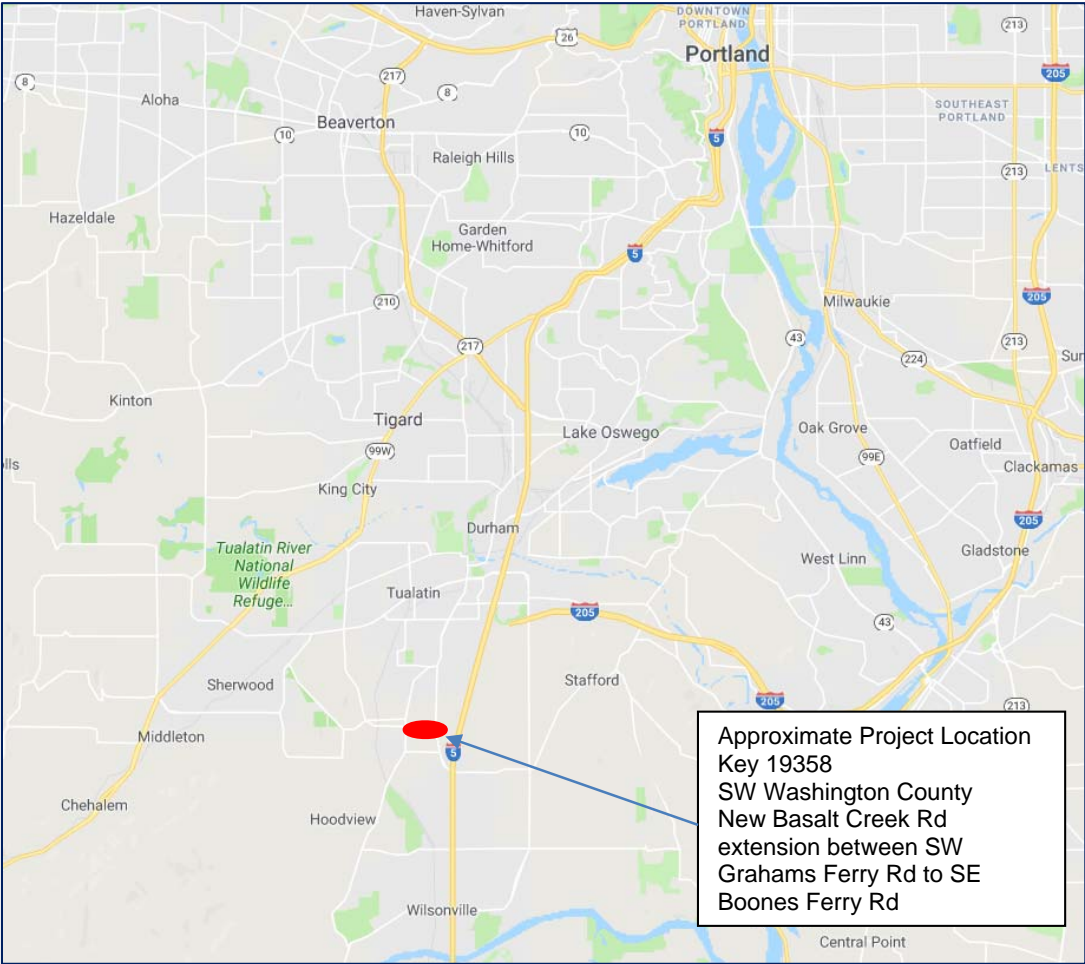
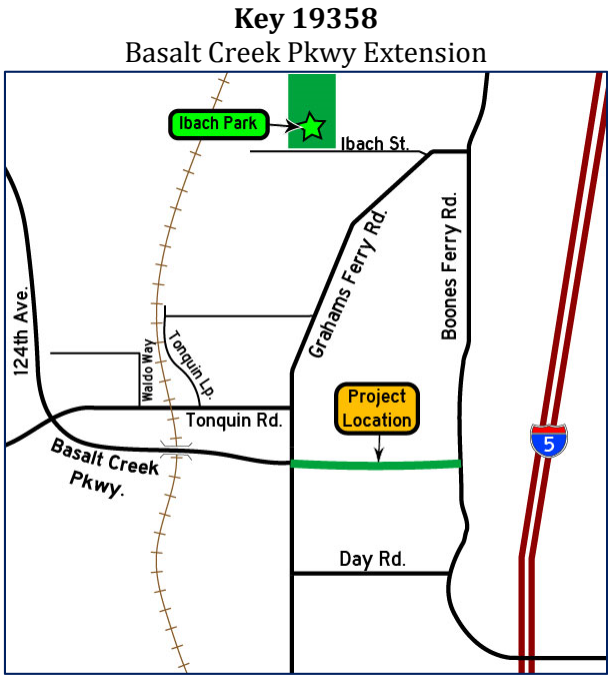


City of Tualatin
www.tualatinoregon.gov

HERMAN ROAD ACTIVE TRANSPORTATION CORRIDOR - DESIGN DEVELOPMENT

PROJECT EXTENTS MAP - Washington County MSTIP Opportunity Fund Request





Agenda Item No. 4.2

Resolution No. 19-5039, For the Purpose of Authorizing
the Execution of TriMet a Park & Ride Agreement at the
Portland Expo Center

Consent Agenda

Metro Council Meeting
Thursday, October 31, 2019
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE	)	RESOLUTION NO. 19-5039
EXECUTION OF A TRIMET PARK AND RIDE)	
AGREEMENT AT THE PORTLAND EXPO	)	Introduced by Interim Chief Operating Officer
CENTER	)	Andrew Scott

WHEREAS, Metro owns and operates the Portland Expo Center, a multi-purpose event facility, located at 2060 N. Marine Drive, Portland, Oregon (the “Expo Property”);

WHEREAS, TriMet operates a Max Light Rail stop at the easternmost border of the Expo Property, which stop is commonly referred to as the Expo Center Park and Ride, or the TriMet Yellow Line;

WHEREAS, in 2003, Metro, MERC and TriMet entered into an agreement that allowed TriMet to operate a park and ride facility at the Expo Property; and

WHEREAS, Metro desires to modify and renew the existing agreement with TriMet to provide for continued Park and Ride use at the Expo Property; now therefore

BE IT RESOLVED that the Metro Council hereby authorizes the Executive Director of the Portland Expo Center to enter into a Park and Ride agreement with TriMet substantially similar to the attached Exhibit A, or as otherwise approved by the Office of Metro Attorney.

ADOPTED by the Metro Council this 31st day of October, 2019.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 19-5039, FOR THE PURPOSE OF AUTHORIZING THE EXECUTION OF A TRIMET PARK AND RIDE AGREEMENT AT THE PORTLAND EXPO CENTER

Date: October 24, 2019

Prepared by: Matthew P. Rotchford

BACKGROUND

The Portland Expo Center is the largest multi-purpose event facility in the Pacific Northwest. Located in North Portland; the Expo Center hosts a diverse line-up of consumer public shows, tradeshows, concerts and community cultural events each year. The Expo Center annually generates over \$54 million in economic impact for the region and career-path jobs related to the tourism economy. The Expo Center is also the current end-of-the-line for TriMet's Max Light Rail Yellow Line. Since March 14th, 2003, both TriMet and the Portland Expo Center have partnered together to provide options for commuters wishing to utilize the Park and Ride location on the Expo campus. This provides sustainable alternatives to single occupancy commutes, reducing congestion during peak traffic hours. This positive partnership has resulted in improved infrastructure for the Expo campus and increased ridership on TriMet's award-winning transportation system. Additionally, the light rail's presence has enhanced community partnerships such as extended residencies on campus by Cirque du Soleil where the light rail system is broadly utilized by patrons for this, as well as a multitude of community gatherings held at the Portland Expo Center.

On November 1, 2019, the inter-governmental agreement between TriMet, Metro, MERC and the Portland Expo Center is set to expire. All parties realize the mutually beneficial arrangements that the agreement provides and wish to continue this relationship. Negotiations between the parties began over a six-month period and the agreement has been reviewed by the legal teams for both organizations. The agreement modifies the original Park and Ride lease agreement; providing options for a 5-year renewable term for the use of 100 spaces, M-F up to 10:a.m. The agreement additionally provides for the completion of the northernmost covered walkway to the Expo Center campus, as well as maintenance, landscaping care, security provisions and mutual cooperation regarding event impacts. The previous lease arrangement has been in effect for a period of fifteen (15) years and commenced September 1, 2004. During mutual negotiation periods, the current agreement has been extended to October 31, 2019, with a retroactive effective date of September 1, 2019 pending Council approval of this lease renewal

ANALYSIS/INFORMATION

1. Known Opposition

None

2. Legal Antecedents

None

3. Anticipated Effects

This lease agreement provides positive financial impacts, clarity in operation and campus infrastructure improvements to match funding already scheduled in the Expo's five-year capital plan.

4. Budget Impacts

The lease agreement will have no cost to the Expo and will experience a positive impact on the budget as a result of this renewed lease agreement. TriMet has agreed to \$200,000 in capital improvement funding over five (5) years toward the completion of the covered walkway envisioned in the first lease agreement. Additionally, TriMet will provide \$25,072 per year with yearly increases of \$1,000 per year as Park and Ride lease payments in exchange for use of 100 spaces, M-F up until 10:a.m. The lease agreement reduces space impacts per year, and also includes contribution towards parking lot maintenance and stormwater fees incurred. The agreement also allows for another five (5) year extension to include monthly lease payments starting at \$30,072 and increasing by \$1,000 per year until 2029. Expo will maintain the parking lot spaces and capital maintenance for said spaces as part of Expo's campus capital planning.

RECOMMENDED ACTION

Staff recommends that the Metro Council, by Resolution 19-5039, authorize the Executive Director of the Portland Expo Center to enter into a Park and Ride agreement with TriMet substantially similar to the attached Exhibit A, or as otherwise approved by the Office of Metro Attorney.

**FIRST AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT
BETWEEN METRO, ACTING BY AND THROUGH ITS METROPOLITAN-
EXPOSITION AND RECREATION COMMISSION AND THE TRI-COUNTY
METROPOLITAN TRANSPORTATION DISTRICT OF OREGON
FOR PARK & RIDE LEASE**

THIS FIRST AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT FOR PARK & RIDE LEASE AGREEMENT (this "Agreement") is entered into by and between the TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON, a mass transit district ("TriMet") and METRO, acting by and through its METROPOLITAN-EXPOSITION AND RECREATION COMMISSION ("MERC") effective the ____st day of _____, 2019.

RECITALS

A. TriMet and MERC are parties to an Intergovernmental Agreement between TriMet and MERC for Park & Ride Lease dated May 28, 2003 (the "Original IGA"), whereby MERC granted TriMet the right to use certain parking spaces located at the Portland Expo Center, which is located at 2060 N. Marine Drive (the "Property"), as further described in and subject to the terms of the Original IGA.

B. The term of the Original IGA will now expire on October 31, 2019, and in lieu of exercising the option to extend the term of the Original IGA, the parties desire to amend and restate the Original IGA in its entirety.

NOW, THEREFORE, in consideration of the mutual promises and the terms and conditions set forth in this Agreement, the parties hereby agree to amend and restate the Original IGA as provided below, effective _____, 2019:

1. Park & Ride Lease; Compensation.

a. MERC hereby leases and grants to TriMet, its successors and assigns, and TriMet hereby agrees to lease and accepts from MERC, a nonexclusive lease to use solely for the purposes set forth in Section 3 below, 100 parking spaces in Parking Lower Lots 1, 2, and 3 on the Property (the "Park & Ride Spaces"), in accordance with and upon satisfaction of the terms and conditions set forth herein. As of the date of execution, the location of the Park & Ride Spaces are shown on the map attached hereto as **Exhibit A**. However, the parties acknowledge that currently there are approximately 1,380 parking spaces in Parking Lower Lots 1, 2, and 3 and that MERC shall have the right to relocate the Park & Ride Spaces and designate which specific parking spaces in such lots are for TriMet's park and ride use.

b. TriMet shall pay MERC the following annual lease consideration (the "Initial Lease Amount") for the Initial Term, (as defined in Section 2 below), which shall be due and payable in advance, commencing on the first day of September, 2019, and on the first day of September of each year of the Initial Term:

Lease Year	Annual Rent/Lease Amount
September 1, 2019 to August 31, 2020	\$65,072
September 1, 2020 to August 31, 2021	\$66,072
September 1, 2021 to August 31, 2022	\$67,072
September 1, 2022 to August 31, 2023	\$68,072
September 1, 2023 to August 31, 2024	\$69,072

The parties acknowledge that the Initial Lease Amount for the Initial Term includes consideration for approximately \$200,000 in improvements for a covered walkway between the parking lot and Exhibit Hall B, which MERC agrees to perform. The parties acknowledge that this is a MERC project, not a TriMet project. In no event shall TriMet be obligated to contribute any additional funds, pay for any other improvements or pay any increases in costs for the covered walkway improvements, except as included in the above Initial Lease Amount.

c. If TriMet exercises the Extension Option (as defined in Section 2 below), TriMet shall pay MERC the following annual lease consideration (the "Extension Lease Amount") for the Extension Term, (as defined in Section 2 below), which shall be due and payable in advance, commencing on the first day of September, 2024, and on the first day of September of each year of the Extension Term:

Lease Year	Annual Rent/Lease Amount
September 1, 2024 to August 31, 2025	\$30,072
September 1, 2025 to August 31, 2026	\$31,072
September 1, 2026 to August 31, 2027	\$32,072
September 1, 2027 to August 31, 2028	\$33,072
September 1, 2028 to August 31, 2029	\$34,072

2. Term; Termination.

a. Term. This Agreement shall be in effect for a period of five (5) years, commencing September 1, 2019, and expiring on August 31, 2024 (the "Initial Term"), unless otherwise extended or terminated hereunder. TriMet shall have the right (the "Extension Option") in its sole discretion to renew this Agreement for one additional five (5) year lease extension period ("Extension Term") on the same terms and conditions as provided in this Agreement, with the Annual Rent as provided in Section 1(c) above. The Extension Option shall be exercised, if at all, by TriMet's written notice to MERC no later than the expiration of the Initial Term. After the expiration of the Extension Term, the parties may extend the Term of this Agreement by mutual agreement. The Initial Term, the Extension Term, and any additional extensions shall be included in the definition of "Term".

b. Early Termination. If either party wishes to terminate this Agreement prior to the expiration of the Term, the terminating party shall notify the other at least one (1) year prior to the date on which it wishes the termination to be effective. MERC will refund TriMet any prepaid rent accruing after such termination date, based on a prorata basis.

c. Termination for Default. If either party fails to perform in the manner called for in this Agreement or fails to comply with any other provisions of this Agreement, the non-defaulting party may, with 90 days' written notice, with opportunity to cure, terminate this Agreement for default. Termination shall be effected by delivering a written notice of termination on the defaulting party, setting forth the manner in which the party is in default. Within the 90 days from written notice, MERC and TriMet shall endeavor to correct any problem giving rise to the default notice. The parties agree to bargain in good faith regarding curing the default. If at the end of the 90-day period, or such other period as agreed to by the parties, the default is not cured, then this Agreement and all rights hereunder shall terminate. In the case of termination, either party will be paid only the amounts due for work performed or occupancy already granted and terminating on the date of termination, unless in the termination agreement the parties specify to the contrary.

3. Use of Park & Ride Spaces; Cooperation and Coordinated Use.

a. Use of Park & Ride Spaces. TriMet and its patrons may use, on a non-exclusive basis, the identified 100 Park & Ride Spaces located within the Property, Monday through Friday during the hours of train operations ("Hours of Operation") for a Park & Ride Lot solely for the parking of passenger vehicles. MERC shall not grant to any third-party use of the Park & Ride Spaces which interferes with TriMet's rights hereunder. It is expressly agreed to and acknowledged by the parties that TriMet patrons will have first priority for parking at the Park & Ride Spaces prior to 10 a.m., during which time MERC shall not charge a parking fee to TriMet Park & Ride patrons. After 10 a.m. daily, MERC may utilize all unoccupied Park & Ride Spaces for general parking, and MERC may charge a parking fee to all who park there after that time.

b. Cooperation and Coordinated Use. The parties shall cooperate and provide mutual reasonable notice for coordinating landscaping activities, security actions, custodial efforts, capital improvements, maintenance, scheduled events or other activities that may impact the use of the Park & Ride Spaces by the other party. In addition, at no charge to either party, (i) TriMet may use the Park & Ride Spaces for ride and drive activities other than parking purposes (e.g. bus driver training, safety procedures, staging or other ride and drive activities) provided that such use is coordinated with MERC to ensure that it does not conflict with MERC's operations or any events taking place at the Expo Center; and (ii) upon thirty (30) days' prior notice to TriMet, MERC shall have the right to designate up three (3) blackout days per year for weekday Expo Center events (e.g. Portland Swap Meet), during which the Park & Ride Spaces will not be available for use by TriMet.

4. Access to Park & Ride Spaces. TriMet and its patrons may use adjacent walkways and roadways belonging to MERC for reasonable vehicle and pedestrian ingress to and egress from the Park & Ride Spaces.

5. Signs; Security. TriMet may install signs on the Property at locations approved by MERC indicating that the Park & Ride Spaces are available for use as a Park & Ride Lot, individual signs stating "Lot Full", and any other restrictions or limitations related to use consistent with this Agreement. TriMet shall be responsible for providing security to TriMet's facilities and to the Park & Ride Spaces during the Hours of Operation.

6. Maintenance. MERC shall be responsible for maintaining the Park & Ride Spaces from all normal wear and tear and for maintaining MERC's other property used for ingress to or egress from the Park & Ride Spaces. However, this provision shall not create or form the basis of any MERC liability nor shall it create any third-party rights or a duty to any third party. TriMet shall be responsible for periodically examining the Park & Ride Spaces and TriMet accepts the Park & Ride Spaces in its condition as of the date of execution of this Agreement. MERC shall notify TriMet of any major damage to the Park & Ride Spaces occurring during the Hours of Operations beyond normal wear and tear that MERC attributes solely to TriMet and/or its patrons ("Major Park & Ride Damage"). TriMet and MERC shall negotiate in good faith to share the cost of repairing Major Park & Ride Damage. With respect to normal wear and tear maintenance, a portion of the annual rent/lease amount for each year of the Lease Term includes a fixed annual amount of \$4,268, which the parties acknowledge covers the maintenance and stormwater fees attributable to the Park & Ride Spaces.

7. Removal upon Termination. Upon termination of this Agreement, TriMet shall cease using the Park & Ride Spaces. TriMet shall remove all signs and any structures placed on the Property by TriMet and shall repair any damage to the Property caused by the removal of TriMet's signs or structures.

8. Insurance; Indemnification.

a. Each party is responsible for the wages and benefits of its respective employees performing any work or services related to this Agreement. Metro will maintain for the duration of the Agreement (i) self-insurance in accordance with ORS 30.282, for the duration of this Agreement to levels necessary to protect against public body liability as specified in ORS 30.272 and 30.273 and (ii) Workers' Compensation Insurance coverage for all its employees as a self-insured employer, as provided by ORS chapter 656, or disability coverage under its Disability, Retirement and Death Benefits Plan. TriMet will maintain for the duration of the Agreement the following insurance, covering TriMet, its employees, subcontractors and agents:

i. The most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability assumed under this Agreement, premises and products/completed operations. TriMet's coverage will be primary and non-contributing as respects Metro;

ii. Automobile insurance with coverage for bodily injury and property damage and with limits not less than minimum of \$1,000,000 combined single limit;

iii. Workers' Compensation insurance meeting Oregon statutory requirements including Employer's Liability with limits not less than \$1,000,000 per accident or disease; and

iv. Any combination of excess or umbrella insurance to bring the CGL and Auto to \$5,000,000 per claim

Metro and its respective elected officials, departments, employees, volunteers and agents must be covered as ADDITIONAL INSURED on TriMet's Commercial General Liability policy. TriMet will include the additional insured endorsement along with the certificate of insurance. TriMet will provide to MERC thirty (30) days' notice prior to any material change, termination, cancellation, potential exhaustion of aggregate limits, or non-renewal of policy coverage. TriMet will make all subcontractors working on the Property carry insurance required in subsections (i), (ii), and (iii) above as well as providing Metro as additional insured status on CGL and auto insurance.

TriMet must provide MERC with a Certificate of Insurance complying with this section upon execution of this Agreement. TriMet must email the Certificate of Insurance to submitdocuments@oregonmetro.gov. MERC reserves the right to require, at any time, complete, certified copies of required insurance policies, including endorsement evidencing the coverage required.

b. TriMet shall hold harmless, indemnify and defend MERC and Metro and their officers, agents, and employees from and against any and all claims, liability, settlements, damages, losses, costs and expenses arising out of TriMet's negligent actions, errors and omissions and willful misconduct in connection with the use and/or occupancy of the Property by TriMet, its employees, officers, agents, invitees or contractors under this Agreement, within the maximum liability limits under the Oregon Tort Claims Act and the Oregon Constitution. MERC shall hold harmless, indemnify and defend TriMet and its officers, agents, and employees from and against any and all claims, liability, settlements, damages, losses, costs and expenses arising out of MERC's negligent actions, errors and omissions and willful misconduct in connection with the use and/or occupancy of the Property by MERC, its employees, officers, agents, invitees or contractors under this Agreement, within the maximum liability limits under the Oregon Tort Claims Act and the Oregon Constitution.

9. General Provisions.

a. **Project Managers.** All routine correspondence and communication regarding this Agreement shall be between the project managers:

For MERC:

Matthew Rotchford
Clark Moss
The Portland Expo Center
2060 N. Marine Drive
Portland, Oregon 97217
Phone: 503-736-5200

For TriMet:

Phone: _____

b. **Dispute Resolution.** If the Project Managers from each party cannot resolve any dispute arising out of this Agreement, the matter will be referred to their respective supervisors for resolution. If the supervisors are unable to resolve the dispute within 30 days of referral, the matter will be referred to MERC's General Manager and TriMet's General Manager, who will attempt to resolve the issue. If the General Managers are not able to resolve the dispute, the parties will submit the matter to arbitration with the Commercial Arbitration Rule of the American Arbitration Association. The decision of the arbitrator shall be final, binding and conclusive upon the parties and subject to appeal only as provided in Oregon law. The parties shall each pay their own costs but will share equally in fees and costs of the arbitration and/or arbitration service provided, however, that the arbitration may award costs to the prevailing party. The parties shall continue in the performance of their respective obligations notwithstanding the dispute. This dispute resolution procedure may be modified by mutual agreement of the parties.

c. **Authority.** The parties signing below represent that they have authority to bind the party for which they sign.

d. **Interest of Members of Congress.** No member of, or delegate to, the Congress of the United States shall be permitted to any share or part of this Agreement or to any benefit arising there from.

e. **Equal Employment Opportunity and Adherence to Law.** In connection with the execution of this Agreement neither party shall discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin.

f. **Audit and Inspection for Records.** Each party shall allow the authorized representatives of the other party, the United States Department of Transportation, and the controller General of the United States to inspect and audit all data and records relating to its performance under the Agreement. Each party shall be responsible for its own auditing costs incurred.

g. **No Third-Party Beneficiaries.** MERC and TriMet are the only parties to this Agreement and as such are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.

h. **Amendment.** This Agreement may only be expressly modified or amended in writing(s) signed by duly authorized representatives of TriMet and MERC.

IN WITNESS HEREOF, the parties have agreed to all provisions of this Agreement effective as of _____, 2019.

METROPOLITAN EXPOSITION-
RECREATION COMMISSION

TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF
OREGON

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

EXHIBIT A

Materials following this page will be distributed at the meeting.

Agenda Item No. 4.3

**Consideration of the Council Meeting Minutes for
October 17, 2019**

Consent Agenda

Metro Council Meeting
Thursday, October 31, 2019
Metro Regional Center, Council Chamber

Agenda Item No. 4.4

**Consideration of the Council Meeting Minutes for October
24, 2019**

Consent Agenda

Metro Council Meeting
Thursday, October 31, 2019
Metro Regional Center, Council Chamber

Agenda Item No. 5.1

Resolution No. 19-5022, For the Purpose of Approving a
Solid Waste Facility Franchise Renewal Application and
Authorizing GSS Transfer LLC to Operate a Transfer Station

Public Hearing

Metro Council Meeting
Thursday, October 31, 2019
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE SOLID	)	RESOLUTION NO. 19-5022
WASTE FACILITY FRANCHISE RENEWAL)	
APPLICATION OF GSS TRANSFER, LLC, AND	)	Introduced by Acting Chief Operating
AUTHORIZING THE CHIEF OPERATING OFFICER	)	Officer Andrew Scott in concurrence with
TO ISSUE A RENEWED SOLID WASTE FACILITY	)	Council President Lynn Peterson
FRANCHISE TO OPERATE A TRANSFER STATION)	

WHEREAS, Metro Code Section 5.01.150 states that a Metro Solid Waste Facility Franchise is required for any person owning or controlling a facility that operates a transfer station; and

WHEREAS, GSS Transfer, LLC ("GSS Transfer") holds Metro Solid Waste Facility Franchise Number F-019-16C to operate a transfer station, which will expire on December 31, 2019; and

WHEREAS, GSS Transfer filed a complete application seeking a renewal of its Metro Solid Waste Facility Franchise pursuant to Metro Code Section 5.01.210(a); and

WHEREAS, Metro Council adopted Resolution No. 18-1426 to establish a framework for allocating the region's putrescible waste tonnage to privately-owned transfer stations beginning in 2020; and

WHEREAS, beginning in 2020, Metro will allocate the region's putrescible waste tonnage to privately-owned transfer stations in accordance with Metro's tonnage allocation methodology; and

WHEREAS, GSS Transfer's putrescible waste tonnage allocation amount may change during the term of the Metro Solid Waste Facility Franchise in accordance with Metro's tonnage allocation methodology; and

WHEREAS, Metro Council adopted the 2030 Regional Waste Plan via Ordinance No. 19-1431, which may require future amendments to the Metro Solid Waste Facility Franchise to implement the Plan; and

WHEREAS, GSS Transfer does not propose to alter any other activities that already occur at its transfer station site; and

WHEREAS, the Metro Council finds that the proposed Metro Solid Waste Facility Franchise renewal is in the public interest and meets the criteria set forth in Metro Code Section 5.01.180; now therefore

BE IT RESOLVED that the Metro Council:

1. Approves the Metro Solid Waste Facility Franchise application for GSS Transfer to operate a transfer station subject to the terms, conditions and limitations contained in Exhibit A.

2. Authorizes the Chief Operating Officer to issue to GSS Transfer a renewed Metro Solid Waste Facility Franchise substantially similar to the one attached as Exhibit A.
3. Authorizes the Chief Operating Officer to amend the Metro Solid Waste Facility Franchise as necessary without further Council action in order to allocate putrescible tonnage in accordance with Metro's tonnage allocation methodology based on Metro's solid waste tonnage forecast.

ADOPTED by the Metro Council this ____ day of October 2019.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney



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

METRO SOLID WASTE FACILITY FRANCHISE

No. F-019-20

FRANCHISEE:	FACILITY NAME AND LOCATION:
GSS Transfer, LLC 2131 NW Birdsdale Avenue Gresham, Oregon 97030 Phone: (503) 665-2424	GSS Transfer, LLC 2131 NW Birdsdale Avenue Gresham, Oregon 97030 Phone: (503) 665-2424
OPERATOR:	PROPERTY OWNER:
GSS Transfer, LLC 2131 NW Birdsdale Avenue Gresham, Oregon 97030 Phone: (503) 665-2424	Michael & Deborah Miller PO Box 1560 Gresham, Oregon 97030 Phone: (503) 665-2424

ISSUED BY METRO:

Roy W. Brower, Interim Property and Environmental Services Director

Date

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1.0	ISSUANCE	
1.1	Corporate affiliation	Gresham Sanitary Service, Inc. 2131 NW Birdsdale Avenue Gresham, Oregon 97030
1.2	Contact	Matt Miller Phone: (503) 665-2424 E-mail: matt@gss-nw.com
1.3	Term	January 1, 2020 to December 31, 2024, unless amended, suspended or revoked as provided in this franchise.
1.4	Renewal	The franchisee may apply for a franchise renewal as provided in Metro Code Chapter 5.01.
1.5	Facility name and mailing address	GSS Transfer, LLC. PO Box 1560 Gresham, Oregon 97030
1.6	Facility premises description	Tax Lot Identification Nos. 1S3E05AD 01500, 01600, 01700, and 1S3E05DA 00100, City of Gresham, Multnomah County, State of Oregon. Metro may inspect the facility site and any areas directly related to the transfer station operations as per Section 13.3.
1.7	Permission to operate	The property owner consents to the use of the property as a transfer station by the franchisee.

2.0	CONDITIONS AND DISCLAIMERS	
2.1	Guarantees	This franchise does not vest any right or privilege in the franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise.
2.2	Non-exclusive franchise	This franchise does not limit Metro from granting other solid waste franchises within Metro's jurisdictional boundary.
2.3	Property rights	This franchise does not convey any property rights in either real or personal property.
2.4	Amendment	Except as provided in Section 12.0, no amendment is effective unless approved by the Metro Council.
2.5	No recourse	The franchisee will have no recourse against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement

		of the franchise or in the event Metro determines that the franchise or any part thereof is invalid.
2.6	Indemnification	The franchisee must indemnify Metro, the Council, the Chief Operating Officer and any of Metro's employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the granting of this franchise or the franchisee's performance of or failure to perform any of its obligations under the franchise or Metro Code Chapter 5.01, including without limitation patent infringement and any claims or disputes involving subcontractors.
2.7	Waivers	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 12.0 and be in writing and signed by Metro.
2.8	Effect of waiver	Waiver of a term or condition of this franchise does not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.9	Enforceability	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise will not be affected.
2.10	Franchise not a waiver	This franchise does not relieve any owner, operator or the franchisee from the obligation to obtain all required permits, franchises or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.11	Franchise not limiting	This franchise does not limit the power of a federal, state or local agency to enforce any provision of law relating to the facility.
2.12	Definitions	<ol style="list-style-type: none"> 1. "Mixed Non-Putrescible Waste" means a mixture of more than one type of non-putrescible waste, including commingled recyclables other than residential curbside recyclable material. This category includes construction and demolition waste but excludes cleanup materials, source-separated recyclable material, special waste, land clearing debris and yard debris. 2. Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.00.

3.0	AUTHORIZATIONS	
3.1	General conditions on solid waste	The franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.

3.2	General conditions on activities	The franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.
3.3	Acceptance and management of putrescible solid waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 13.2. The franchisee also is authorized to accept putrescible waste for material recovery. 2. The franchisee must receive, manage, store, reload and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight, covered containers or within covered transport trailers. 3. The franchisee is authorized to accept putrescible waste generated inside the Metro region only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
3.4	Acceptance and management of mixed non-putrescible solid waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept loads of mixed non-putrescible solid waste from all customers including public self-haul for reload and transfer to a facility authorized by Metro to perform material recovery. 2. Except as provided below in subsections (a) and (b), the franchisee must receive, sort, store, reload and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides. <ol style="list-style-type: none"> (a) Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover prior to processing, within 12 hours of receipt, or by the end of the business day, whichever is earlier. (b) Public self-haul customers may tip waste outside, provided that such waste is tipped directly into watertight containers that are covered within 12 hours of receipt, or by the end of the business day, whichever is earlier. 3. The franchisee must reload and remove all mixed non-putrescible waste from the site within 48 hours of receipt.
3.5	Acceptance of source-separated recyclable materials	<ol style="list-style-type: none"> 1. The franchisee must provide a place for collecting source-separated recyclable materials on the facility premises. 2. The franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.

3.6	Acceptance of yard debris	The franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce odors detectable beyond the boundaries of the facility. The franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro.
3.7	Acceptance of source-separated food waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept source-separated food waste for reloading to an authorized facility for composting, anaerobic digestion or other resource recovery process as described in an operating plan and approved in writing by Metro. 2. Notwithstanding subsection 3.9.1 above, the Chief Operating Officer may amend this franchise as described in section 12.0 to require the franchisee to accept source-separated food waste. 3. If the franchisee accepts source-separated food waste, then the franchisee must: <ol style="list-style-type: none"> (a) Reload and remove all source-separated food waste from the site in a timely manner so that it does not reach a state of decomposition sufficient to produce odors detectable beyond the boundaries of the facility; (b) Protect the quality of source-separated food waste such that it is suitable for composting, anaerobic digestion or other resource recovery process that is approved in writing by Metro; and (c) Transport all source-separated food waste to a Metro-authorized facility for recovery.
3.8	Acceptance of untreated wood	The franchisee is authorized to accept, for processing and reloading, source-separated, untreated and unpainted wood waste, for example untreated lumber and wood pallets. The franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro.
3.9	Acceptance of painted and treated wood	The franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro. The franchisee must not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock or any other product unless otherwise described in an operating plan and approved in writing by Metro.
3.10	Acceptance of electronics devices	The franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer, and other similar functions related to preparing these materials for reuse, recycling or disposal as required by

		the Oregon Department of Environmental Quality (DEQ).
3.11	Acceptance of inert material	The franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer and other similar functions related to preparing these materials for useful purposes.
3.12	Production of hogged fuel	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept and process only untreated wood, painted wood and incidental quantities of treated wood for delivery to facilities with industrial boilers for use as hogged fuel. 2. The franchisee is prohibited from mixing any other solid waste with the wood wastes described above in Section 3.12.1 for the production of hogged fuel.

4.0	LIMITATIONS AND PROHIBITIONS	
4.1	Tonnage allocation	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept putrescible waste generated inside the Metro region as provided in this franchise. 2. By January 1 of each year, Metro will amend this franchise to establish an annual tonnage allocation amount for the franchisee. 3. Metro will determine the tonnage allocation amount in accordance with allocation methodology provided in Metro Code Chapter 5.01 and applicable administrative rules. 4. For calendar year 2020, beginning on January 1 and ending December 31, 2020, the franchisee is authorized to accept up to XX,XXX tons of putrescible waste generated inside the Metro region.
4.2	Waste hauler access	<p>It is in the public's best interest that transfer stations located inside the Metro region maintain adequate capacity to accommodate solid waste generated within the region and provide adequate access to waste haulers. Therefore:</p> <ol style="list-style-type: none"> 1. The franchisee must not accept solid waste generated outside the Metro region if to do so would limit the franchisee from accepting any putrescible or non-putrescible waste generated inside the Metro region; 2. The franchisee must not deny access to any unaffiliated waste hauler without due cause or written notice 30-days in advance. Due cause includes, but is not limited to, load contamination, failure to pay or risk of exceeding the franchise tonnage allocation; and 3. Metro may require the franchisee to provide a written explanation of its rationale if the facility denies access or refuses service to a waste hauler.
4.3	Prohibited waste	The franchisee must not knowingly receive, process, reload or dispose of any solid waste not authorized by this franchise. The franchisee must not

		knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; explosives; or any waste prohibited by DEQ.
4.4	Prohibition on mixing	The franchisee must not mix different waste types unless such mixing is described in an operating plan and approved in writing by Metro.
4.5	Prohibition of size reduction on non-putrescible waste	The franchisee must not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, processing residual consolidation or loading operations, and such size reduction is described in an operating plan and approved in writing by Metro.
4.6	No disposal of recyclable materials	The franchisee must not transfer source-separated recyclable materials to a disposal site including, without limitation, landfills and incineration facilities, without written permission from Metro and DEQ.
4.7	Composting prohibited	The franchisee must not keep yard debris on site long enough for more than negligible biological decomposition to begin.
4.8	Limits not exclusive	This franchise will not be construed to limit, restrict, curtail or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

5.0	REGIONAL WASTE PLAN	
5.1	Regional Waste Plan	<ol style="list-style-type: none"> 1. Metro plans, manages and oversees the region's solid waste system to achieve the goals and actions outlined in the 2030 Regional Waste Plan. 2. Metro may amend this franchise and establish new requirements for the franchisee to achieve the goals and actions of the 2030 Regional Waste Plan.

6.0	OPERATING CONDITIONS	
6.1	General performance standards	<p>The franchisee must operate in a manner that meets the following general performance standards:</p> <ol style="list-style-type: none"> 1. Environment. The franchisee must design and operate the facility to avoid undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution and improper acceptance and management of hazardous waste, asbestos

		<p>and other prohibited wastes.</p> <ol style="list-style-type: none"> 2. Health and safety. The franchisee must design and operate the facility to avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris. 3. Nuisances. The franchisee must design and operate the facility to avoid nuisance conditions including, but not limited to, litter, dust, odors and noise.
6.2	Qualified operator	<ol style="list-style-type: none"> 1. The franchisee must, during all hours of operation, provide an operating staff employed by the facility and that is qualified and competent to carry out the functions required by this franchise and to otherwise comply with Metro Code Chapter 5.01. 2. Facility personnel, as relevant to their job duties and responsibilities, must be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan. 3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.
6.3	Fire prevention	<p>The franchisee must provide fire prevention, protection and control measures including, but not limited to:</p> <ol style="list-style-type: none"> 1. Adequate water supply for fire suppression; and 2. Procedures in place to isolate potential heat sources and/or flammables from processing and storage areas.
6.4	Adequate vehicle accommodation	<p>The franchisee must:</p> <ol style="list-style-type: none"> 1. Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. The franchisee must maintain access roads to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather. 2. Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles must not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances. 3. Post signs to inform customers not to queue on public roadways. 4. Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site covering and uncovering of loads.

6.5	Managing prohibited wastes	<ol style="list-style-type: none"> 1. The franchisee must reject prohibited waste upon discovery and must properly manage and dispose of prohibited waste when unknowingly received. 2. The franchisee must implement a load-check program to prevent the acceptance of prohibited waste. This program must include at a minimum: <ol style="list-style-type: none"> (a) Visual inspection. As each load is tipped, a qualified operator must visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise. (b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas must be covered and enclosed to prevent leaking and contamination. (c) Record maintenance. The franchisee must maintain records of the training of personnel in the recognition, proper handling and disposition of prohibited waste and make those records available for review by Metro. 3. Upon discovery, the franchisee must remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the franchisee unknowingly receives must be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by DEQ or local government.
6.6	Storage and exterior stockpiles	<p>The franchisee must:</p> <ol style="list-style-type: none"> 1. Manage, contain and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards; 2. Maintain storage areas in an orderly manner and keep the areas free of litter; 3. Position exterior stockpiles within footprints identified on the facility site plan or operating plan; and 4. Not stockpile recovered or source-separated materials for longer than 180 days.
6.7	Dust, airborne debris and litter	<p>The franchisee must operate the facility in a manner that controls and minimizes the generation of dust, airborne debris and litter, and must prevent its migration beyond property boundaries. The franchisee must:</p> <ol style="list-style-type: none"> 1. Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit; 2. Maintain and operate all vehicles and devices transferring or

		<p>transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit;</p> <ol style="list-style-type: none"> 3. Maintain and operate all access roads and receiving, processing, storage and reload areas in such a manner as to control and minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site; 4. Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation; 5. Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; and 6. Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, must be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Metro Code Chapter 5.09.
6.8	Odor	<ol style="list-style-type: none"> 1. The franchisee must operate the facility in a manner that controls and minimizes the generation of odors that are detectable off-site. 2. The franchisee must establish and follow procedures in the operating plan for minimizing odor at the facility.
6.9	Vectors (e.g. birds, rodents, insects)	<ol style="list-style-type: none"> 1. The franchisee must operate the facility in a manner that is not conducive to harboring rodents, birds, insects or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another. 2. If vectors are present or detected at the facility, the franchisee must implement vector control measures.
6.10	Noise	<p>The franchisee must operate the facility in a manner that controls and minimizes any noise sufficient to cause adverse off-site impacts and meets applicable regulatory standards and land-use regulations.</p>
6.11	Water contaminated by solid waste and solid waste leachate	<p>The franchisee must operate the facility consistent with an approved DEQ stormwater management plan or equivalent and must:</p> <ol style="list-style-type: none"> 1. Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; and 2. Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state and federal laws and regulations.

6.12	Access control	<ol style="list-style-type: none"> 1. The franchisee must control access to the facility as necessary to prevent unauthorized entry and dumping. 2. The franchisee must maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.
6.13	Signage	<p>The franchisee must post signs at all public entrances to the facility. The signs must comply with local government signage regulations. These signs must be easily and readily visible and legible from off-site during all hours and must contain at least the following information:</p> <ol style="list-style-type: none"> 1. Name of the facility; 2. Address of the facility; 3. Emergency telephone number for the facility; 4. Operating hours during which the facility is open for the receipt of authorized waste; 5. Fees and charges; 6. Metro's name and telephone number (503) 234-3000; 7. A list of authorized and prohibited wastes; 8. Vehicle / traffic flow information or diagram; 9. Covered load requirements; and 10. Directions not to queue on public roadways.
6.14	Complaints	<ol style="list-style-type: none"> 1. The franchisee must respond to all complaints in timely manner including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic and vectors, and must keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint. 2. If the facility receives a complaint, the franchisee must: <ol style="list-style-type: none"> (a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts, whether successful or unsuccessful; and (b) Log all such complaints as provided by the operating plan. The franchisee must retain each log entry for one year and it must be available for inspection by Metro.
6.15	Access to franchise document	<p>The franchisee must maintain a copy of this franchise on the facility's premises in a location where facility personnel and Metro representatives have ready access to it.</p>

6.16	Employment standard	The franchisee must be in compliance with Oregon’s “ban the box” law (ORS 659A.360) which makes it unlawful for an employer to inquire about criminal convictions before the interview stage of hiring. The franchisee must maintain a copy of the facility’s employment application on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
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7.0	OPERATING PLAN	
7.1	Plan compliance	The franchisee must operate the facility in accordance with an operating plan approved in writing by Metro. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this franchise. The franchisee may amend or revise the operating plan from time to time, subject to written approval by Metro.
7.2	Plan maintenance	The franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures and requirements. The franchisee must submit amendments and revisions of the operating plan to Metro for written approval prior to implementation.
7.3	Access to operating plan	The franchisee must maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
7.4	Procedures for inspecting loads	<p>The operating plan must establish:</p> <ol style="list-style-type: none"> 1. Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes; 2. Procedures for identifying incoming and outgoing loads for waste classifications; 3. A set of objective criteria for accepting and rejecting loads; and 4. An asbestos testing protocol for all materials that appear to contain asbestos.
7.5	Procedures for Mixing Waste Types	<p>The operating plan must establish:</p> <ol style="list-style-type: none"> 1. Circumstances under which waste types will be mixed; and 2. Procedures for record keeping and reporting for mixed outbound loads.
7.6	Procedures for processing and storage of loads	<p>The operating plan must establish procedures for:</p> <ol style="list-style-type: none"> 1. Processing authorized solid wastes; 2. Reloading and transfer of authorized solid wastes; 3. Managing stockpiles to ensure that they remain within the authorized

		<p>weights, volumes and pile heights;</p> <ol style="list-style-type: none"> 4. Storing authorized solid wastes; and 5. Minimizing storage times and avoiding delay in processing of authorized solid wastes.
7.7	Procedures for managing prohibited wastes	<p>The operating plan must establish procedures for managing, reloading and transferring to appropriate facilities or disposal sites any prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan must establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.</p>
7.8	Procedures for odor prevention	<p>The operating plan must establish procedures for controlling and minimizing odors generated at the facility from being detected off the premises of the facility. The plan must include:</p> <ol style="list-style-type: none"> 1. A management plan that the franchisee will use to monitor and manage odors of any derivation including odorous loads delivered to the facility; and 2. Procedures for receiving and recording odor complaints, immediately investigating all odor complaints to determine the cause of odor emissions and remedying promptly all odor problems at the facility.
7.9	Procedures for dust prevention	<p>The operating plan must establish procedures for controlling and minimizing dust from blowing off the premises of the facility. The plan must include:</p> <ol style="list-style-type: none"> 1. A management plan that the franchisee will use to monitor and manage dust of any derivation; and 2. Procedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions and remedying promptly all dust problems at the facility.
7.10	Procedures for emergencies	<p>The operating plan must establish procedures that the franchisee will follow in case of fire or other emergency.</p>
7.11	Procedures for complaints	<p>The operating plan must establish procedures for managing complaints.</p> <ol style="list-style-type: none"> 1. For every complaint received (for example odor, dust, vibrations and litter), the franchisee must record: <ol style="list-style-type: none"> (a) The nature of the complaint; (b) The date the complaint was received; (c) The name, address and telephone number of the person or persons making the complaint; and (d) Any actions taken by the operator in response to the complaint, whether successful or unsuccessful. 2. The franchisee must make records of such information available to

		Metro upon request. The franchisee must retain each complaint record for a period of not less than one year.
7.12	Closure protocol	<ol style="list-style-type: none"> 1. The franchisee must establish protocol for closure and restoration of the site in the event of a cessation of operations as provided in Metro Code Chapter 5.01. 2. The plan must include protocol for: <ol style="list-style-type: none"> (a) Short-term closure (duration of time that is more than two consecutive business days but less than 120 days in length); and (b) Long-term closure (duration of time that is 120 consecutive days or more in length). 3. The franchisee must give at least 24-hour notice to Metro prior to the short-term closure of the facility. 4. The franchisee must give at least 90 days written notice to Metro prior to the long-term closure of the facility.

8.0	FEES AND RATES	
8.1	Annual fee	The franchisee must pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
8.2	Rates	<ol style="list-style-type: none"> 1. The rates charged by the franchisee for accepting solid waste are not subject to regulation by Metro unless the Metro Council adopts an ordinance that establishes Metro's rate regulation authority. 2. Notwithstanding the provision above, the rates charged by the franchisee must not exceed the rates posted at the facility as described in Section 6.13.
8.3	Metro fee and tax imposed on disposal	The franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.
8.4	Metro community enhancement fee imposed on waste received	The franchisee must collect and remit to Metro a community enhancement fee, as provided in Metro Code Chapter 5.06, in an amount equal to \$1.00 per ton for all putrescible waste including food waste and residential yard debris mixed with food waste. The franchisee must remit the community enhancement fees to Metro on a monthly basis in conjunction with fees remitted in Section 8.3.

9.0	RECORD KEEPING AND REPORTING	
9.1	Record keeping requirements	For all solid waste and materials the franchisee is authorized to accept under Section 3.0, the franchisee must keep and maintain accurate records of the amount of authorized materials the franchisee accepts, recovers, recycles, reloads and disposes. These records must include the information specified in the Metro document titled, <u>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements.</u>
9.2	Reporting requirements	The franchisee must transmit to Metro records required under Section 9.0 no later than fifteen days following the end of each month in a format prescribed by Metro.
9.3	Account number listing	Within five business days of Metro's request, the franchisee must provide Metro with a listing that cross-references the account numbers used in the transaction database with the company's name and address.
9.4	Transactions based on scale weights	Except for minimum fee transactions for small, lightweight loads, the franchisee must record each inbound and outbound transaction electronically based on actual and accurate scale weights using the franchisee's on-site scales.
9.5	DEQ submittals	The franchisee must provide Metro with copies of all correspondence, exhibits or documents submitted to DEQ relating to the terms or conditions of DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
9.6	Copies of enforcement actions provided to Metro	The franchisee must ensure Metro receives copies of any notice of violation or noncompliance, citation or any other similar enforcement actions issued to the franchisee by any federal, state or local government (other than Metro) related to the operation of the facility.
9.7	Unusual occurrences	<ol style="list-style-type: none"> 1. The franchisee must keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. 2. The franchisee must notify Metro within 24 hours of any breakdown of the franchisee's equipment if the breakdown will substantially impact the facility's ability to comply with this franchise, with Metro Code or which will create off-site impacts. 3. The franchisee must report any facility fires, accidents, emergencies and other significant incidents to Metro within 12 hours of the discovery of their occurrence.

		4. The franchisee must report any long term or short term closures as provided in Section 7.12.
9.8	Changes in ownership	<ol style="list-style-type: none"> 1. Any change in control of the franchisee or the transfer of a controlling interest of the franchisee requires prior written notice to Metro. "Transfer of a controlling interest of the franchisee" includes without limitation the transfer of 10% or more of the ownership of the franchisee to or from a single entity. Metro may amend this franchise under Section 12.2 to require the new ownership of the franchisee to assume all the rights and obligations of this franchise. 2. The franchisee may not lease, assign, mortgage, sell or otherwise transfer control of the franchise unless the franchisee follows the requirements of Metro Code Chapter 5.01.

10.0	INSURANCE REQUIREMENTS	
10.1	General liability	The franchisee must carry the most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed operations. The franchisee's coverage will be primary as respects Metro.
10.2	Automobile	The franchisee must carry automobile insurance with coverage for bodily injury and property damage, and with limits not less than minimum of \$1,000,000 per accident or combined single limit.
10.3	Additional insureds	Metro, its elected officials, departments, employees, volunteers and agents must be named as ADDITIONAL INSURED on the Commercial General Liability policy. The franchisee must include the additional insured endorsement along with the certificate of insurance.
10.4	Workers' compensation insurance	<ol style="list-style-type: none"> 1. The franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law, and must comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. 2. The Workers' Compensation Insurance must meet Oregon statutory requirements including Employer's Liability with limits not less than \$1,000,000 per accident or disease. 3. The franchisee must provide Metro with certification of Workers' Compensation insurance including employer's liability. If the franchisee has no employees and will perform the work without the

		assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
10.5	Certificate of insurance	<ol style="list-style-type: none"> 1. The franchisee must provide Metro with a Certificate of Insurance complying with this Section 10. 2. The franchisee must list Metro as the certificate holder. 3. Upon insurance renewal, the franchisee must submit an updated certificate of insurance and the additional insured endorsement to Metro via email (SWICC@oregonmetro.gov).
10.6	Notification	The franchisee must give at least 30 days written notice to Metro of any lapse or proposed cancellation of insurance coverage.

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

12.0	AMENDMENT, SUSPENSION, AND REVOCATION	
12.1	Amendment by Metro Council	<p>Except as provided in Section 12.2, the provisions of this franchise will remain in effect unless the Metro Council:</p> <ol style="list-style-type: none"> 1. Amends the Metro Code, amends the 2030 Regional Waste Plan or implements other legislation of broad applicability that affects the class of facilities of which this franchisee is a member; or

		2. Adopts an ordinance or resolution amending this franchise to implement policy, code or other requirements such as the 2030 Regional Waste Plan.
12.2	Amendment, suspension or revocation by Metro	<p>The Chief Operating Officer may, at any time before the expiration date, amend, suspend or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ol style="list-style-type: none"> 1. Violation of the terms or conditions of this franchise, Metro Code or any applicable statute, rule, or standard; 2. Changes in local, regional, state or federal laws or regulations that should be specifically incorporated into this franchise, such as Metro actions to implement new requirements from the 2030 Regional Waste Plan; 3. Failure to disclose fully all relevant facts; 4. A significant release into the environment from the facility; 5. Significant change in the character of solid waste received or in the operation of the facility; 6. Any change in ownership or control; 7. A request from the local government stemming from impacts resulting from facility operations; 8. A change of authorization request received from the franchisee; 9. Compliance history of the franchisee; and 10. Changes in the tonnage allocation based on new information, or changes in methodology, administrative rule or Metro Code.

13.0	GENERAL OBLIGATIONS	
13.1	Compliance with law	<p>The franchisee must fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative rules adopted pursuant to Chapter 5.01, whether or not those provisions have been specifically mentioned or cited in this franchise. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility are deemed part of this franchise as if specifically set forth in this franchise. These conditions and permits include those cited within or attached as exhibits to the franchise document, any existing at the time the franchise is issued but not cited or attached, and any issued or amended during the term of the franchise.</p>

13.2	Deliver waste to appropriate destinations	The franchisee must ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.
13.3	Right of inspection and audit	<ol style="list-style-type: none"> 1. The franchisee must allow Metro's authorized representatives to access the facility and premises at any time during business hours, with or without advanced notice. For non-business hours, the franchise must allow access to Metro's authorized representatives upon receiving advanced notice of not less than 24 hours. 2. Metro's authorized representatives may take photographs, collect samples of materials and perform any inspection or audits as Metro considers appropriate. 3. Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the applicable confidentiality provisions in Section 13.4, Metro's right to inspect includes the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the facility's operation and its rates. 4. The franchisee must permit access to the facility premises to authorized representatives of Metro, including personnel on contract to Metro, to perform research at all times during business hours, with or without notice. The franchisee must provide: <ol style="list-style-type: none"> (a) Access to all areas where it generates, manages, stores, and reloads waste, including without limitation to transfer vehicles; (b) Access to facility personnel and equipment to collect, sort, store and weigh waste; and (c) Access to a safe, covered location away from working areas and vehicle traffic on site where authorized representatives of Metro analyze waste and record data.
13.4	Confidential information	<ol style="list-style-type: none"> 1. The franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The franchisee must prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro will treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. 2. If Metro receives a public records request seeking disclosure of

		<p>information identified as confidential by the franchisee, Metro will provide the franchisee with a courtesy notice of that request within five days of receipt of the request.</p> <p>3. This Section 13.0 does not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding.</p> <p>4. Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, those representatives agree to continue to treat the information as confidential and make good faith efforts not to disclose the information.</p>
13.5	Compliance by agents	The franchisee is responsible for ensuring that its agents and contractors comply with this franchise.

STAFF REPORT

FOR THE PURPOSE OF APPROVING THE SOLID WASTE FACILITY FRANCHISE RENEWAL APPLICATION OF GSS TRANSFER, LLC, AND AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED SOLID WASTE FACILITY FRANCHISE TO OPERATE A TRANSFER STATION

Date: October 17, 2019
Department: Property and Environmental
Services (PES)
Meeting Date: October 31, 2019

Prepared by: Joanna Dyer, 503-813-7550,
Joanna.dyer@oregonmetro.gov
Presenters: Roy Brower and Joanna Dyer
Length: 15 minutes

ISSUE STATEMENT

GSS Transfer, LLC (partner company of Gresham Sanitary Service), a Metro-authorized transfer station located at 2131 NW Birdsdale Ave. in the city of Gresham, seeks to renew its Metro solid waste facility franchise. Metro Code Section 5.01.210 requires the Metro Council to approve or deny a solid waste facility franchise renewal.

ACTION REQUESTED

Approve Resolution No. 19-5022 which will authorize the Chief Operating Officer to issue a renewed solid waste facility franchise to GSS Transfer, LLC for a term of five years.

IDENTIFIED POLICY OUTCOMES

Approval of this resolution will support the goals of the 2030 Regional Waste Plan, the Business Food Waste Requirement and the Transfer System Configuration Policy. This staff report further describes these expected policy outcomes.

POLICY QUESTION

Should the Metro Council grant the Chief Operating Officer authority to renew the Metro solid waste facility franchise for GSS Transfer, LLC according to the provisions of Metro Code Chapter 5.01.210 and as described in this resolution?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Approve the resolution as proposed to renew the Metro solid waste facility franchise for GSS Transfer, LLC.
2. Amend the resolution to renew the franchise with different conditions other than those recommended by staff.
3. Do not approve Resolution No. 19-5022.

STAFF RECOMMENDATIONS

Staff recommends that Council adopt Resolution No. 19-5022 to approve the renewal of the solid waste facility franchise for GSS Transfer, LLC. If Council approves this resolution, the renewed franchise (F-019-20) will go into effect on January 1, 2020.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

A franchise term is typically five years. GSS Transfer, LLC's first franchise became effective on December 13, 2016 (ORD-16-1390) with a three year term so that it would expire at the same time as the other transfer station franchises on December 31, 2019.

This franchise renewal is an opportunity to update and better align existing language for increased consistency as well as incorporate additional requirements that implement policy decisions made since the last renewal, such as the adoption of the 2030 Regional Waste Plan (Ordinance No. 19-1431), the Metro Transfer Station Configuration Policy (Resolution No. 16-4716) and the adoption of a Business Food Waste Requirement (Ordinance No. 18-1418). Metro staff propose changes to eight areas of the franchise, which are outlined below. References to specific franchise sections have been included when applicable. Franchisees had the opportunity to provide verbal and written feedback on the proposed changes, some of which resulted in additional modifications to the proposed language.

1. Begin implementation of the 2030 Regional Waste Plan

The proposed franchise includes a new section, Section 5.0, which authorizes Metro's Chief Operating Officer to amend the franchise for the purpose of implementing Council's policies advancing progress on the 2030 Regional Waste Plan actions.

All solid waste facilities within the region, including transfer stations, must operate in a manner that helps to advance progress towards achieving goals of the 2030 Regional Waste Plan (Action 12.6). The 2030 Regional Waste Plan provides the region with long-term policy and program direction for materials management and solid waste system planning efforts. While Metro implements the 2030 Regional Waste Plan primarily through cooperative working relationships among Metro, the Oregon Department of Environmental Quality (DEQ), local governments and the private sector, the plan contains actions that must be implemented throughout Metro's solid waste system.

2. Incorporate new tonnage allocation methodology

The proposed franchise has been updated to reflect a new tonnage allocation methodology that begins in 2020. The new methodology uses a percentage based approach that determines allocations based on Metro's annual solid waste forecast. The solid waste forecast is being finalized; therefore, there are placeholders in the proposed franchise where the number of tons will be included later. The tonnage amount for 2020 will be available before the franchise term begins and will be inserted prior to issuing the franchise. The Chief Operating Officer will continue Metro's long-standing practice of amending franchises each November to update the number of tons allocated for the following year.

3. Clarify the nature of the franchise

The proposed franchise has been updated to clarify that a Metro franchise is the grant of authority or privilege given by the Council to operate a transfer station as specified under Metro Code Chapter 5.01. This is a distinction from that of local governments which issue solid waste franchises that grant the right and responsibility to provide collection service in a specific area. There are solid waste companies that hold a Metro franchise and a local government franchise, which can cause confusion because the nature of these separate franchises is different. A Metro franchise is a regulatory permit and not a negotiated agreement.

To help clarify this important distinction, this proposed franchise has been updated to remove contract-like language. Franchisees retain the opportunity to contest provisions of the franchise and seek amendments through a change of authorization process per Metro Code 5.01.230, but Metro determines whether to approve or deny any change of authorization.

4. Incorporate operations and performance standards that advance equity

The proposed franchise includes a new requirement to advance progress on the 2030 Regional Waste Plan and the Property and Environmental Services Diversity, Racial Equity and Inclusion Work Plan goals. The franchise requires the franchisee to comply with Oregon's "ban the box" law (ORS 659A.360) (Section 6.16). Oregon's "ban the box" law makes it illegal for an employer to inquire about criminal convictions before the interview stage of hiring. This law removes barriers to employment for people convicted of crimes. Additional existing federal, state, and local provisions that advance equity may be incorporated in future franchise amendments.

5. Align franchises with the Food Waste Framework

The proposed franchise includes a new requirement to advance progress on the Business Food Waste Requirement. In a 2014 work session, the Metro Council reviewed the region's current commercial food waste recovery efforts and staff introduced potential paths forward to ensure that the region has a stable and sustainable commercial food waste transfer and processing system for the long term. The Council confirmed its desire to accelerate the region's recovery of commercial food waste and its wish to process that waste in or as close to the region as possible. The Council determined that in order to increase commercial food waste recovery and attract stable, local processing capacity, Metro should:

1. Require certain businesses to separate their food waste for recovery and eventually prohibit the disposal of food from businesses;
2. Determine how to efficiently collect and deliver food waste for processing; and
3. Secure local and stable processing capacity.

Based on Council direction, staff developed policies and initiatives to fulfill these objectives. To address the first objective, the Metro Council adopted Ordinance No. 18-1418 in July 2018 which added the Business Food Waste Requirement to Metro Code 5.10. Under this ordinance, each local government must require certain businesses in its jurisdiction to separate and recover food waste to be delivered to a facility authorized by Metro. Businesses in the first group (largest generators) will be required to begin separating food waste in March 2020, the second group in March 2021 and the third in September 2022. The adoption and implementation of this policy was a major step forward in developing a stable and sustainable food waste recovery system. As of the date of this report, 16 of the 21 local governments required to adopt the Business Food Waste Requirement have done so (including the city of Gresham), two have received extensions, and three have received a notice of non-compliance from Metro for not meeting the policy requirements.

To address the need for an adequate waste transfer system to allow growth in the collection of commercial food waste in the region and provide equitable access to transfer services, Metro is seeking to expand its facilities' capacity to accept this material as well as determine the role that private transfer facilities should play in helping to also provide this capacity. In order to expand system capacity for commercial food waste, staff recommends that the Metro Council require a transfer station with current or pending infrastructure in place accept food waste for reload and transfer to an approved recovery facility, whereas a facility that does not have the necessary infrastructure in place will not be subject to the same requirement. GSS Transfer, LLC will not be required to accept food waste at this time, but the franchise authorizes the Chief Operating Officer to amend the franchise to require the facility to accept food waste if necessary to implement the Council's policies.

6. Align confidentiality language with public records law

Section 13.4, Confidential information, has been updated to align with current public records law which has more restrictive timelines for responding to a requestor. Metro will provide a franchisee with a courtesy notice of a public records request within five days of receiving such a request. Metro has the legal obligation to determine if any information marked “confidential” by the franchisee is objectively confidential according to public records law.

7. Clarify franchise amendment process

Current franchise language states that the franchise can be amended by the Metro Council adopting an ordinance. Proposed language in Section 12.1(b) expands this authority to include amendment by resolution.

8. Streamline franchise language for modernization and consistency

A suite of non-substantive updates have been made to clarify existing requirements and to streamline authorization language within and across facility classes.

KNOWN OPPOSITION / SUPPORT / COMMUNITY FEEDBACK

Metro posted notice and provided an opportunity for the public to review and submit comments on the franchise application. The public notice was posted on Metro’s website, mailed to approximately 753 property owners and residents within one-quarter mile of the proposed facility, and emailed to local community groups, neighborhood associations and various other parties that are generally interested in solid waste issues. The 30-day public comment period began on August 1, 2019, and closed on August 30, 2019.

Metro provided the applicant with a redline copy of the franchise that outlined the proposed changes. On July 31, 2019, Metro staff met with GSS Transfer, LLC staff to discuss these changes and to listen to their feedback.

Metro did not receive any comments during the comment period for GSS Transfer, LLC, therefore this staff report does not have a *Public Comment Report* attached. On October 31, 2019, the Metro Council will hold a public hearing on this proposed franchise renewal. Written and verbal public comments will be accepted at the meeting, prior to the Council voting on the resolution.

LEGAL ANTECEDENTS

Pursuant to Metro Code 5.01.180, the Council must 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 Waste Plan;*

Staff finds that the proposed activity is consistent with the regional values and policies outlined in the 2030 Regional Waste Plan and specifically aligns with many of the goals of the plan, including goals 12, 13 and 16:

- **Goal 12:** Manage all garbage and recycling operations to reduce their nuisance, safety and environmental impacts on workers and the public.
- **Goal 13:** Invest in communities that receive garbage and recyclables from the Metro region so that those communities regard solid waste facilities as assets.
- **Goal 16:** Maintain a system of facilities, from small recycling drop-off depots to larger full-service stations, to ensure equitable distribution of and access to services.

- (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;*

GSS Transfer, LLC has not requested any significant change in authorization or activities at this facility. The effect of granting a renewed franchise would be to minimize significant disruption to the solid waste with regard to the cost of solid waste recycling and disposal services for the residents of the region in 2020.

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

Metro staff is not aware of any facility incidents or operating procedures that have adversely affected the health, safety and welfare of Metro's residents in an unreasonable manner during the term of the current franchise. Staff finds it unlikely that the franchised operation will adversely affect the health, safety and welfare of Metro's residents due to the type of activity performed and the good compliance record of the operator. The facility is also regulated and monitored by Metro and DEQ.

- (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;*

Metro staff is not aware of any significant complaints or impacts on the surrounding neighborhood during the term of the current franchise. Staff finds it unlikely that GSS Transfer, LLC would unreasonably adversely impact the surrounding neighborhood due to the operator's experience and compliance record.

- (5) *Whether the applicant has demonstrated the strong likelihood that it will comply with all requirement 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, and regulations, ordinances, orders or permits pertaining in any manner to the proposed franchise.*

Based on Metro's experience with the facility during the current franchise term, staff finds that the applicant is likely to comply with regulations and standards if the franchise is renewed.

ANTICIPATED EFFECTS

Approval of Resolution No. 19-5022 will authorize the Chief Operating Officer to renew the franchise for GSS Transfer, LLC. In addition, the Metro Council authorizes the Chief Operating Officer to determine annual tonnage allocations using the tonnage allocation methodology adopted by administrative rule. The tonnage allocation for 2020 will be determined using a percentage based approach once the solid waste forecast is final in November. If approved, the proposed franchise becomes effective on January 1, 2020, and expires on December 31, 2024.

FINANCIAL IMPLICATIONS

As mentioned above, staff are developing administrative rules that will set forth a detailed process for determining and adjusting future tonnage allocations. Staff notes that this prescribed tonnage allocation process, beginning in 2020, may result in a different, to be determined, tonnage allocation for each of the region's transfer stations. Metro will adjust tonnage allocations for all privately-owned transfer stations and require that at least 40 percent of the region's wet waste tonnage flows to publicly-owned transfer stations (Metro Central and South). Therefore, approval of the proposed franchise is expected to have minimal impact to Metro's Solid Waste Fund operating costs and revenues.

As a result of future adjustments, individual Community Enhancement Committees might experience an increase or reduction in funds based on potential future tonnage shifts.

BACKGROUND

The applicant, GSS Transfer, LLC is a partner company of Gresham Sanitary Service, Inc., a local, family-owned waste collection business established in 1948. Gresham Sanitary began operations as an “exempt” solid waste reload facility in 1992 at its base of operations located at 2131 NW Birdsdale Avenue in Gresham (Metro Council District 1). In 2016, the Metro Council authorized Gresham Sanitary to expand its operations from reloading waste to other transfer stations, to becoming a franchised transfer station that transports waste directly to a landfill. Gresham Sanitary has collected putrescible waste from residential and commercial customers within the city of Gresham, East Multnomah County and the Port of Portland for nearly 30 years.

The facility currently holds a Metro-issued franchise (F-019-16C) to operate a transfer station authorized to receive putrescible waste. Under the terms of the existing franchise, GSS Transfer, LLC, is authorized to accept up to 49,000 tons of putrescible waste generated from within the Metro region in calendar year 2019. Gresham Sanitary also holds a solid waste transfer station permit issued by DEQ (Permit No. 1392).

In addition to its franchise, Gresham Sanitary Service, Inc. has two non-system licenses that authorize it to transport Metro area waste to the following facilities outside of the region: Columbia Ridge Landfill in Arlington, Oregon and Coffin Butte Landfill in Corvallis, Oregon (N-019-17(2)B), and Wasco County Landfill in The Dalles, Oregon and Finley Buttes Landfill in Boardman, Oregon (N-019-16F).

Metro has conducted seven inspections of GSS Transfer, LLC during the term of the current franchise. GSS Transfer, LLC is currently in compliance with Metro’s requirements and has not had any compliance issues during the term of its current franchise. In addition, DEQ and city of Gresham staff have reported that there are no enforcement or compliance issues associated with this site.

On July 9, 2019, the applicant submitted to Metro a complete solid waste facility franchise application accompanied by payment of the appropriate application fee of \$500. The applicant has not requested any new authorizations, tonnage increases or changes to its current franchise provisions.

Tonnage Allocation

A major component of the 2030 Regional Waste Plan is to take a broad look at the role, configuration and services offered by publicly and privately-owned transfer stations. In 2016, under Council’s direction, Metro established a transfer system configuration policy to:

1. Ensure that the region’s transfer system provides maximum public benefit;
2. Maintain the current configuration of publicly and privately-owned transfer stations;
3. Ensure that an adequate amount of wet waste flows to publicly-owned stations (at least 40 percent of the region’s wet waste);
4. Limit the amount of wet waste that any one company may accept for transfer within the region to no more than 40 percent of the tonnage reserved for private transfer stations; and
5. Improve rate transparency.

The configuration policy also seeks to promote more efficient off-route transport of waste to reduce greenhouse gas emissions and provide opportunities for small, locally-based businesses to participate in the region’s solid waste system.

The transfer system configuration policy shifted Metro away from its historical “tonnage cap” approach, in which the Metro Council had established annual facility tonnage limits, to a more systematic and predictable “tonnage allocation” system, in which tonnage authority is proportionally allocated to privately-owned stations each year. Beginning in 2020, Metro will determine and adjust tonnage allocations for all privately-owned transfer stations in the region, including GSS Transfer, LLC, by applying a percentage-based allocation methodology currently being developed using the allocation framework that Metro Council adopted in November 2018 via Ordinance No. 18-1426.

This new approach to the wet waste tonnage allocation methodology includes reserving 40 percent of the region’s wet waste tonnage for Metro’s publicly-owned facilities and allowing the remaining 60 percent to be allocated in accordance with the finalized methodology. Staff is proposing a phased implementation of the new allocation methodology, where the 2020 allocations are intended to limit disruption to the system and help transition to full implementation of the new methodology in 2021.

Beginning in 2021, the allocation methodology will include a “base share” component for system stability and a “goal share” component to more directly support Metro's equity, service and environmental goals from the 2030 Regional Waste Plan. The goal shares will be determined by evaluating each transfer station’s efforts to support and achieve Regional Waste Plan goals such as more efficient off-route travel, increased diversity of workers, paying living wages, addressing community concerns, providing reasonable, consistent and responsive rates and other goals that Council may deem to be important.

The forecasted tonnage for 2020 is projected to generally decrease relative to 2019. This projected decrease in tonnage, along with the addition of two new transfer stations in the region, make it infeasible to replicate current transfer station tonnage allocations in 2020 while maintaining Metro’s 40 percent reserve.

ATTACHMENTS

- A. Exhibit A to Resolution No. 19-5023: Draft franchise F-019-20
- B. Attachment 1 to Staff Report: Images

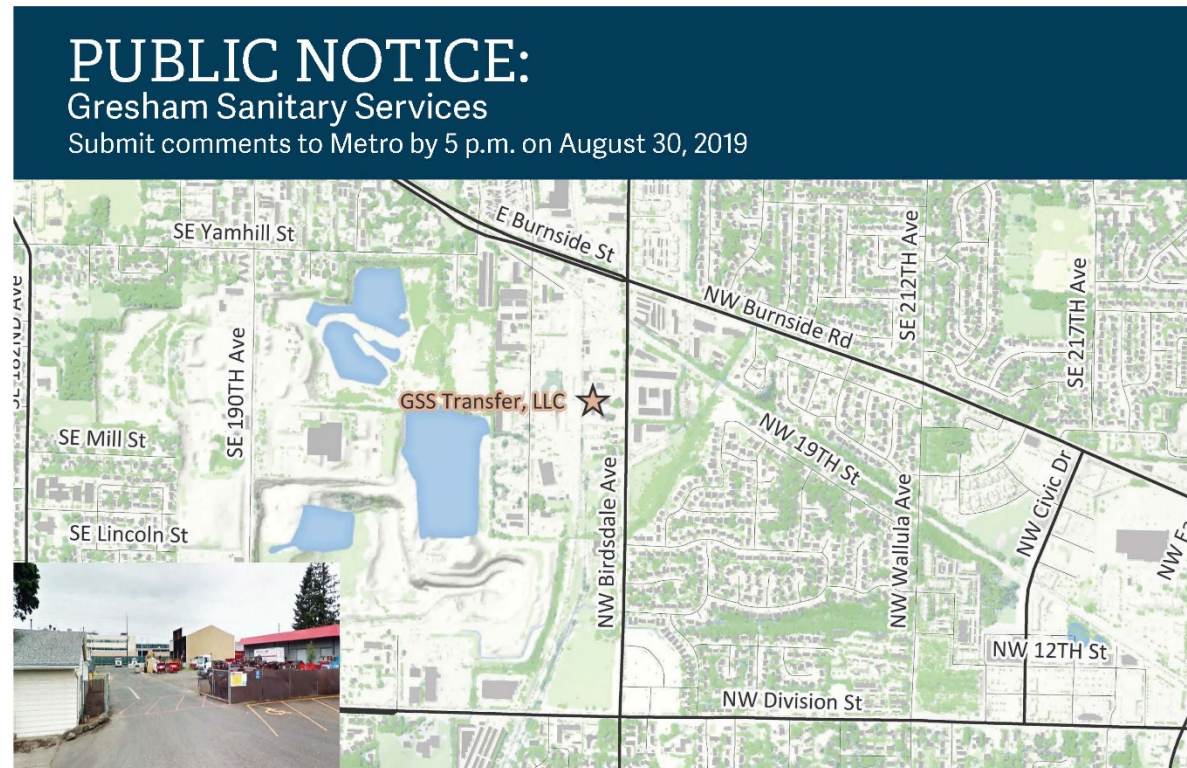


Photo 1: Public Notice post card, front

GSS Transfer, LLC (Gresham Sanitary Services) submitted an application to Metro to renew its transfer station franchise to receive garbage generated within the Metro region for reloading and transport to a landfill for disposal. GSS Transfer, LLC is locally owned and operated. Current operations would not change under the proposed franchise renewal.

Facility Location: 2131 NW Birdsedale Ave, Gresham, OR 97030

Written comments must be submitted by 5 p.m. August 30, 2019
Metro Solid Waste Information Compliance & Cleanup
600 NE Grand Ave., Portland, OR 97232

Fax: 503-813-7544 Email: SWICC@oregonmetro.gov

More information: oregonmetro.gov/solidwastepublicnotices

Esta es una notificación de su oportunidad para comentar sobre una solicitud para operar un establecimiento de desechos sólidos (basura o reciclado) en su comunidad. Si necesita asistencia con el idioma, llame al 503-797-1890 (de 8 a 5, lunes a viernes).

Настоящим уведомляем, что у вас есть возможность оставить свой отзыв относительно заявки на эксплуатацию учреждения по переработке твердых отходов (или вторсырья), расположенного в вашем районе. Языковую поддержку можно запросить по номеру 503-797-1890 в рабочие дни с 8:00 до 17:00.

Đây là thông báo về cơ hội của quý vị được trình bày ý kiến bằng đơn trong việc điều hành cơ sở quản lý rác thải (rác hoặc đồ tái chế) trong cộng đồng của quý vị. Nếu quý vị cần trợ giúp về ngôn ngữ, xin gọi số 503-797-1890 (từ 8 giờ sáng đến 5 giờ chiều vào những ngày thường).

本公告旨在通知您利用這個機會評論在您所在社區經營固體廢棄物(垃圾或回收服務)設施的申請。需要語言援助者請在撥打503-797-1890(工作日上午8點至下午5點)。

본 통지서는 지역사회 내 고향 폐기물(쓰레기 또는 재활용) 시설 운영 신청에 대해 귀하의 의견을 제시할 수 있는 기회를 알려 드리기 위한 것입니다. 언어 지원 서비스가 필요한 경우(근무일 기준) 503-797-1890으로 전화하십시오(주중 오전 8시 ~ 오후 5시).

 **Metro**
600 NE Grand Ave
Portland, OR 97232

Printed on recycled-content paper.

Photo 2: Public Notice post card, back

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5022

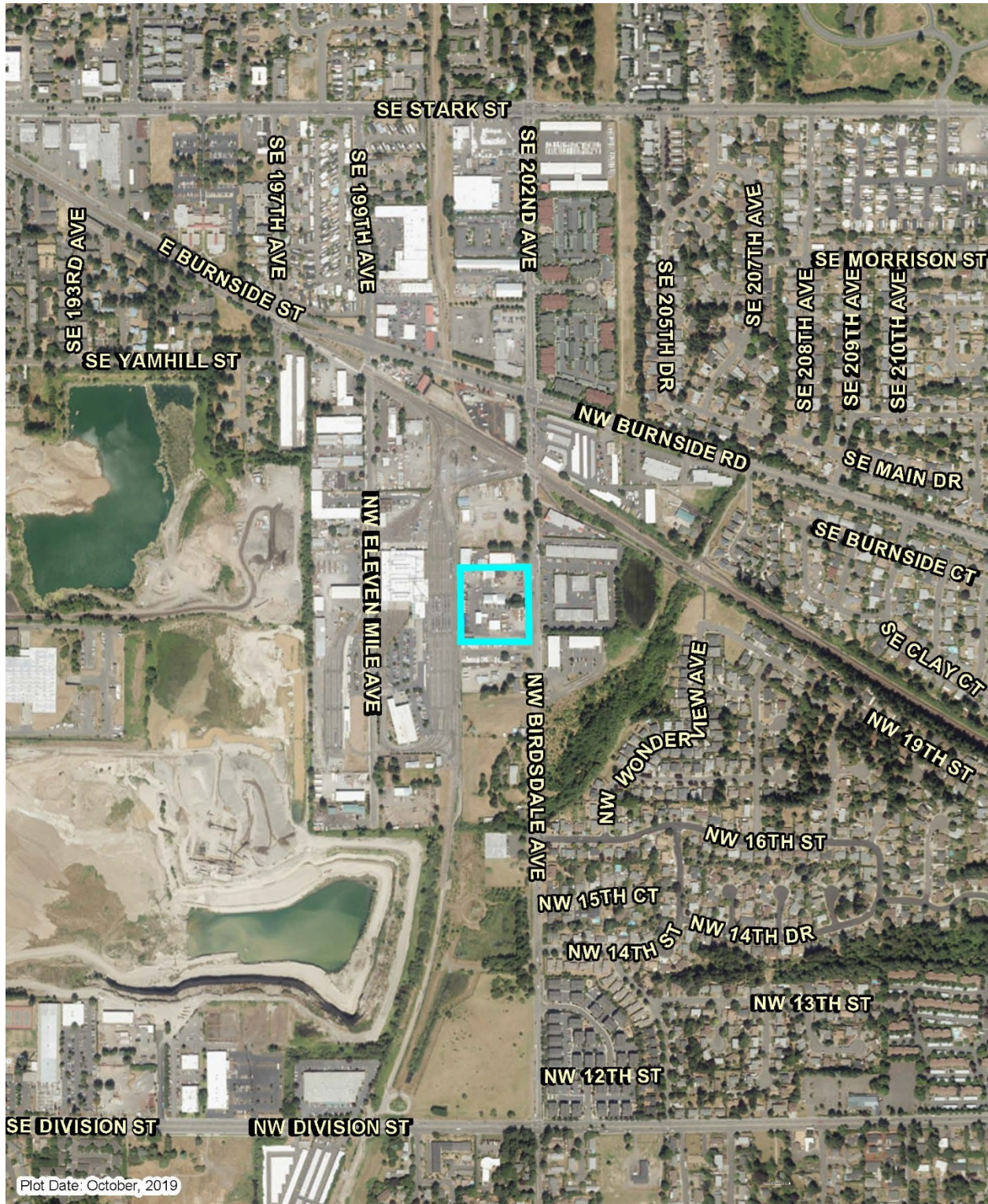


Photo 3: Aerial photo of Gresham Sanitary Services located at 2131 NW Birdsdale Ave. in Gresham

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5022



Photo 4: Gresham Sanitary Services located at 2131 NW Birdsdale Ave. in Gresham



Photo 5: Gresham Sanitary Services located at 2131 NW Birdsdale Ave. in Gresham

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5022



Photo 6: Gresham Sanitary Services located at 2131 NW Birdsdale Ave. in Gresham

Agenda Item No. 5.2

Resolution No. 19-5023, For the Purpose of Approving a
Solid Waste Facility Franchise Renewal Application and
Authorizing Pride Recycling Company to Operate a
Transfer Station

Public Hearing

Metro Council Meeting
Thursday, October 31, 2019
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE SOLID	)	RESOLUTION NO. 19-5023
WASTE FACILITY FRANCHISE RENEWAL)	
APPLICATION OF PRIDE RECYCLING COMPANY,	)	Introduced by Acting Chief Operating
AND AUTHORIZING THE CHIEF OPERATING	)	Officer Andrew Scott in concurrence with
OFFICER TO ISSUE A RENEWED SOLID WASTE	)	Council President Lynn Peterson
FACILITY FRANCHISE TO OPERATE A TRANSFER)	
STATION)	

WHEREAS, Metro Code Section 5.01.150 states that a Metro Solid Waste Facility Franchise is required for any person owning or controlling a facility that operates a transfer station; and

WHEREAS, Pride Recycling Company holds Metro Solid Waste Facility Franchise Number F-002-08H to operate a transfer station, which will expire on December 31, 2019; and

WHEREAS, Pride Recycling Company filed a complete application seeking a renewal of its Metro Solid Waste Facility Franchise pursuant to Metro Code Section 5.01.210(a); and

WHEREAS, Metro Council adopted Resolution No. 18-1426 to establish a framework for allocating the region's putrescible waste tonnage to privately-owned transfer stations beginning in 2020; and

WHEREAS, beginning in 2020, Metro will allocate the region's putrescible waste tonnage to privately-owned transfer stations in accordance with Metro's tonnage allocation methodology; and

WHEREAS, Pride Recycling Company's putrescible waste tonnage allocation amount may change during the term of the Metro Solid Waste Facility Franchise in accordance with Metro's tonnage allocation methodology; and

WHEREAS, Metro Council adopted the 2030 Regional Waste Plan via Ordinance No. 19-1431, which may require future amendments to the Metro Solid Waste Facility Franchise to implement the Plan; and

WHEREAS, Pride Recycling Company does not propose to alter any other activities that already occur at its transfer station site; and

WHEREAS, the Metro Council finds that the proposed Metro Solid Waste Facility Franchise renewal is in the public interest and meets the criteria set forth in Metro Code Section 5.01.180; now therefore

BE IT RESOLVED that the Metro Council:

1. Approves the Metro Solid Waste Facility Franchise application for Pride Recycling Company to operate a transfer station subject to the terms, conditions and limitations contained in Exhibit A.

2. Authorizes the Chief Operating Officer to issue to Pride Recycling Company a renewed Metro Solid Waste Facility Franchise substantially similar to the one attached as Exhibit A.
3. Authorizes the Chief Operating Officer to amend the Metro Solid Waste Facility Franchise as necessary without further Council action in order to allocate putrescible tonnage in accordance with Metro's tonnage allocation methodology based on Metro's solid waste tonnage forecast.

ADOPTED by the Metro Council this ____ day of October 2019.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney



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

METRO SOLID WASTE FACILITY FRANCHISE

No. F-002-20

FRANCHISEE:	FACILITY NAME AND LOCATION:
Pride Recycling Company PO Box 1150 Sherwood, Oregon 97140 Phone: (503) 625-0725	Pride Recycling Company 13910 SW Tualatin-Sherwood Road Sherwood, Oregon 97140 Phone: (503) 625-0725
OPERATOR:	PROPERTY OWNER:
Pride Recycling Company 13910 SW Tualatin-Sherwood Road Sherwood, Oregon 97140 Phone: (503) 625-0725	Michael Leichner, Sr. and Cynthia Leichner, Trustees, or their successor Trustee(s), of the Michael Leichner, Sr. and Cynthia Leichner RLT PO Box 1150 Sherwood, Oregon 97140 Phone: (503) 625-0725

ISSUED BY METRO:

Roy W. Brower, Interim Property and Environmental Services Director

Date

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1.0	ISSUANCE	
1.1	Corporate affiliation	Pride Recycling Company 13910 SW Tualatin-Sherwood Road Sherwood, Oregon 97140
1.2	Contact	Mike Leichner, Phone. (503) 625-0725 E-mail: mike@priderecycling.com
1.3	Term	January 1, 2020 to December 31, 2024, unless amended, suspended, or revoked as provided in this franchise.
1.4	Renewal	The franchisee may apply for a franchise renewal as provided in Metro Code Chapter 5.01.
1.5	Facility name and mailing address	Pride Recycling Company PO Box 1150 Sherwood, Oregon 97140
1.6	Facility premises description	Tax Lot Identification No. 2S128C001000, 2S128C00900, 2S128C000105 and 2S128C000100, City of Sherwood, Washington County, State of Oregon. Metro may inspect the facility site and any areas directly related to the transfer station operations as per Section 13.3.
1.7	Permission to operate	The property owner consents to use of the property as a transfer station by the franchisee.

2.0	CONDITIONS AND DISCLAIMERS	
2.1	Guarantees	This franchise does not vest any right or privilege in the franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise.
2.2	Non-exclusive franchise	This franchise does not limit Metro from granting other solid waste franchises within Metro's jurisdictional boundary.
2.3	Property rights	This franchise does not convey any property rights in either real or personal property.
2.4	Amendment	Except as provided in Section 12.0, no amendment is effective unless approved by the Metro Council.
2.5	No recourse	The franchisee will have no recourse against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement

		of the franchise or in the event Metro determines that the franchise or any part thereof is invalid.
2.6	Indemnification	The franchisee must indemnify Metro, the Council, the Chief Operating Officer, and any of Metro's employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the granting of this franchise or the franchisee's performance of or failure to perform any of its obligations under the franchise or Metro Code Chapter 5.01, including without limitation patent infringement and any claims or disputes involving subcontractors.
2.7	Waivers	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 12.0 and be in writing and signed by Metro.
2.8	Effect of waiver	Waiver of a term or condition of this franchise does not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.9	Enforceability	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise will not be affected.
2.10	Franchise not a waiver	This franchise does not relieve any owner, operator or the franchisee from the obligation to obtain all required permits, franchises or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.11	Franchise not limiting	This franchise does not limit the power of a federal, state, or local agency to enforce any provision of law relating to the facility.
2.12	Definitions	<ol style="list-style-type: none"> 1. "Mixed Non-Putrescible Waste" means a mixture of more than one type of non-putrescible waste, including commingled recyclables other than residential curbside recyclable material. This category includes construction and demolition waste but excludes cleanup materials, source-separated recyclable material, special waste, land clearing debris and yard debris. 2. Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.00.

3.0	AUTHORIZATIONS	
3.1	General conditions on solid waste	The franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.

3.2	General conditions on activities	The franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.
3.3	Acceptance and management of putrescible solid waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 13.2. The franchisee also is authorized to accept putrescible waste for material recovery. 2. The franchisee must receive, manage, store, reload and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight, covered containers or within covered transport trailers. 3. The franchisee is authorized to accept putrescible waste generated inside the Metro region only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
3.4	Acceptance and management of mixed non-putrescible solid waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept mixed non-putrescible solid waste from all customers including public self-haul for material recovery. 2. Except as provided below in subsections (a) and (b), the franchisee must receive, sort, store, reload and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides. <ol style="list-style-type: none"> (a) Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover prior to processing, within 12 hours of receipt, or by the end of the business day, whichever is earlier. (b) Public self-haul customers may tip waste outside, provided that such waste is tipped directly into watertight containers that are covered within 12 hours of receipt, or by the end of the business day, whichever is earlier.
3.5	Material recovery required	<ol style="list-style-type: none"> 1. The franchisee must perform material recovery on mixed non-putrescible wastes at no less than the minimum level stipulated in Metro Code Chapter 5.01 or must reload and transfer such waste to a facility authorized by Metro to perform material recovery. 2. The franchisee must ensure that the facility is designed and operated so that materials are recovered in a timely manner and that the reloading and transfer of non-putrescible waste to a Metro-authorized material recovery facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery. 3. The franchisee must take quarterly samples of processing residual, when generated at the facility, that are statistically valid and

		representative of the facility's residual. Each sample required by this section must weigh at least 300 pounds.
3.6	Management of processing residual from material recovery	The franchisee must store, reload and transfer all non-putrescible waste processing residual on an impervious surface and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight, covered containers or within covered transport trailers.
3.7	Acceptance of source-separated recyclable materials	<ol style="list-style-type: none"> 1. The franchisee must provide a place for collecting source-separated recyclable materials on the facility premises. 2. The franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.
3.8	Acceptance of yard debris	The franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce odors detectable beyond the boundaries of the facility. The franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro.
3.9	Acceptance of source-separated food waste	<ol style="list-style-type: none"> 1. Effective April 1, the franchisee must accept source-separated food for reloading to an authorized facility for composting, anaerobic digestion or other resource recovery process as described in an operating plan and approved in writing by Metro. 2. The franchisee must not deny access to any waste hauler transporting source-separated food waste without due cause or written notice 30 days in advance, as outlined in Section 4.2. 3. The franchisee must maintain adequate capacity to accommodate commercial food waste generated within the region while meeting the requirements in subsection 3.9.4 and operating the facility in accordance with the operating plan approved in writing by Metro. 4. The franchisee must: <ol style="list-style-type: none"> (a) Reload and remove all source-separated food waste from the site in a timely manner so that it does not reach a state of decomposition sufficient to produce odors detectable beyond the boundaries of the facility; (b) Protect the quality of source-separated food waste such that it is suitable for composting, anaerobic digestion, or other resource recovery process that is approved in writing by Metro; and (c) Transport all source-separated food waste to a Metro-authorized facility for recovery.

3.10	Acceptance of untreated wood	The franchisee is authorized to accept, for processing and reloading, source-separated, untreated and unpainted wood waste, for example untreated lumber and wood pallets. The franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro.
3.11	Acceptance of painted and treated wood	The franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro. The franchisee must not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock or any other product unless otherwise described in an operating plan and approved in writing by Metro.
3.12	Acceptance of electronics devices	The franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse, recycling or disposal as required by the Oregon Department of Environmental Quality (DEQ).
3.13	Acceptance of inert material	The franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer and other similar functions related to preparing these materials for useful purposes.
3.14	Production of hogged fuel	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept and process only untreated wood, painted wood and incidental quantities of treated wood for delivery to facilities with industrial boilers for use as hogged fuel. 2. The franchisee is prohibited from mixing any other solid waste with the wood wastes described above in subsection 3.14.1 for the production of hogged fuel.

4.0	LIMITATIONS AND PROHIBITIONS	
4.1	Tonnage allocation	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept putrescible waste generated inside the Metro region as provided in this franchise. 2. By January 1 of each year, Metro will amend this franchise to establish an annual tonnage allocation amount for the franchisee. 3. Metro will determine the tonnage allocation amount in accordance with allocation methodology provided in Metro Code Chapter 5.01 and applicable administrative rules. 4. For calendar year 2020, beginning on January 1 and ending December 31, 2020, the franchisee is authorized to accept up to XX,XXX tons of putrescible waste generated inside the Metro region.

4.2	Waste hauler access	<p>It is in the public's best interest that transfer stations located inside the Metro region maintain adequate capacity to accommodate solid waste generated within the region and provide adequate access to waste haulers. Therefore:</p> <ol style="list-style-type: none"> 1. The franchisee must not accept solid waste generated outside the Metro region if to do so would limit the franchisee from accepting any putrescible or non-putrescible waste generated inside the Metro region; 2. The franchisee must not deny access to any unaffiliated waste hauler without due cause or written notice 30-days in advance. Due cause includes, but is not limited to, load contamination, failure to pay or risk of exceeding the franchise tonnage allocation; and 3. Metro may require the franchisee to provide a written explanation of its rationale if the facility denies access or refuses service to a waste hauler.
4.3	Prohibited waste	<p>The franchisee must not knowingly receive, process, reload or dispose of any solid waste not authorized by this franchise. The franchisee must not knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; explosives; or any waste prohibited by DEQ.</p>
4.4	Prohibition on mixing	<p>The franchisee must not mix different waste types unless such mixing is described in an operating plan and approved in writing by Metro.</p>
4.5	Prohibition of size reduction on non-putrescible waste	<p>The franchisee must not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, processing residual consolidation or loading operations, and such size reduction is described in an operating plan and approved in writing by Metro.</p>
4.6	No disposal of recyclable materials	<p>The franchisee must not transfer source-separated recyclable materials to a disposal site including, without limitation, landfills and incineration facilities, without written permission from Metro and DEQ.</p>
4.7	Composting prohibited	<p>The franchisee must not keep yard debris on site long enough for more than negligible biological decomposition to begin.</p>
4.8	Limits not exclusive	<p>This franchise will not be construed to limit, restrict, curtail or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.</p>

5.0	REGIONAL WASTE PLAN	
5.1	Regional Waste Plan	<ol style="list-style-type: none"> 1. Metro plans, manages and oversees the region's solid waste system to achieve the goals and actions outlined in the 2030 Regional Waste Plan. 2. Metro may amend this franchise and establish new requirements for the franchisee to achieve the goals and actions of the 2030 Regional Waste Plan.

6.0	OPERATING CONDITIONS	
6.1	General performance standards	<p>The franchisee must operate in a manner that meets the following general performance standards:</p> <ol style="list-style-type: none"> 1. Environment. The franchisee must design and operate the facility to avoid undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution and improper acceptance and management of hazardous waste, asbestos and other prohibited wastes. 2. Health and safety. The franchisee must design and operate the facility to avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris. 3. Nuisances. The franchisee must design and operate the facility to avoid nuisance conditions including, but not limited to, litter, dust, odors and noise.
6.2	Qualified operator	<ol style="list-style-type: none"> 1. The franchisee must, during all hours of operation, provide an operating staff employed by the facility that is qualified and competent to carry out the functions required by this franchise and to otherwise comply with Metro Code Chapter 5.01. 2. Facility personnel, as relevant to their job duties and responsibilities, must be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan. 3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.
6.3	Fire prevention	<p>The franchisee must provide fire prevention, protection and control measures including, but not limited to:</p> <ol style="list-style-type: none"> 1. Adequate water supply for fire suppression; and

		2. The isolation of potential heat sources and/or flammables from processing and storage areas.
6.4	Adequate vehicle accommodation	<p>The franchisee must:</p> <ol style="list-style-type: none"> 1. Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. The franchisee must maintain access roads to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather. 2. Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles must not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances. 3. Post signs to inform customers not to queue on public roadways. 4. Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site covering and uncovering of loads.
6.5	Managing prohibited wastes	<ol style="list-style-type: none"> 1. The franchisee must reject prohibited waste upon discovery and must properly manage and dispose of prohibited waste when unknowingly received. 2. The franchisee must implement a load-check program to prevent the acceptance of prohibited waste. This program must include at a minimum: <ol style="list-style-type: none"> (a) Visual inspection. As each load is tipped, a qualified operator must visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise. (b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas must be covered and enclosed to prevent leaking and contamination. (c) Record maintenance. The franchisee must maintain records of the training of personnel in the recognition, proper handling and disposition of prohibited waste and make those records available for review by Metro. 3. Upon discovery, the franchisee must remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the franchisee unknowingly receives must be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by DEQ or local government.

6.6	Storage and exterior stockpiles	<p>The franchisee must:</p> <ol style="list-style-type: none"> 1. Manage, contain and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards; 2. Maintain storage areas in an orderly manner and keep the areas free of litter; 3. Position exterior stockpiles within footprints identified on the facility site plan or operating plan; and 4. Not stockpile recovered or source-separated materials for longer than 180 days.
6.7	Dust, airborne debris and litter	<p>The franchisee must operate the facility in a manner that controls and minimizes the generation of dust, airborne debris and litter, and must prevent its migration beyond property boundaries. The franchisee must:</p> <ol style="list-style-type: none"> 1. Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit; 2. Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit; 3. Maintain and operate all access roads and receiving, processing, storage and reload areas in such a manner as to control and minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site; 4. Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation; 5. Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; and 6. Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, must be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Metro Code.
6.8	Odor	<ol style="list-style-type: none"> 1. The franchisee must operate the facility in a manner that controls and minimizes the generation of odors that are detectable off-site. 2. The franchisee must establish and follow procedures in the operating plan for minimizing odor at the facility.

6.9	Vectors (e.g. birds, rodents, insects)	<ol style="list-style-type: none"> 1. The franchisee must operate the facility in a manner that is not conducive to harboring rodents, birds, insects or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another. 2. If vectors are present or detected at the facility, the franchisee must implement vector control measures.
6.10	Noise	The franchisee must operate the facility in a manner that controls and minimizes any noise sufficient to cause adverse off-site impacts and meets applicable regulatory standards and land-use regulations.
6.11	Water contaminated by solid waste and solid waste leachate	<p>The franchisee must operate the facility consistent with an approved DEQ stormwater management plan or equivalent and must:</p> <ol style="list-style-type: none"> 1. Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; and 2. Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state and federal laws and regulations.
6.12	Access control	<ol style="list-style-type: none"> 1. The franchisee must control access to the facility as necessary to prevent unauthorized entry and dumping. 2. The franchisee must maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.
6.13	Signage	<p>The franchisee must post signs at all public entrances to the facility. The signs must comply with local government signage regulations. These signs must be easily and readily visible and legible from off-site during all hours and must contain at least the following information:</p> <ol style="list-style-type: none"> 1. Name of the facility; 2. Address of the facility; 3. Emergency telephone number for the facility; 4. Operating hours during which the facility is open for the receipt of authorized waste; 5. Fees and charges; 6. Metro's name and telephone number (503) 234-3000; 7. A list of authorized and prohibited wastes; 8. Vehicle / traffic flow information or diagram; 9. Covered load requirements; and 10. Directions not to queue on public roadways.

6.14	Complaints	<ol style="list-style-type: none"> 1. The franchisee must respond to all complaints in timely manner including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic and vectors, and must keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint. 2. If the facility receives a complaint, the franchisee must: <ol style="list-style-type: none"> (a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts, whether successful or unsuccessful; and (b) Log all such complaints as provided by the operating plan. The franchisee must retain each log entry for one year and it must be available for inspection by Metro.
6.15	Access to franchise document	The franchisee must maintain a copy of this franchise on the facility's premises in a location where facility personnel and Metro representatives have ready access to it.
6.16	Employment standard	The franchisee must be in compliance with Oregon's "ban the box" law (ORS 659A.360) which makes it unlawful for an employer to inquire about criminal convictions before the interview stage of hiring. The franchisee must maintain a copy of the facility's employment application on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.

7.0	OPERATING PLAN	
7.1	Plan compliance	The franchisee must operate the facility in accordance with an operating plan approved in writing by Metro. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this franchise. The franchisee may amend or revise the operating plan from time to time, subject to written approval by Metro.
7.2	Plan maintenance	The franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures and requirements. The franchisee must submit amendments and revisions of the operating plan to Metro for written approval prior to implementation.
7.3	Access to operating plan	The franchisee must maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
7.4	Procedures for inspecting loads	<p>The operating plan must establish:</p> <ol style="list-style-type: none"> 1. Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes; 2. Procedures for identifying incoming and outgoing loads for waste classifications;

		<ol style="list-style-type: none"> 3. A set of objective criteria for accepting and rejecting loads; and 4. An asbestos testing protocol for all materials that appear to contain asbestos.
7.5	Procedures for mixing waste types	<p>The operating plan must establish:</p> <ol style="list-style-type: none"> 1. Circumstances under which waste types will be mixed; and 2. Procedures for record keeping and reporting for mixed outbound loads.
7.6	Procedures for processing and storage of loads	<p>The operating plan must establish procedures for:</p> <ol style="list-style-type: none"> 1. Processing authorized solid wastes; 2. Reloading and transfer of authorized solid wastes; 3. Managing stockpiles to ensure that they remain within the authorized weights, volumes and pile heights; 4. Storing authorized solid wastes; and 5. Minimizing storage times and avoiding delay in processing of authorized solid wastes.
7.7	Procedures for managing prohibited wastes	<p>The operating plan must establish procedures for managing, reloading and transferring to appropriate facilities or disposal sites any prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan must establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.</p>
7.8	Procedures for odor prevention	<p>The operating plan must establish procedures for controlling and minimizing odors generated at the facility from being detected off the premises of the facility. The plan must include:</p> <ol style="list-style-type: none"> 1. A management plan that the franchisee will use to monitor and manage odors of any derivation including odorous loads delivered to the facility; and 2. Procedures for receiving and recording odor complaints, immediately investigating all odor complaints to determine the cause of odor emissions and remedying promptly all odor problems at the facility.
7.9	Procedures for dust prevention	<p>The operating plan must establish procedures for controlling and minimizing dust from blowing off the premises of the facility. The plan must include:</p> <ol style="list-style-type: none"> 1. A management plan that the franchisee will use to monitor and manage dust of any derivation; and 2. Procedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions and remedying promptly all dust problems at the facility.

7.10	Procedures for emergencies	The operating plan must establish procedures that the franchisee will follow in case of fire or other emergency.
7.11	Procedures for complaints	<p>The operating plan must establish procedures for managing complaints.</p> <ol style="list-style-type: none"> For every complaint received (for example odor, dust, vibrations and litter), the franchisee must record: <ol style="list-style-type: none"> The nature of the complaint; The date the complaint was received; The name, address and telephone number of the person or persons making the complaint; and Any actions taken by the operator in response to the complaint, whether successful or unsuccessful. The franchisee must make records of such information available to Metro upon request. The franchisee must retain each complaint record for a period of not less than one year.
7.12	Closure protocol	<ol style="list-style-type: none"> The franchisee must establish protocol for closure and restoration of the site in the event of a cessation of operations as provided in Metro Code Chapter 5.01). The plan must include protocol for: <ol style="list-style-type: none"> Short-term closure (duration of time that is more than two consecutive business days but less than 120 days in length); and Long-term closure (duration of time that is 120 consecutive days or more in length). The franchisee must give at least 24-hour notice to Metro prior to the short-term closure of the facility. The franchisee must give at least 90 days written notice to Metro prior to the long-term closure of the facility.

8.0	FEES AND RATES	
8.1	Annual fee	The franchisee must pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
8.2	Rates	<ol style="list-style-type: none"> The rates charged by the franchisee for accepting solid waste are not subject to regulation by Metro unless the Metro Council adopts an ordinance that establishes Metro's rate regulation authority. Notwithstanding the provision above, the rates charged by the franchisee must not exceed the rates posted at the facility as described in Section 6.13.

8.3	Metro fee and tax imposed on disposal	The franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.
8.4	Metro community enhancement fee imposed on waste received	The franchisee must collect and remit to Metro a community enhancement fee, as provided in Metro Code Chapter 5.06, in an amount equal to \$1.00 per ton for all putrescible waste including food waste and residential yard debris mixed with food waste. The franchisee must remit the community enhancement fees to Metro on a monthly basis in conjunction with fees remitted in Section 8.3.

9.0	RECORD KEEPING AND REPORTING	
9.1	Record keeping requirements	For all solid waste and materials the franchisee is authorized to accept under Section 3.0, the franchisee must keep and maintain accurate records of the amount of authorized materials the franchisee accepts, recovers, recycles, reloads and disposes. These records must include the information specified in the Metro document titled, <u>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees and Parties to Designated Facility Agreements.</u>
9.2	Reporting requirements	The franchisee must transmit to Metro records required under Section 9.0 no later than fifteen days following the end of each month in a format prescribed by Metro.
9.3	Material recovery reporting	The franchisee must provide the results of its quarterly sampling of processing residual, as provided in Section 3.5, to Metro as a component of its monthly report no later than fifteen days following the end of the each quarter in a format prescribed by Metro.
9.4	Account number listing	Within five business days of Metro's request, the franchisee must provide Metro with a listing that cross-references the account numbers used in the transaction database with the company's name and address.
9.5	Transactions based on scale weights	Except for minimum fee transactions for small, lightweight loads, the franchisee must record each inbound and outbound transaction electronically based on actual and accurate scale weights using the franchisee's on-site scales.
9.6	DEQ submittals	The franchisee must provide Metro with copies of all correspondence, exhibits or documents submitted to DEQ relating to the terms or conditions of DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
9.7	Copies of enforcement actions provided to Metro	The franchisee must ensure Metro receives copies of any notice of violation or noncompliance, citation or any other similar enforcement

		actions issued to the franchisee by any federal, state or local government (other than Metro) related to the operation of the facility.
9.8	Unusual occurrences	<ol style="list-style-type: none"> 1. The franchisee must keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. 2. The franchisee must notify Metro within 24 hours of any breakdown of the franchisee's equipment if the breakdown will substantially impact the facility's ability to comply with this franchise, with Metro Code, or which will create off-site impacts. 3. The franchisee must report any facility fires, accidents, emergencies and other significant incidents to Metro within 12 hours of the discovery of their occurrence. 4. The franchisee must report any long term or short term closures as provided in section 7.12.
9.9	Changes in ownership	<ol style="list-style-type: none"> 1. Any change in control of the franchisee or the transfer of a controlling interest of the franchisee requires prior written notice to Metro. "Transfer of a controlling interest of the franchisee" includes without limitation the transfer of 10% or more of the ownership of the franchisee to or from a single entity. Metro may amend this franchise under Section 12.2 to require the new ownership of the franchisee to assume all the rights and obligations of this franchise. 2. The franchisee may not lease, assign, mortgage, sell or otherwise transfer control of the franchise unless the franchisee follows the requirements of Metro Code Chapter 5.01.

10.0	INSURANCE REQUIREMENTS	
10.1	General liability	The franchisee must carry the most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed operations. The franchisee's coverage will be primary as respects Metro.
10.2	Automobile	The franchisee must carry automobile insurance with coverage for bodily injury and property damage, and with limits not less than minimum of \$1,000,000 per accident or combined single limit.
10.3	Additional insureds	Metro, its elected officials, departments, employees, volunteers and agents must be named as ADDITIONAL INSURED on the Commercial

		General Liability policy. The franchisee must include the additional insured endorsement along with the certificate of insurance.
10.4	Workers' compensation insurance	<ol style="list-style-type: none"> 1. The franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law, and must comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. 2. The Workers' Compensation Insurance must meet Oregon statutory requirements including Employer's Liability with limits not less than \$1,000,000 per accident or disease. 3. The franchisee must provide Metro with certification of Workers' Compensation insurance including employer's liability. If the franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
10.5	Certificate of insurance	<ol style="list-style-type: none"> 1. The franchisee must provide Metro with a Certificate of Insurance complying with this Section 10. 2. The franchisee must list Metro as the certificate holder. 3. Upon insurance renewal, the franchisee must submit an updated certificate of insurance and the additional insured endorsement to Metro via email (SWICC@oregonmetro.gov).
10.6	Notification	The franchisee must give at least 30 days written notice to Metro of any lapse or proposed cancellation of insurance coverage.

11.0	ENFORCEMENT	
11.1	Authority vested in Metro	The power and right to regulate, in the public interest, the exercise of the privileges granted by this franchise is at all times vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against the franchisee.
11.2	No enforcement limitations	This franchise may not be construed to and does not limit, restrict, curtail or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor does this franchise limit or preclude Metro from adopting ordinances that regulate the health, safety or welfare of any person or persons within the Metro jurisdictional boundary, notwithstanding any incidental impact that such ordinances may have upon the terms of this franchise or the franchisee's operation of the facility.

11.3	Penalties	Each violation of a franchise condition is punishable by penalties as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation.
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12.0	AMENDMENT, SUSPENSION AND REVOCATION	
12.1	Amendment by Metro Council	<p>Except as provided in Section 12.2, the provisions of this franchise will remain in effect unless the Metro Council:</p> <ol style="list-style-type: none"> 1. Amends the Metro Code, amends the 2030 Regional Waste Plan or implements other legislation of broad applicability that affects the class of facilities of which this franchisee is a member; or 2. Adopts an ordinance or resolution amending this franchise to implement policy, code or other requirements such as the 2030 Regional Waste Plan.
12.2	Amendment, suspension or revocation by Metro	<p>The Chief Operating Officer may, at any time before the expiration date, amend, suspend or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ol style="list-style-type: none"> 1. Violation of the terms or conditions of this franchise, Metro Code or any applicable statute, rule or standard; 2. Changes in local, regional, state or federal laws or regulations that should be specifically incorporated into this franchise, such as Metro actions to implement new requirements from the 2030 Regional Waste Plan; 3. Failure to disclose fully all relevant facts; 4. A significant release into the environment from the facility; 5. Significant change in the character of solid waste received or in the operation of the facility; 6. Any change in ownership or control; 7. A request from the local government stemming from impacts resulting from facility operations; 8. A change of authorization request received from the franchisee; 9. Compliance history of the franchisee; and 10. Changes in the tonnage allocation based on new information, or changes in methodology, administrative rule or Metro Code.

13.0	GENERAL OBLIGATIONS	
13.1	Compliance with law	The franchisee must fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative rules adopted pursuant to Chapter 5.01, whether or not those provisions have been specifically mentioned or cited in this franchise. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility are deemed part of this franchise as if specifically set forth in this franchise. These conditions and permits include those cited within or attached as exhibits to the franchise document, any existing at the time the franchise is issued but not cited or attached, and any issued or amended during the term of the franchise.
13.2	Deliver waste to appropriate destinations	The franchisee must ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.
13.3	Right of inspection and audit	<ol style="list-style-type: none"> 1. The franchisee must allow Metro's authorized representatives to access the facility and premises at any time during business hours, with or without advanced notice. For non-business hours, the franchise must allow access to Metro's authorized representatives upon receiving advanced notice of not less than 24 hours. 2. Metro's authorized representatives may take photographs, collect samples of materials and perform any inspection or audits as Metro considers appropriate. 3. Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the applicable confidentiality provisions in Section 13.4, Metro's right to inspect includes the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the facility's operation and its rates. 4. The franchisee must permit access to the facility premises to authorized representatives of Metro, including personnel on contract to Metro, to perform research at all times during business hours, with or without notice. The franchisee must provide: <ol style="list-style-type: none"> (a) Access to all areas where it generates, manages, stores, and reloads waste, including without limitation to transfer vehicles; (b) Access to facility personnel and equipment to collect, sort, store and weigh waste; and

		(c) Access to a safe, covered location away from working areas and vehicle traffic on site where authorized representatives of Metro may analyze waste and record data.
13.4	Confidential information	<ol style="list-style-type: none"> 1. The franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The franchisee must prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro will treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. 2. If Metro receives a public records request seeking disclosure of information identified as confidential by the franchisee, Metro will provide the franchisee with a courtesy notice of that request within five days of receipt of the request. 3. This Section 13.0 does not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. 4. Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, those representatives agree to continue to treat the information as confidential and make good faith efforts not to disclose the information.
13.5	Compliance by agents	The franchisee is responsible for ensuring that its agents and contractors comply with this franchise.

STAFF REPORT

FOR THE PURPOSE OF APPROVING THE SOLID WASTE FACILITY FRANCHISE RENEWAL APPLICATION OF PRIDE RECYCLING COMPANY, AND AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED SOLID WASTE FACILITY FRANCHISE TO OPERATE A TRANSFER STATION

Date: October 17, 2019
Department: Property and Environmental
Services (PES)
Meeting Date: October 31, 2019

Prepared by: Joanna Dyer, 503-813-7550,
joanna.dyer@oregonmetro.gov
Presenters: Roy Brower and Joanna Dyer
Length: 15 minutes

ISSUE STATEMENT

Pride Recycling Company, a Metro-authorized transfer station located at 13910 SW Tualatin-Sherwood Rd. in Sherwood, seeks to renew its Metro solid waste facility franchise. Metro Code Section 5.01.210 requires the Metro Council to approve or deny a solid waste facility franchise renewal.

ACTION REQUESTED

Approve Resolution No. 19-5023 which will authorize the Chief Operating Officer to issue a renewed solid waste facility franchise to Pride Recycling Company for a term of five years.

IDENTIFIED POLICY OUTCOMES

Approval of this resolution will support the goals of the 2030 Regional Waste Plan, the Business Food Waste Requirement and the Transfer System Configuration Policy. This staff report further describes these expected policy outcomes.

POLICY QUESTION

Should the Metro Council grant the Chief Operating Officer authority to renew the Metro solid waste facility franchise for Pride Recycling Company according to the provisions of Metro Code Chapter 5.01.210 and as described in this resolution?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Approve the resolution as proposed to renew the Metro solid waste facility franchise for Pride Recycling Company.
2. Amend the resolution to renew the franchise with different conditions other than those recommended by staff.
3. Do not approve Resolution No. 19-5023.

STAFF RECOMMENDATIONS

Staff recommends that Council adopt Resolution No. 19-5023 to approve the renewal of the solid waste facility franchise for Pride Recycling Company. If Council approves this resolution, the renewed franchise (F-002-20) will go into effect on January 1, 2020.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

A franchise term is typically five years. The current franchise became effective on January 1, 2009 and was set to expire December 31, 2013. Due to projects impacting the solid waste system including the Solid Waste Road Map and the expiration of Metro's disposal contract with Waste Management (which required that 90 percent of the Metro region's putrescible waste be disposed at a Waste Management landfill), the franchise term was extended by the Metro Council three times since 2013 resulting in the current term end date of December 31, 2019.

This franchise renewal is an opportunity to update and better align existing language for increased consistency as well as incorporate additional requirements that implement policy decisions made since the last renewal, such as the adoption of the 2030 Regional Waste Plan (Ordinance No. 19-1431), the Metro Transfer Station Configuration Policy (Resolution No. 16-4716) and the adoption of a Business Food Waste Requirement (Ordinance No. 18-1418). Metro staff propose changes to eight areas of the franchise, which are outlined below. References to specific franchise sections have been included when applicable. Franchisees had the opportunity to provide verbal and written feedback on the proposed changes, some of which resulted in additional modifications to the proposed language.

1. Begin implementation of the 2030 Regional Waste Plan

The proposed franchise includes a new section, Section 5.0, which authorizes Metro's Chief Operating Officer to amend the franchise for the purpose of implementing Council's policies advancing progress on the 2030 Regional Waste Plan actions.

All solid waste facilities within the region, including transfer stations, must operate in a manner that helps to advance progress towards achieving goals of the 2030 Regional Waste Plan (Action 12.6). The 2030 Regional Waste Plan provides the region with long-term policy and program direction for materials management and solid waste system planning efforts. While Metro implements the 2030 Regional Waste Plan primarily through cooperative working relationships among Metro, the Oregon Department of Environmental Quality (DEQ), local governments and the private sector, the plan contains actions that must be implemented throughout Metro's solid waste system.

2. Incorporate new tonnage allocation methodology

The proposed franchise has been updated to reflect a new tonnage allocation methodology that begins in 2020. The new methodology uses a percentage based approach that determines allocations based on Metro's annual solid waste forecast. The solid waste forecast is being finalized; therefore, there are placeholders in the proposed franchise where the number of tons will be included later. The tonnage amount for 2020 will be available before the franchise term begins and will be inserted prior to issuing the franchise. The Chief Operating Officer will continue Metro's long-standing practice of amending franchises each November to update the number of tons allocated for the following year.

3. Clarify the nature of the franchise

The proposed franchise has been updated to clarify that a Metro franchise is the grant of authority or privilege given by the Council to operate a transfer station as specified under Metro Code Chapter 5.01. This is a distinction from that of local governments which issue solid waste franchises that grant the right and responsibility to provide collection service in a specific area. There are solid waste companies that hold a Metro franchise and a local government franchise, which can cause confusion because the nature of these separate franchises is different. A Metro franchise is a regulatory permit and not a negotiated agreement.

To help clarify this important distinction, this proposed franchise has been updated to remove contract-like language. Franchisees retain the opportunity to contest provisions of the franchise and seek amendments through a change of authorization process per Metro Code 5.01.230, but Metro determines whether to approve or deny any change of authorization.

4. Incorporate operations and performance standards that advance equity

The proposed franchise includes a new requirement to advance progress on the 2030 Regional Waste Plan and the Property and Environmental Services Diversity, Racial Equity and Inclusion Work Plan goals. The franchise requires the franchisee to comply with Oregon’s “ban the box” law (ORS 659A.360) (Section 6.16). Oregon’s “ban the box” law makes it illegal for an employer to inquire about criminal convictions before the interview stage of hiring. This law removes barriers to employment for people convicted of crimes. Additional existing federal, state, and local provisions that advance equity may be incorporated in future franchise amendments.

5. Align franchises with the Food Waste Framework

The proposed franchise includes a new requirement to advance progress on the Business Food Waste Requirement. In a 2014 work session, the Metro Council reviewed the region’s current commercial food waste recovery efforts and staff introduced potential paths forward to ensure that the region has a stable and sustainable commercial food waste transfer and processing system for the long term. The Council confirmed its desire to accelerate the region’s recovery of commercial food waste and its wish to process that waste in or as close to the region as possible. The Council determined that in order to increase commercial food waste recovery and attract stable, local processing capacity, Metro should:

1. Require certain businesses to separate their food waste for recovery and eventually prohibit the disposal of food from businesses;
2. Determine how to efficiently collect and deliver food waste for processing; and
3. Secure local and stable processing capacity.

Based on Council direction, staff developed policies and initiatives to fulfill these objectives. To address the first objective, the Metro Council adopted Ordinance No. 18-1418 in July 2018 which added the Business Food Waste Requirement to Metro Code 5.10. Under this ordinance, each local government must require certain businesses in its jurisdiction to separate and recover food waste to be delivered to a facility authorized by Metro. Businesses in the first group (largest generators) will be required to begin separating food waste in March 2020, the second group in March 2021 and the third in September 2022. The adoption and implementation of this policy was a major step forward in developing a stable and sustainable food waste recovery system. As of the date of this report, 16 of the 21 local governments required to adopt the Business Food Waste Requirement have done so, two have received extensions and three, including the city of Sherwood, have received a notice of non-compliance from Metro.

To address the need for an adequate waste transfer system to allow growth in the collection of commercial food waste in the region and provide equitable access to transfer services, Metro is looking to expand its facilities’ capacity to accept this material as well as determine the role that private transfer facilities should play in helping to also provide this capacity. Currently, all franchisees are authorized to accept commercial food waste. In 2018, Pride Recycling Company received a \$500,000 Metro Investment and Innovation matching grant to expand the facility’s capacity to accept food waste for reload and transport to a recovery facility. In order to expand system capacity for commercial food waste, staff recommends that the Metro Council require a transfer station with current or pending infrastructure in place to accept food waste for reload

and transfer to an approved recovery facility, whereas a facility that does not have the necessary infrastructure in place will not be subject to the same requirement. Section 3.9 has been updated to require Pride Recycling Company to accept commercial food waste once its expansion, partially funded by Metro's Investment and Innovation grant program, is complete in 2020. Metro may require other facilities to accept food waste in the future by action of the Chief Operating Officer.

6. Align confidentiality language with public records law

Section 13.4, Confidential information, has been updated to align with current public records law which has more restrictive timelines for responding to a requestor. Metro will provide a franchisee with a courtesy notice of a public records request within five days of receiving such a request. Metro has the legal obligation to determine if any information marked "confidential" by the franchisee is objectively confidential according to public records law.

7. Clarify franchise amendment process

Current franchise language states that the franchise can be amended by the Metro Council adopting an ordinance. Proposed language in Section 12.1(b) expands this authority to include amendment by resolution.

8. Streamline franchise language for modernization and consistency

A suite of non-substantive updates have been made to clarify existing requirements and to streamline authorization language within and across facility classes.

KNOWN OPPOSITION / SUPPORT / COMMUNITY FEEDBACK

Metro posted notice and provided an opportunity for the public to review and submit comments on the franchise application. The public notice was posted on Metro's website, mailed to approximately 131 property owners and residents within one-quarter mile of the proposed facility, and emailed to local community groups, neighborhood associations and various other parties that are generally interested in solid waste issues. The 30-day public comment period began on August 1, 2019, and closed on August 30, 2019.

Metro provided the applicant with a redline copy of the franchise that outlined the proposed changes. On August 2, 2019, Metro staff met with Pride Recycling Company staff to discuss these changes and to listen to their feedback.

Metro received one written comment during the public comment period from the Vice President of Pride Recycling Company in response to the proposed franchise language. A detailed description of these written comments is provided in the *Public Comment Report* included as Attachment 2 to this staff report. On October 31, 2019, the Metro Council will hold a public hearing on this proposed franchise renewal. Written and verbal public comments will be accepted at the meeting, prior to the Council voting on the resolution.

LEGAL ANTECEDENTS

Pursuant to Metro Code 5.01.180, the Council must 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 Waste Plan;*

Staff finds that the proposed activity is consistent with the regional values and policies outlined in the 2030 Regional Waste Plan and specifically aligns with many of the goals of the plan, including goals 12, 13 and 16:

- **Goal 12:** Manage all garbage and recycling operations to reduce their nuisance, safety and environmental impacts on workers and the public.
 - **Goal 13:** Invest in communities that receive garbage and recyclables from the Metro region so that those communities regard solid waste facilities as assets.
 - **Goal 16:** Maintain a system of facilities, from small recycling drop-off depots to larger full-service stations, to ensure equitable distribution of and access to services.
- (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;*

In 2018, Pride Recycling Company was awarded a \$500,000 Investment and Innovation Grant from Metro to expand the floor space in its transfer station to enable it to accept and transfer mixed residential yard debris and food waste, commercial food waste and an increased amount of dry waste. The facility expansion is anticipated to allow Pride to handle 50,000 to 60,000 tons of commercial food waste and yard debris mixed with residential food waste. Metro staff is proposing to add a franchise provision requiring Pride Recycling Company to accept commercial food waste once the facility expansion is complete in 2020, which will provide much needed capacity as the west side of the region expands commercial collection in coming years.

The effect of granting a renewed franchise would be to minimize significant disruption to the solid waste system with regard to the cost of solid waste recycling and disposal services for the residents of the region in 2020.

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

Metro staff is not aware of any facility incidents or operating procedures that have adversely affected the health, safety and welfare of Metro's residents in an unreasonable manner during the term of the current franchise. Staff finds it unlikely that the franchised operation will adversely affect the health, safety and welfare of Metro's residents due to the type of activity performed and the good compliance record of the operator. The facility is also regulated and monitored by Metro and DEQ.

- (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;*

Metro staff is not aware of any significant complaints or impacts on the surrounding neighborhood during the term of the current franchise. Staff finds it unlikely that Pride Recycling Company would unreasonably adversely impact the surrounding neighborhood due to the operator's experience and compliance record.

- (5) *Whether the applicant has demonstrated the strong likelihood that it will comply with all requirement 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, and regulations, ordinances, orders or permits pertaining in any manner to the proposed franchise.*

Metro has a long history with this facility and staff finds that the applicant is likely to comply with regulations and standards if the franchise is renewed.

ANTICIPATED EFFECTS

Approval of Resolution No. 19-5023 will authorize the Chief Operating Officer to renew the franchise for Pride Recycling Company. In addition, the Metro Council authorizes the Chief Operating Officer to determine annual tonnage allocations using the tonnage allocation methodology adopted by administrative rule. The tonnage allocation for 2020 will be determined using a percentage based approach once the solid waste forecast is final in November. If approved, the proposed franchise becomes effective on January 1, 2020, and expires on December 31, 2024.

FINANCIAL IMPLICATIONS

As mentioned above, staff are developing administrative rules that will set forth a detailed process for determining and adjusting future tonnage allocations. Staff notes that this prescribed tonnage allocation process, beginning in 2020, may result in a different, to be determined, tonnage allocation for each of the region's transfer stations. Metro will adjust tonnage allocations for all privately-owned transfer stations and require that at least 40 percent of the region's wet waste tonnage flows to publicly-owned transfer stations (Metro Central and South). Therefore, approval of the proposed franchise is expected to have minimal impact to Metro's Solid Waste Fund operating costs and revenues.

As a result of future adjustments, individual Community Enhancement Committees might experience an increase or reduction in funds based on potential future tonnage shifts.

BACKGROUND

The applicant, Pride Recycling Company, is the owner and operator of an existing solid waste facility located at 13910 SW Tualatin-Sherwood Road in Sherwood (Metro Council District 3). Pride commenced operation in 1991 as a reload and material recovery facility. The facility currently holds a Metro-issued franchise (F-002-08H) to operate a transfer station authorized to receive putrescible waste, perform material recovery on non-putrescible waste and accept source-separated recyclable materials. Under the terms of the existing franchise, Pride Recycling Company is authorized to accept up to 88,880 tons of putrescible waste generated from within the Metro region in calendar year 2019. Pride Recycling Company also holds a solid waste disposal site permit for a transfer station and material recovery facility issued by DEQ (Permit No. 422). The applicant is well known to Metro as an operator of a Metro-franchised solid waste facility and as a long-standing solid waste management company in the Metro area. The applicant has operated its facility for over 28 years and has extensive experience in recycling, solid waste collection, transfer and disposal. Staff concludes that the applicant is fully qualified to operate and manage this facility in a competent and efficient manner.

In addition to its franchise, Pride Recycling Company holds one non-system license (N-002-16D) that authorizes it to transport Metro area waste to Columbia Ridge Landfill in Arlington, Oregon and Coffin Butte Landfill in Corvallis, Oregon.

Metro has conducted 56 site inspections at Pride Recycling Company from January 1, 2009 to date. Staff has found the facility to be a well-run operation with no observable reason to suspect impending problems or issues. Metro issued one notice of violation during the franchise term (NOV-269-10). During an Enhanced Dry Waste Recovery Program (EDWRP) sampling event on November 4, 2010, two samples of non-putrescible waste removed from a transport trailer were found to contain primarily putrescible waste, violating the mixing provision in the franchise. The facility was given the opportunity to correct without financial penalty. Pride is currently in compliance with its Metro issued non-system license and franchise.

DEQ and City of Sherwood did not report any current enforcement or compliance issues associated with this site.

On August 1, 2019, the applicant submitted to Metro a complete solid waste facility franchise application accompanied by payment of the appropriate application fee of \$500. The applicant has not requested any new authorizations, tonnage increases or changes to its current franchise provisions.

Tonnage Allocation

A major component of the 2030 Regional Waste Plan is to take a broad look at the role, configuration and services offered by publicly and privately-owned transfer stations. In 2016, under Council's direction, Metro established a transfer system configuration policy to:

1. Ensure that the region's transfer system provides maximum public benefit;
2. Maintain the current configuration of publicly and privately-owned transfer stations;
3. Ensure that an adequate amount of wet waste flows to publicly-owned stations (at least 40 percent of the region's wet waste);
4. Limit the amount of wet waste that any one company may accept for transfer within the region to no more than 40 percent of the tonnage reserved for private transfer stations; and
5. Improve rate transparency.

The configuration policy also seeks to promote more efficient off-route transport of waste to reduce greenhouse gas emissions and provide opportunities for small, locally-based businesses to participate in the region's solid waste system.

The transfer system configuration policy shifted Metro away from its historical "tonnage cap" approach, in which the Metro Council had established annual facility tonnage limits, to a more systematic and predictable "tonnage allocation" system, in which tonnage authority is proportionally allocated to privately-owned stations each year. Beginning in 2020, Metro will determine and adjust tonnage allocations for all privately-owned transfer stations in the region, including Pride Recycling Company, by applying a percentage-based allocation methodology currently being developed using the allocation framework that Metro Council adopted in November 2018 via Ordinance No. 18-1426.

This new approach to the wet waste tonnage allocation methodology includes reserving 40 percent of the region's wet waste tonnage for Metro's publicly-owned facilities and allowing the remaining 60 percent to be allocated in accordance with the finalized methodology. Staff is proposing a phased implementation of the new allocation methodology, where the 2020 allocations are intended to limit disruption to the system and help transition to full implementation of the new methodology in 2021.

Beginning in 2021, the allocation methodology will include a "base share" component for system stability and a "goal share" component to more directly support Metro's equity, service and environmental goals from the 2030 Regional Waste Plan. The goal shares will be determined by evaluating each transfer station's efforts to support and achieve Regional Waste Plan goals such as more efficient off-route travel, increased diversity of workers, paying living wages, addressing community concerns, providing reasonable, consistent and responsive rates and other goals that Council may deem to be important.

The forecasted tonnage for 2020 is projected to generally decrease relative to 2019. This projected decrease in tonnage, along with the addition of two new transfer stations in the region, make it infeasible to replicate current transfer station tonnage allocations in 2020 while maintaining Metro's 40 percent reserve.

ATTACHMENTS

- A. Exhibit A to Resolution No. 19-5023: Draft franchise F-002-20
- B. Attachment 1 to Staff Report: Images
- C. Attachment 2 to Staff Report: Public comment report

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5023



Photo 1: Public Notice post card, front

Pride Recycling Company submitted an application to Metro to renew its transfer station franchise to receive garbage and recyclable materials, including yard debris, generated within the Metro region for reload and transport to a landfill for disposal or an approved facility for recovery. Pride Recycling Company is locally owned and operated. Current operations would not change under the proposed franchise renewal.

Facility Location:
13910 SW Tualatin-Sherwood Rd, Sherwood, OR 97140

Written comments must be submitted by 5 p.m., August 30, 2019

Metro Solid Waste Information Compliance & Cleanup
600 NE Grand Ave., Portland, OR 97232

Fax: 503-813-7544 Email: SWICC@oregonmetro.gov

More information: oregonmetro.gov/solidwastepublicnotices

Esta es una notificación de su oportunidad para comentar sobre una solicitud para operar un establecimiento de desechos sólidos (basura o reciclado) en su comunidad. Si necesita asistencia con el idioma, llame al 503-797-1890 (de 8 a 5, lunes a viernes).

Настоящим уведомляем, что у вас есть возможность оставить свой отзыв относительно заявки на эксплуатацию учреждения по переработке твердых отходов (или вторсырья), расположенного в вашем районе. Языковую поддержку можно запросить по номеру 503-797-1890 в рабочие дни с 8:00 до 17:00.

Đây là thông báo về cơ hội của quý vị được trình bày ý kiến bằng đơn trong việc điều hành cơ sở quản lý rác thải (rác hoặc đồ tái chế) trong cộng đồng của quý vị. Nếu quý vị cần trợ giúp về ngôn ngữ, xin gọi số 503-797-1890 (từ 8 giờ sáng đến 5 giờ chiều vào những ngày thường).

本公告旨在通知您利用這個機會評論在您在社區經營固體廢棄物（垃圾或回收服務）設施的申請。需要語言援助者請在撥打503-797-1890（工作日上午8點至下午5點）。

본 통지서는 지역사회 내 고행 폐기물(쓰레기 또는 재활용) 시설 운영 신청에 대해 귀하의 의견을 제시할 수 있는 기회를 알려 드리기 위한 것입니다. 언어 지원 서비스가 필요한 경우 전(근무일 기준) 503-797-1890으로 전화하십시오(주중 오전 8시 - 오후 5시).

Photo 2: Public Notice post card, back

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5023



Photo 3: Aerial photo of Pride Recycling Company located at 13910 SW Tualatin-Sherwood Rd. in Sherwood

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5023



Photo 4: Pride Recycling Company located at 13910 SW Tualatin-Sherwood Rd. in Sherwood



Photo 5: Sorting line at Pride Recycling Company located at 13910 SW Tualatin-Sherwood Rd in Sherwood

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5023



Photo 6: Pride Recycling Company located at 13910 SW Tualatin-Sherwood Rd. in Sherwood

Public comment report

Attachment 2 to Staff Report for Ordinance No. 19-5023



October 17, 2019

Prepared by: Joanna Dyer
503-813-7550

Background

Adoption of Resolution No. 19-5023 will authorize the Chief Operating Officer to issue a renewed solid waste facility franchise to Pride Recycling Company for a term of five years.

On August 1, 2019, the applicant submitted to Metro a complete solid waste facility franchise application accompanied by payment of the appropriate application fee of \$500. The applicant has not requested any new authorizations, tonnage increases or changes to its current franchise provisions.

Public Notice and Opportunity to Comment

Metro posted notice and provided an opportunity for the public to review and submit comments on the renewal application. The public notice was posted on Metro's website, mailed to 131 property owners and residents within one-quarter mile of the facility and emailed to local community groups, neighborhood associations and various other parties that are generally interested in solid waste issues. The 30-day public comment period began on August 1, 2019, and closed on August 30, 2019.

Summary of written public comments on application

Metro received one comment during the public comment period. The Vice President of Pride Recycling Company submitted a written comment outlining questions and concerns about the proposed franchise language that was provided to the applicant on July 30, 2019. This was the only comment received during the public comment period.

The letter outlines 10 areas of concern, which are summarized below, and are included in full at the end of this document.

Metro response to comments:

Below is a summary of the 10 comments received from Pride Recycling. Metro's response follows each comment summary.

1. Property owner PO Box is incorrect on redline draft.

Metro Response #1 – address

The address has been corrected.

2. Tonnage allocation for the next year should be moved to October 1 so franchisees have at least three months to adequately invest and plan in the facility's operations. (Section 4.1)

Metro Response #2 – tonnage allocation timeline

Tonnage allocation is dependent on the solid waste forecast. Metro will make every effort to notify franchisees of their tonnage allocation with as much notice as is practicable, and definitely prior to January 1.

3. Regarding the term “geographic proximity”, Pride would like clarity on the definition and enforcement mechanisms. (Section 4.2)

Metro Response #3 – geographic proximity

Metro revised this section of the franchise for increased clarity and to align with tonnage allocation methodology.

4. Section 4.4 Prohibition on mixing needs further clarification.

Metro Response #4 – prohibition on mixing

Metro revised this section of the franchise for increased clarity. Any mixing of waste types must be described in an operating plan and approved in writing by Metro so that Metro can ensure waste is going to the appropriate facility and that it is tracked and reported properly (Section 7.5).

5. Pride recommends adding language to Section 4.6 to allow for disposal of recyclables with written permission from Metro and DEQ if warranted by poor recycling markets.

Metro Response #5 – disposal of recyclables

Metro revised this section to incorporate this suggestion.

6. Pride is concerned about references to the Regional Waste Plan and associated actions when the implementation plan has not been developed. (Section 5.0)

Metro Response #6 – Regional Waste Plan

Metro added Section 5.0 Regional Waste Plan as a signal to solid waste facility operators that there will be future changes to the franchise resulting from the implementation of the 2030 Regional Waste Plan. The goals and actions of the [2030 Regional Waste Plan](#) are available for review for facility operators to gain a better understanding of the types of requirements that may be included in solid waste facility authorizations in the future. The 2030 Regional Waste Plan is the vision for the Metro Region’s solid waste system and the blueprint for achieving that vision. Metro has the responsibility to ensure that all solid waste generated in the region is managed in a manner that protects public health and safety and safeguards the environment. All programs, services and facilities related to solid waste management and disposal are addressed by the plan, including waste reduction, collection, transfer and disposal. This plan is designed to address the changes and challenges we face and to provide opportunities to innovate, invest and continue our efforts to protect people and quality of life in the region.

Metro also has broad legal authority to regulate solid waste facilities generally. This authority is derived from the Oregon Constitution, Metro’s home rule Charter and explicit statutory powers.

7. Franchisees are required to follow all applicable state and local laws. Specifically calling out Oregon’s “ban the box” law is redundant.

Metro Response #7 – ban the box

Guidance for new language in the proposed franchises comes from the 2030 Regional Waste Plan that the Metro Council adopted earlier in 2019 and the Property and Environmental Services Diversity, Racial Equity and Inclusion Work Plan. The 2030 Regional Waste Plan provides direction for Metro’s regulation of the solid waste industry, including franchise provisions. By focusing on

Oregon’s “ban the box” law, proposed Section 6.16 advances progress on Metro’s goals for the solid waste system. All the goals and actions that inform future franchise amendments can be found in the 2030 Regional Waste Plan. Please note that the provision that includes “ban the box” is now located in Section 6.16 of the proposed franchise.

8. Pride is concerned with removal of language stating Metro and franchisees will make a good faith effort to arrive at consensus on the intent and language of amendments.

Metro Response #8 – agreement vs. authorization

Metro has broad legal authority to regulate solid waste facilities generally. This authority is derived from the Oregon Constitution, Metro’s home rule Charter and explicit statutory powers in ORS Chapters 268, 459 and 459A. A Metro franchise is an authorization that cannot be negotiated. It is in essence a permit to operate. A franchise authorizes a franchisee to perform certain solid waste activities that Metro deems to be a benefit to the public. While Metro is removing consensus language, Metro will continue to solicit feedback from franchisees on specific decisions, as is evidenced by meetings that took place between Metro and each franchisee to discuss proposed changes to the franchise. Metro listened to the feedback from franchisees and several changes were made based, in part, on franchisee input.

Furthermore, there are existing opportunities for franchisees to request changes to an existing or proposed franchise. Metro Code 5.01.230 outlines how a franchisee can request a change of authorization to an existing franchise. Franchisees can also provide verbal and written testimony at the public hearing when their franchise renewal is presented to the Metro Council. The Metro Council takes public testimony into consideration when deciding whether to adopt a resolution for a franchise or to recommend changes.

9. Pride sees Metro as a direct competitor for material and does not think it is appropriate for Metro to have access to their financial information which would become public record. Pride also requested clarity on what “contracts” Metro would have the right to review. (Section 13.3)

Metro Response #9 – right of inspection and audit

Metro is not a direct competitor of private transfer stations. Metro provides services for the benefit of the public like other public utilities. Metro has the authority to regulate solid waste generated or disposed within the Metro region and has determined that when it is in the public’s interest to include private facilities in the solid waste system, it will do so.

Metro’s right of inspection and audit provision is not a new requirement. If Metro determined it was necessary to inspect a franchisee’s books, tax returns, financial statements or other information indicated in this provision, Metro would use best practices to keep information confidential in accordance with the applicable confidentiality provisions in Section 13.4 of the franchise and Oregon public records law.

10. Metro has previously stated that each November a franchised facility can request additional tonnage for the next calendar year. Does that additional tonnage continue forward annually?

Metro Response #10 – additional tonnage

As described in detail in the staff report, the tonnage allocation methodology is currently in development.

Public comment report

Attachment 2 to Staff Report for Ordinance No. 19-5023



The Vice President of Pride Recycling Company submitted this letter to Metro on August 30, 2019 as part of the public comment period.



August 30, 2019

Metro
Attention: Joanna Dyer
600 NE Grand Ave
Portland, OR 97232

Re: Comments regarding Pride Recycling Company's Solid Waste Facility Franchise No. F-002-19

Thank you for the opportunity to comment on the Solid Waste Facility Franchise. All comments reference the new (redlined) numbers throughout the document. All page numbers reference the page number in the upper right hand corner of the document, not the page number of the PDF document.

- Cover sheet: Property Owner PO Box should be corrected to 1150
- Page 8, item 4.1 Tonnage allocation, 2:
 - In order to adequately invest and plan for our facility's operations, it is unreasonable to not receive our annual tonnage allocation until January 1st. We believe this date should be moved up to at least October 1st of the previous year, so we have at least 3 months to plan appropriately.
- Page 9, item 4.2 Waste hauler access, b:
 - We would like clarity regarding how "geographic proximity" is defined so we can appropriately comment on this item.
 - Regarding "geographic proximity": There needs to be more clarity provided around how the geographic proximity can be enforced. For example, we may take waste from a hauler who has work within our "geographic proximity" but they also have work outside of it. How are we to determine how many tons they are bringing us from within the boundary vs. outside of the boundary? We would need to know how many tons each hauler within our boundary potentially has within their portion of the boundary in order to enforce this as needed if we are getting close to our tonnage cap.
- Page 10, item 4.4 Prohibition on mixing, 2:
 - This area needs further clarification. For example, it is appropriate to mix yard debris and food waste if the material is going to the same facility. Or potentially mixing wet waste and dry waste residual to the landfill to maximize payloads and minimize transportation impacts.

Public comment report

Attachment 2 to Staff Report for Ordinance No. 19-5023



- Page 11, item 4.6 No disposal of recyclable materials:
 - Due to the state of recycling markets, this section should be modified to read: "...materials to disposal site, without written permission from Metro and DEQ, including..."
- Page 11, item 5 Regional Waste Plan:
 - We are concerned about the references throughout the document to the Regional Waste Plan and the potential actions associated with that plan as those actions and how the goals will be achieved have yet to be determined.
- Page 22, item 9.10 Employment Reporting Requirements:
 - While we have no issue with Oregon's "ban the box" law, we find it redundant and unnecessary that Metro require us to confirm we are following one specific state law, when we are required to follow all state laws under the franchise under item 13.1, General Obligations.
- Page 24, item 12 Amendment, Suspension, and Revocation:
 - We have concerns about removing (previously titled) sections 11.1 and 11.2 b. Removing language that allows us to have a dialogue with Metro staff and make a good faith effort to reach consensus before proposed changes are presented to council is very concerning. Removing this language allows Metro to make changes without taking into consideration our significant capital cost as well as a reasonable rate of return, could have detrimental impacts to our operations.
- Page 26, item 13.3 Right of inspection and audit, 3:
 - This section states that Metro has the right to inspect all books including income tax returns and financial statements etc. Metro operates as a direct competitor for material to the private owned transfer stations while limiting the volumes we are allowed to receive with no such limit on themselves. This limits our ability to spread necessary overhead costs among a larger material base as Metro is allowing themselves to benefit from. It is inappropriate for Metro, as a direct competitor, to have any access to this financial information for any of the private transfer stations. This section also states that any of this information obtained by Metro would become public record. Again, it is inappropriate for the financial records and tax returns of a private company to be made public.
 - Review of contracts, please provide more clarity about what "contracts" Metro would potentially have the right to review. This language is too vague as described.
- Metro has previously stated that each November a franchised facility can request additional tonnage for the next calendar year. If that additional tonnage is granted, does it continue forward annually, or only for one year? Equipment needs and operational considerations would be very difficult to provide for under only a one year short-term window.

Thank you

Kristin Leichner
Vice President
Pride Recycling Company

Agenda Item No. 5.3

Resolution No. 19-5024, For the Purpose of Approving a
Solid Waste Facility Franchise Renewal Application and
Authorizing Waste Management of Oregon dba Forest
Grove Transfer Station to Operate a Transfer Station

Public Hearing

Metro Council Meeting
Thursday, October 31, 2019
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE SOLID	)	RESOLUTION NO. 19-5024
WASTE FACILITY FRANCHISE RENEWAL)	
APPLICATION FOR WASTE MANAGEMENT OF	)	Introduced by Acting Chief Operating
OREGON, INC. AND AUTHORIZING THE CHIEF	)	Officer Andrew Scott in concurrence with
OPERATING OFFICER TO ISSUE A RENEWED	)	Council President Lynn Peterson
SOLID WASTE FACILITY FRANCHISE TO FOREST)	
GROVE TRANSFER STATION)	

WHEREAS, Metro Code Section 5.01.150 states that a Metro Solid Waste Facility Franchise is required for any person owning or controlling a facility that operates a transfer station; and

WHEREAS, Waste Management of Oregon, Inc. holds Metro Solid Waste Facility Franchise Number F-004-08F to operate Forest Grove Transfer Station, which will expire on December 31, 2019; and

WHEREAS, Waste Management of Oregon, Inc. filed a complete application seeking a renewal of its Metro Solid Waste Facility Franchise pursuant to Metro Code Section 5.01.210(a); and

WHEREAS, Metro Council adopted Resolution No. 18-1426 to establish a framework for allocating the region's putrescible waste tonnage to privately-owned transfer stations beginning in 2020; and

WHEREAS, beginning in 2020, Metro will allocate the region's putrescible waste tonnage to privately-owned transfer stations in accordance with Metro's tonnage allocation methodology; and

WHEREAS, Waste Management of Oregon, Inc.'s putrescible waste tonnage allocation amount may change during the term of the Metro Solid Waste Facility Franchise in accordance with Metro's tonnage allocation methodology; and

WHEREAS, Metro Council adopted the 2030 Regional Waste Plan via Ordinance No. 19-1431, which may require future amendments to the Metro Solid Waste Facility Franchise to implement the Plan; and

WHEREAS, Waste Management of Oregon, Inc. does not propose to alter any other activities that already occur at its transfer station site; and

WHEREAS, the Metro Council finds that the proposed Metro Solid Waste Facility Franchise renewal is in the public interest and meets the criteria set forth in Metro Code Section 5.01.180; now therefore

BE IT RESOLVED that the Metro Council:

1. Approves the Metro Solid Waste Facility Franchise application for Waste Management of Oregon, Inc. to operate Forest Grove Transfer Station subject to the terms, conditions and limitations contained in Exhibit A.
2. Authorizes the Chief Operating Officer to issue to Waste Management of Oregon, Inc. a renewed Metro Solid Waste Facility Franchise for Forest Grove Transfer Station substantially similar to the one attached as Exhibit A.
3. Authorizes the Chief Operating Officer to amend the Metro Solid Waste Facility Franchise as necessary without further Council action in order to allocate putrescible tonnage in accordance with Metro's tonnage allocation methodology based on Metro's solid waste tonnage forecast.

ADOPTED by the Metro Council this ____ day of October 2019.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney



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

METRO SOLID WASTE FACILITY FRANCHISE

No. F-004-20

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

ISSUED BY METRO:

Roy W. Brower, Interim Property and Environmental Services Director

Date

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1.0	ISSUANCE	
1.1	Corporate affiliation	Waste Management, Inc. 1001 Fannin, Suite 4000 Houston, Texas 77002
1.2	Contact	Kirk Duncan Phone: (503) 992-3015 E-mail: kduncan2@wm.com
1.3	Term	January 1, 2020 to December 31, 2024, unless amended, suspended or revoked as provided in this franchise.
1.4	Renewal	The franchisee may apply for a franchise renewal as provided in Metro Code Chapter 5.01.
1.5	Facility name and mailing address	Forest Grove Transfer Station 1525 B Street Forest Grove, Oregon 97116
1.6	Facility premises description	Tax Lot Identification Nos. 1S306BC09501, 1S306CB00500, 1S306CB00600 and 1S306BC09700, City of Forest Grove, Washington County, State of Oregon. Metro may inspect the facility site and any areas directly related to the transfer station operations as per Section 13.3.
1.7	Permission to operate	The franchisee is the property owner.

2.0	CONDITIONS AND DISCLAIMERS	
2.1	Guarantees	This franchise does not vest any right or privilege in the franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise.
2.2	Non-exclusive franchise	This franchise does not limit Metro from granting other solid waste franchises within Metro's jurisdictional boundary.
2.3	Property rights	This franchise does not convey any property rights in either real or personal property.
2.4	Amendment	Except as provided in Section 12.0, no amendment is effective unless approved by the Metro Council.
2.5	No recourse	The franchisee will have no recourse against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement

		of the franchise or in the event Metro determines that the franchise or any part thereof is invalid.
2.6	Indemnification	The franchisee must indemnify Metro, the Council, Chief Operating Officer and any of Metro's employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the granting of this franchise or the franchisee's performance of or failure to perform any of its obligations under the franchise or Metro Code Chapter 5.01, including without limitation patent infringement and any claims or disputes involving subcontractors.
2.7	Waivers	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 12.0 and be in writing and signed by Metro.
2.8	Effect of waiver	Waiver of a term or condition of this franchise does not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.9	Enforceability	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise will not be affected.
2.10	Franchise not a waiver	This franchise does not relieve any owner, operator or the franchisee from the obligation to obtain all required permits, franchises or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.11	Franchise not limiting	This franchise does not limit the power of a federal, state or local agency to enforce any provision of law relating to the facility.
2.12	Definitions	<ol style="list-style-type: none"> 1. "Mixed Non-Putrescible Waste" means a mixture of more than one type of non-putrescible waste, including commingled recyclables other than residential curbside recyclable material. This category includes construction and demolition waste but excludes cleanup material, source-separated recyclable material, special waste, land clearing debris and yard debris. 2. Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.00.

3.0	AUTHORIZATIONS	
3.1	General conditions on solid waste	The franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.

3.2	General conditions on activities	The franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.
3.3	Acceptance and management of putrescible solid waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 13.2. The franchisee also is authorized to accept putrescible waste for material recovery. 2. The franchisee must receive, manage, store, reload and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight, covered containers or within covered transport trailers. 3. Except as provided below in Section 3.3.4, franchisee is authorized to accept putrescible waste generated inside the Metro region only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste. 4. Public self-haul customers may tip waste outside, provided that such waste is tipped directly into watertight containers that are covered within 12 hours of receipt, or by the end of the business day, whichever is earlier.
3.4	Acceptance and management of mixed non-putrescible solid waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept loads of mixed non-putrescible solid waste from all customers including public self-haul for reload and transfer to a facility authorized by Metro to perform material recovery. 2. Except as provided below in subsections (a) and (b), the franchisee must receive, sort, store, reload and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides. <ol style="list-style-type: none"> (a) Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover prior to processing, within 12 hours of receipt or by the end of the business day, whichever is earlier. (b) Public self-haul customers may tip waste outside, provided that such waste is tipped directly into watertight containers that are covered within 12 hours of receipt, or by the end of the business day, whichever is earlier. 3. The franchisee must reload and remove all mixed non-putrescible waste from the site within 48 hours of receipt.
3.5	Acceptance of source-separated recyclable materials	<ol style="list-style-type: none"> 1. The franchisee must provide a place for collecting source-separated recyclable materials on the facility premises. 2. The franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling,

		temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.
3.6	Acceptance of yard debris	The franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce odors detectable beyond the boundaries of the facility. The franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro.
3.7	Acceptance of source-separated food waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept source-separated food waste for reloading to an authorized facility for composting, anaerobic digestion or other resource recovery process as described in an operating plan and approved in writing by Metro. 2. Notwithstanding subsection 3.9.1 above, the Chief Operating Officer may amend this franchise as described in section 12.0 to require the franchisee to accept source-separated food waste. 3. If the franchisee accepts source-separated food waste, then the franchisee must: <ol style="list-style-type: none"> (a) Reload and remove all source-separated food waste from the site in a timely manner so that it does not reach a state of decomposition sufficient to produce odors detectable beyond the boundaries of the facility; (b) Protect the quality of source-separated food waste such that it is suitable for composting, anaerobic digestion or other resource recovery process that is approved in writing by Metro; and (c) Transport all source-separated food waste to a Metro-authorized facility for recovery.
3.8	Acceptance of untreated wood	The franchisee is authorized to accept, for processing and reloading, source-separated, untreated and unpainted wood waste, for example untreated lumber and wood pallets. The franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro.
3.9	Acceptance of painted and treated wood	The franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro. The franchisee must not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock or any other product unless otherwise described in an operating plan and approved in writing by Metro.
3.10	Acceptance of electronics devices	The franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling,

		temporary storage, transfer and other similar functions related to preparing these materials for reuse, recycling or disposal as required by the Oregon Department of Environmental Quality (DEQ).
3.11	Acceptance of inert material	The franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer and other similar functions related to preparing these materials for useful purposes.
3.12	Production of Hogged Fuel	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept and process only untreated wood, painted wood and incidental quantities of treated wood for delivery to facilities with industrial boilers for use as hogged fuel. 2. The franchisee is prohibited from mixing any other solid waste with the wood wastes described above in subsection 3.12.1 for the production of hogged fuel.

4.0	LIMITATIONS AND PROHIBITIONS	
4.1	Tonnage allocation	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept putrescible waste generated inside the Metro region as provided in this franchise. 2. By January 1 of each year, Metro will amend this franchise to establish an annual tonnage allocation amount for the franchisee. 3. Metro will determine the tonnage allocation amount in accordance with allocation methodology provided in Metro Code Chapter 5.01 and applicable administrative rules. 4. For calendar year 2020, beginning on January 1 and ending December 31, 2020, the franchisee is authorized to accept up to XX,XXX tons of putrescible waste generated inside the Metro region.
4.2	Waste hauler access	<p>It is in the public's best interest that transfer stations located inside the Metro region maintain adequate capacity to accommodate solid waste generated within the region and provide adequate access to waste haulers. Therefore:</p> <ol style="list-style-type: none"> 1. The franchisee must not accept solid waste generated outside the Metro region if to do so would limit the franchisee from accepting any putrescible or non-putrescible waste generated inside the Metro region; 2. The franchisee must not deny access to any unaffiliated waste hauler without due cause or written notice 30-days in advance. Due cause includes, but is not limited to, load contamination, failure to pay or risk of exceeding the franchise tonnage allocation; and 3. Metro may require the franchisee to provide a written explanation of its rationale if the facility denies access or refuses service to a waste hauler.

4.3	Prohibited waste	The franchisee must not knowingly receive, process, reload or dispose of any solid waste not authorized by this franchise. The franchisee must not knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; explosives; or any waste prohibited by the DEQ.
4.4	Prohibition on mixing	The franchisee must not mix different waste types unless such mixing is described in an operating plan and approved in writing by Metro.
4.5	Prohibition of size reduction on non-putrescible waste	The franchisee must not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, processing residual consolidation or loading operations, and such size reduction is described in an operating plan and approved in writing by Metro.
4.6	No disposal of recyclable materials	The franchisee must not transfer source-separated recyclable materials to a disposal site including, without limitation, landfills and incineration facilities, without written permission from Metro and DEQ.
4.7	Composting prohibited	The franchisee must not keep yard debris on site long enough for more than negligible biological decomposition to begin.
4.8	Limits not exclusive	This franchise will not be construed to limit, restrict, curtail or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

5.0	REGIONAL WASTE PLAN	
5.1	Regional Waste Plan	<ol style="list-style-type: none"> 1. Metro plans, manages and oversees the region's solid waste system to achieve the goals and actions outlined in the 2030 Regional Waste Plan. 2. Metro may amend this franchise and establish new requirements for the franchisee to achieve the goals and actions of the 2030 Regional Waste Plan.

6.0	OPERATING CONDITIONS	
6.1	General performance standards	<p>The franchisee must operate in a manner that meets the following general performance standards:</p> <ol style="list-style-type: none"> 1. Environment. The franchisee must design and operate the facility to

		<p>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.</p> <p>2. Health and safety. The franchisee must design and operate the facility to avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.</p> <p>3. Nuisances. The franchisee must design and operate the facility to avoid nuisance conditions including, but not limited to, litter, dust, odors and noise.</p>
6.2	Qualified operator	<p>1. The franchisee must, during all hours of operation, provide an operating staff employed by the facility that is qualified and competent to carry out the functions required by this franchise and to otherwise comply with Metro Code Chapter 5.01.</p> <p>2. Facility personnel, as relevant to their job duties and responsibilities, must be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan.</p> <p>3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.</p>
6.3	Fire prevention	<p>The franchisee must provide fire prevention, protection and control measures including, but not limited to:</p> <p>1. Adequate water supply for fire suppression; and</p> <p>2. The isolation of potential heat sources and/or flammables from processing and storage areas.</p>
6.4	Adequate vehicle accommodation	<p>The franchisee must:</p> <p>1. Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. The franchisee must maintain access roads to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather.</p> <p>2. Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles must not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances.</p> <p>3. Post signs to inform customers not to queue on public roadways.</p>

		<p>4. Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site covering and uncovering of loads.</p>
6.5	Managing prohibited wastes	<ol style="list-style-type: none"> 1. The franchisee must reject prohibited waste upon discovery and must properly manage and dispose of prohibited waste when unknowingly received. 2. The franchisee must implement a load-check program to prevent the acceptance of prohibited waste. This program must include at a minimum: <ol style="list-style-type: none"> (a) Visual inspection. As each load is tipped, a qualified operator must visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise. (b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas must be covered and enclosed to prevent leaking and contamination. (c) Record maintenance. The franchisee must maintain records of the training of personnel in the recognition, proper handling and disposition of prohibited waste and make those records available for review by Metro. 3. Upon discovery, the franchisee must remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the franchisee unknowingly receives must be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by DEQ or local government.
6.6	Storage and exterior stockpiles	<p>The franchisee must:</p> <ol style="list-style-type: none"> 1. Manage, contain and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage or safety hazards; 2. Maintain storage areas in an orderly manner and keep the areas free of litter; 3. Position exterior stockpiles within footprints identified on the facility site plan or operating plan; and 4. Not stockpile recovered or source-separated materials for longer than 180 days.
6.7	Dust, airborne debris and litter	<p>The franchisee must operate the facility in a manner that controls and minimizes the generation of dust, airborne debris and litter, and must prevent its migration beyond property boundaries. The franchisee must:</p> <ol style="list-style-type: none"> 1. Take reasonable steps, including signage, to notify and remind

		<p>persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit;</p> <ol style="list-style-type: none"> Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit; Maintain and operate all access roads and receiving, processing, storage and reload areas in such a manner as to control and minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site; Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation; Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; and Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, must be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Metro Code Chapter 5.09.
6.8	Odor	<ol style="list-style-type: none"> The franchisee must operate the facility in a manner that controls and minimizes the generation of odors that are detectable off-site. The franchisee must establish and follow procedures in the operating plan for minimizing odor at the facility.
6.9	Vectors (e.g. birds, rodents, insects)	<ol style="list-style-type: none"> The franchisee must operate the facility in a manner that is not conducive to harboring rodents, birds, insects or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another. If vectors are present or detected at the facility, the franchisee must implement vector control measures.
6.10	Noise	The franchisee must operate the facility in a manner that controls and minimizes any noise sufficient to cause adverse off-site impacts and meets applicable regulatory standards and land-use regulations.
6.11	Water contaminated by solid waste and solid waste leachate	<p>The franchisee must operate the facility consistent with an approved DEQ stormwater management plan or equivalent and must:</p> <ol style="list-style-type: none"> Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; and

		2. Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state and federal laws and regulations.
6.12	Access control	1. The franchisee must control access to the facility as necessary to prevent unauthorized entry and dumping. 2. The franchisee must maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.
6.13	Signage	<p>The franchisee must post signs at all public entrances to the facility. The signs must comply with local government signage regulations. These signs must be easily and readily visible and legible from off-site during all hours and must contain at least the following information:</p> <ol style="list-style-type: none"> 1. Name of the facility; 2. Address of the facility; 3. Emergency telephone number for the facility; 4. Operating hours during which the facility is open for the receipt of authorized waste; 5. Fees and charges; 6. Metro's name and telephone number (503) 234-3000; 7. A list of authorized and prohibited wastes; 8. Vehicle / traffic flow information or diagram; 9. Covered load requirements; and 10. Directions not to queue on public roadways.
6.14	Complaints	<ol style="list-style-type: none"> 1. The franchisee must respond to all complaints in timely manner including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic and vectors, and must keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint. 2. If the facility receives a complaint, the franchisee must: <ol style="list-style-type: none"> (a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts, whether successful or unsuccessful; and (b) Log all such complaints as provided by the operating plan. The franchisee must retain each log entry for one year and it must be available for inspection by Metro.
6.15	Access to franchise document	The franchisee must maintain a copy of this franchise on the facility's premises in a location where facility personnel and Metro representatives have ready access to it.

6.16	Employment standard	The franchisee must be in compliance with Oregon’s “ban the box” law (ORS 659A.360) which makes it unlawful for an employer to inquire about criminal convictions before the interview stage of hiring. The franchisee must maintain a copy of the facility’s employment application on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
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7.0	OPERATING PLAN	
7.1	Plan compliance	The franchisee must operate the facility in accordance with an operating plan approved in writing by Metro. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this franchise. The franchisee may amend or revise the operating plan from time to time, subject to written approval by Metro.
7.2	Plan maintenance	The franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures and requirements. The franchisee must submit amendments and revisions of the operating plan to Metro for written approval prior to implementation.
7.3	Access to operating plan	The franchisee must maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
7.4	Procedures for inspecting loads	<p>The operating plan must establish:</p> <ol style="list-style-type: none"> 1. Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes; 2. Procedures for identifying incoming and outgoing loads for waste classifications; 3. A set of objective criteria for accepting and rejecting loads; and 4. An asbestos testing protocol for all materials that appear to contain asbestos.
7.5	Procedures for mixing waste types	<p>The operating plan must establish:</p> <ol style="list-style-type: none"> 1. Circumstances under which waste types will be mixed; and 2. Procedures for record keeping and reporting for mixed outbound loads.
7.6	Procedures for processing and storage of loads	<p>The operating plan must establish procedures for:</p> <ol style="list-style-type: none"> 1. Processing authorized solid wastes; 2. Reloading and transfer of authorized solid wastes; 3. Managing stockpiles to ensure that they remain within the authorized

		<p>weights, volumes and pile heights;</p> <ol style="list-style-type: none"> 4. Storing authorized solid wastes; and 5. Minimizing storage times and avoiding delay in processing of authorized solid wastes.
7.7	Procedures for managing prohibited wastes	<p>The operating plan must establish procedures for managing, reloading and transferring to appropriate facilities or disposal sites any prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan must establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.</p>
7.8	Procedures for odor prevention	<p>The operating plan must establish procedures for controlling and minimizing odors generated at the facility from being detected off the premises of the facility. The plan must include:</p> <ol style="list-style-type: none"> 1. A management plan that the franchisee will use to monitor and manage odors of any derivation including odorous loads delivered to the facility; and 2. Procedures for receiving and recording odor complaints, immediately investigating all odor complaints to determine the cause of odor emissions and remedying promptly all odor problems at the facility.
7.9	Procedures for dust prevention	<p>The operating plan must establish procedures for controlling and minimizing dust from blowing off the premises of the facility. The plan must include:</p> <ol style="list-style-type: none"> 1. A management plan that the franchisee will use to monitor and manage dust of any derivation; and 2. Procedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions and remedying promptly all dust problems at the facility.
7.10	Procedures for emergencies	<p>The operating plan must establish procedures that the franchisee will follow in case of fire or other emergency.</p>
7.11	Procedures for complaints	<p>The operating plan must establish procedures for managing complaints.</p> <ol style="list-style-type: none"> 1. For every complaint received (for example odor, dust, vibrations and litter), the franchisee must record: <ol style="list-style-type: none"> (a) The nature of the complaint; (b) The date the complaint was received; (c) The name, address and telephone number of the person or persons making the complaint; and (d) Any actions taken by the operator in response to the complaint, whether successful or unsuccessful. 2. The franchisee must make records of such information available to

		Metro upon request. The franchisee must retain each complaint record for a period of not less than one year.
7.12	Closure protocol	<ol style="list-style-type: none"> 1. The franchisee must establish protocol for closure and restoration of the site in the event of a cession of operations as provided in Metro Code Chapter 5.01. 2. The plan must include protocol for: <ol style="list-style-type: none"> (a) Short-term closure (duration of time that is more than two consecutive business days but less than 120 days in length); and (b) Long-term closure (duration of time that is 120 consecutive days or more in length). 3. The franchisee must give at least 24-hour notice to Metro prior to the short-term closure of the facility. 4. The franchisee must give at least 90 days written notice to Metro prior to the long-term closure of the facility.

8.0	FEES AND RATES	
8.1	Annual fee	The franchisee must pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
8.2	Rates	<ol style="list-style-type: none"> 1. The rates charged by the franchisee for accepting solid waste are not subject to regulation by Metro unless the Metro Council adopts an ordinance that establishes Metro's rate regulation authority. 2. Notwithstanding the provision above, the rates charged by the franchisee must not exceed the rates posted at the facility as described in Section 6.13.
8.3	Metro fee and tax imposed on disposal	The franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.
8.4	Metro community enhancement fee imposed on waste received	The franchisee must collect and remit to Metro a community enhancement fee, as provided in Metro Code Chapter 5.06, in an amount equal to \$1.00 per ton for all putrescible waste including food waste and residential yard debris mixed with food waste. The franchisee must remit the community enhancement fees to Metro on a monthly basis in conjunction with fees remitted in Section 8.3.

9.0	RECORD KEEPING AND REPORTING	
9.1	Record keeping requirements	For all solid waste and materials the franchisee is authorized to accept under Section 3.0, the franchisee must keep and maintain accurate records of the amount of authorized materials the franchisee accepts, recovers, recycles, reloads and disposes. These records must include the information specified in the Metro document titled, <u>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees and Parties to Designated Facility Agreements.</u>
9.2	Reporting requirements	The franchisee must transmit to Metro records required under Section 9.0 no later than fifteen days following the end of each month in a format prescribed by Metro.
9.3	Account number listing	Within five business days of Metro’s request, the franchisee must provide Metro with a listing that cross-references the account numbers used in the transaction database with the company’s name and address.
9.4	Transactions based on scale weights	Except for minimum fee transactions for small, lightweight loads, the franchisee must record each inbound and outbound transaction electronically based on actual and accurate scale weights using the franchisee’s on-site scales.
9.5	DEQ submittals	The franchisee must provide Metro with copies of all correspondence, exhibits or documents submitted to DEQ relating to the terms or conditions of DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
9.6	Copies of enforcement actions provided to Metro	The franchisee must ensure Metro receives copies of any notice of violation or noncompliance, citation or any other similar enforcement actions issued to the franchisee by any federal, state or local government (other than Metro) related to the operation of the facility.
9.7	Unusual occurrences	<ol style="list-style-type: none"> 1. The franchisee must keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. 2. The franchisee must notify Metro within 24 hours of any breakdown of the franchisee’s equipment if the breakdown will substantially impact the facility’s ability to comply with this franchise, with Metro Code or which will create off-site impacts. 3. The franchisee must report any facility fires, accidents, emergencies and other significant incidents to Metro within 12 hours of the discovery of their occurrence.

		4. The franchisee must report any long term or short term closures as provided in Section 7.12.
9.8	Changes in ownership	<ol style="list-style-type: none"> Any change in control of the franchisee or the transfer of a controlling interest of the franchisee requires prior written notice to Metro. “Transfer of a controlling interest of the franchisee” includes without limitation the transfer of 10% or more of the ownership of the franchisee to or from a single entity. Metro may amend this franchise under Section 12.2 to require the new ownership of the franchisee to assume all the rights and obligations of this franchise. The franchisee may not lease, assign, mortgage, sell or otherwise transfer control of the franchise unless the franchisee follows the requirements of Metro Code Chapter 5.01.

10.0	INSURANCE REQUIREMENTS	
10.1	General liability	The franchisee must carry the most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed operations. The franchisee’s coverage will be primary as respects Metro.
10.2	Automobile	The franchisee must carry automobile insurance with coverage for bodily injury and property damage, and with limits not less than minimum of \$1,000,000 per accident or combined single limit.
10.3	Additional insureds	Metro, its elected officials, departments, employees, volunteers and agents must be named as ADDITIONAL INSURED on the Commercial General Liability policy. The franchisee must include the additional insured endorsement along with the certificate of insurance.
10.4	Workers’ compensation insurance	<ol style="list-style-type: none"> The franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers’ Compensation Law, and must comply with ORS 656.017, which requires them to provide Workers’ Compensation coverage for all their subject workers. The Workers’ Compensation Insurance must meet Oregon statutory requirements including Employer’s Liability with limits not less than \$1,000,000 per accident or disease. The franchisee must provide Metro with certification of Workers’ Compensation insurance including employer’s liability. If the franchisee has no employees and will perform the work without the

		assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
10.5	Certificate of insurance	<ol style="list-style-type: none"> 1. The franchisee must provide Metro with a Certificate of Insurance complying with this Section 10. 2. The franchisee must list Metro as the certificate holder. 3. Upon insurance renewal, the franchisee must submit an updated certificate of insurance and the additional insured endorsement to Metro via email (SWICC@oregonmetro.gov).
10.6	Notification	The franchisee must give at least 30 days written notice to Metro of any lapse or proposed cancellation of insurance coverage.

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

12.0	AMENDMENT, SUSPENSION AND REVOCATION	
12.1	Amendment by Metro Council	<p>Except as provided in Section 12.2, the provisions of this franchise will remain in effect unless the Metro Council:</p> <ol style="list-style-type: none"> 1. Amends the Metro Code, amends the 2030 Regional Waste Plan or implements other legislation of broad applicability that affects the class of facilities of which this franchisee is a member; or 2. Adopts an ordinance or resolution amending this franchise to implement policy, code or other requirements such as the 2030 Regional Waste Plan.

12.2	Amendment, suspension or revocation by Metro	<p>The Chief Operating Officer may, at any time before the expiration date, amend, suspend or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ol style="list-style-type: none"> 1. Violation of the terms or conditions of this franchise, Metro Code or any applicable statute, rule or standard; 2. Changes in local, regional, state or federal laws or regulations that should be specifically incorporated into this franchise, such as Metro actions to implement new requirements from the 2030 Regional Waste Plan; 3. Failure to disclose fully all relevant facts; 4. A significant release into the environment from the facility; 5. Significant change in the character of solid waste received or in the operation of the facility; 6. Any change in ownership or control; 7. A request from the local government stemming from impacts resulting from facility operations; 8. A change of authorization request received from the franchisee; 9. Compliance history of the franchisee; and 10. Changes in the tonnage allocation based on new information, or changes in methodology, administrative rule or Metro Code.
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13.0	GENERAL OBLIGATIONS	
13.1	Compliance with law	<p>The franchisee must fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative rules adopted pursuant to Chapter 5.01, whether or not those provisions have been specifically mentioned or cited in this franchise. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility are deemed part of this franchise as if specifically set forth in this franchise. These conditions and permits include those cited within or attached as exhibits to the franchise document, any existing at the time the franchise is issued but not cited or attached, and any issued or amended during the term of the franchise.</p>
13.2	Deliver waste to appropriate destinations	<p>The franchisee must ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.</p>

<p>13.3</p>	<p>Right of inspection and audit</p>	<ol style="list-style-type: none"> 1. The franchisee must allow Metro’s authorized representatives to access the facility and premises at any time during business hours, with or without advanced notice. For non-business hours, the franchise must allow access to Metro’s authorized representatives upon receiving advanced notice of not less than 24 hours. 2. Metro’s authorized representatives may take photographs, collect samples of materials and perform any inspection or audits as Metro considers appropriate. 3. Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the applicable confidentiality provisions in Section 13.4, Metro’s right to inspect includes the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the facility’s operation and its rates. 4. The franchisee must permit access to the facility premises to authorized representatives of Metro, including personnel on contract to Metro, to perform research at all times during business hours, with or without notice. The franchisee must provide: <ol style="list-style-type: none"> (a) Access to all areas where it generates, manages, stores and reloads waste, including without limitation to transfer vehicles; (b) Access to facility personnel and equipment to collect, sort, store and weigh waste; and (c) Access to a safe, covered location away from working areas and vehicle traffic on site where authorized representatives of Metro analyze waste and record data.
<p>13.4</p>	<p>Confidential information</p>	<ol style="list-style-type: none"> 1. The franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The franchisee must prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro will treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. 2. If Metro receives a public records request seeking disclosure of information identified as confidential by the franchisee, Metro will provide the franchisee with a courtesy notice of that request within five days of receipt of the request. 3. This Section 13.0 does not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any



		<p>enforcement proceeding.</p> <p>4. Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, those representatives agree to continue to treat the information as confidential and make good faith efforts not to disclose the information.</p>
13.5	Compliance by agents	<p>The franchisee is responsible for ensuring that its agents and contractors comply with this franchise.</p>

STAFF REPORT

FOR THE PURPOSE OF APPROVING THE SOLID WASTE FACILITY FRANCHISE RENEWAL APPLICATION OF WASTE MANAGEMENT OF OREGON, INC., AND AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED SOLID WASTE FACILITY FRANCHISE TO OPERATE FOREST GROVE TRANSFER STATION

Date: October 17, 2019
Department: Property and Environmental
Services (PES)
Meeting Date: October 31, 2019

Prepared by: Joanna Dyer, 503-813-7550,
joanna.dyer@oregonmetro.gov
Presenters: Roy Brower and Joanna Dyer
Length: 15 minutes

ISSUE STATEMENT

Waste Management of Oregon, Inc. seeks to renew its Metro solid waste facility franchise for Forest Grove Transfer Station, a Metro-authorized transfer station located at 1525 B St. in Forest Grove. Metro Code Section 5.01.210 requires the Metro Council to approve or deny a solid waste facility franchise renewal.

ACTION REQUESTED

Approve Resolution No. 19-5024 which will authorize the Chief Operating Officer to issue a renewed solid waste facility franchise to Waste Management of Oregon, Inc. to operate Forest Grove Transfer Station for a term of five years.

IDENTIFIED POLICY OUTCOMES

Approval of this resolution will support the goals of the 2030 Regional Waste Plan, the Business Food Waste Requirement and the Transfer System Configuration Policy. This staff report further describes these expected policy outcomes.

POLICY QUESTION

Should the Metro Council grant the Chief Operating Officer authority to renew the Metro solid waste facility franchise for Waste Management of Oregon, Inc. to operate Forest Grove Transfer Station according to the provisions of Metro Code Chapter 5.01.210 and as described in this resolution?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Approve the resolution as proposed to renew the Metro solid waste facility franchise for Waste Management of Oregon, Inc. to operate Forest Grove Transfer Station.
2. Amend the resolution to renew the franchise with different conditions other than those recommended by staff.
3. Do not approve Resolution No. 19-5024.

STAFF RECOMMENDATIONS

Staff recommends that Council adopt Resolution No. 19-5024 to approve the renewal of the solid waste facility franchise for Forest Grove Transfer Station. If Council approves this resolution, the renewed franchise (F-004-20) will go into effect on January 1, 2020.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

A franchise term is typically five years. The current franchise became effective on January 1, 2009 and was set to expire December 31, 2013. Due to projects impacting the solid waste system including the Solid Waste Road Map and the expiration of Metro's disposal contract with Waste Management (which required that 90 percent of the Metro region's putrescible waste be disposed at a Waste Management landfill), the franchise term was extended by the Metro Council three times since 2013 resulting in the current term end date of December 31, 2019.

This franchise renewal is an opportunity to update and better align existing language for increased consistency as well as incorporate additional requirements that implement policy decisions made since the last renewal, such as the adoption of the 2030 Regional Waste Plan (Ordinance No. 19-1431), the Metro Transfer Station Configuration Policy (Resolution No. 16-4716) and the adoption of a Business Food Waste Requirement (Ordinance No. 18-1418). Metro staff propose changes to eight areas of the franchise, which are outlined below. References to specific franchise sections have been included when applicable. Franchisees had the opportunity to provide verbal and written feedback on the proposed changes, some of which resulted in additional modifications to the proposed language.

1. Begin implementation of the 2030 Regional Waste Plan

The proposed franchise includes a new section, Section 5.0, which authorizes Metro's Chief Operating Officer to amend the franchise for the purpose of implementing Council's policies advancing progress on the 2030 Regional Waste Plan actions.

All solid waste facilities within the region, including transfer stations, must operate in a manner that helps to advance progress towards achieving goals of the 2030 Regional Waste Plan (Action 12.6). The 2030 Regional Waste Plan provides the region with long-term policy and program direction for materials management and solid waste system planning efforts. While Metro implements the 2030 Regional Waste Plan primarily through cooperative working relationships among Metro, the Oregon Department of Environmental Quality (DEQ), local governments and the private sector, the plan contains actions that must be implemented throughout Metro's solid waste system.

2. Incorporate new tonnage allocation methodology

The proposed franchise has been updated to reflect a new tonnage allocation methodology that begins in 2020. The new methodology uses a percentage based approach that determines allocations based on Metro's annual solid waste forecast. The solid waste forecast is being finalized; therefore, there are placeholders in the proposed franchise where the number of tons will be included later. The tonnage amount for 2020 will be available before the franchise term begins and will be inserted prior to issuing the franchise. The Chief Operating Officer will continue Metro's long-standing practice of amending franchises each November to update the number of tons allocated for the following year.

3. Clarify the nature of the franchise

The proposed franchise has been updated to clarify that a Metro franchise is the grant of authority given by the Council to operate a transfer station as specified under Metro Code Chapter 5.01. This is a distinction from that of local governments which issue solid waste franchises that grant the right and responsibility to provide collection service in a specific area. There are solid waste companies that hold a Metro franchise and a local government franchise, which can cause confusion because the nature of these separate franchises is different. A Metro franchise is a regulatory permit and not a negotiated agreement.

To help clarify this important distinction, this proposed franchise has been updated to remove contract-like language. Franchisees retain the opportunity to contest provisions of the franchise and seek amendments through a change of authorization process per Metro Code 5.01.230, but Metro determines whether to approve or deny any change of authorization.

4. Incorporate operations and performance standards that advance equity

The proposed franchise includes a new requirement to advance progress on the 2030 Regional Waste Plan and the Property and Environmental Services Diversity, Racial Equity and Inclusion Work Plan goals. The franchise requires the franchisee to comply with Oregon’s “ban the box” law (ORS 659A.360) (Section 6.16). Oregon’s “ban the box” law makes it illegal for an employer to inquire about criminal convictions before the interview stage of hiring. This law removes barriers to employment for people convicted of crimes. Additional existing federal, state, and local provisions that advance equity may be incorporated in future franchise amendments.

5. Align franchises with the Food Waste Framework

The proposed franchise includes a new requirement to advance progress on the Business Food Waste Requirement. In a 2014 work session, the Metro Council reviewed the region’s current commercial food waste recovery efforts and staff introduced potential paths forward to ensure that the region has a stable and sustainable commercial food waste transfer and processing system for the long term. The Council confirmed its desire to accelerate the region’s recovery of commercial food waste and its wish to process that waste in or as close to the region as possible. The Council determined that in order to increase commercial food waste recovery and attract stable, local processing capacity, Metro should:

1. Require certain businesses to separate their food waste for recovery and eventually prohibit the disposal of food from businesses;
2. Determine how to efficiently collect and deliver food waste for processing; and
3. Secure local and stable processing capacity.

Based on Council direction, staff developed policies and initiatives to fulfill these objectives. To address the first objective, the Metro Council adopted Ordinance No. 18-1418 in July 2018 which added the Business Food Waste Requirement to Metro Code 5.10. Under this ordinance, each local government must require certain businesses in its jurisdiction to separate and recover food waste to be delivered to a facility authorized by Metro. Businesses in the first group (largest generators) will be required to begin separating food waste in March 2020, the second group in March 2021 and the third in September 2022. The adoption and implementation of this policy was a major step forward in developing a stable and sustainable food waste recovery system. As of the date of this report, 16 of the 21 local governments required to adopt the Business Food Waste Requirement have done so, including the city of Forest Grove, two have received extensions and three have received a notice of non-compliance from Metro for not meeting the policy requirements.

To address the need for an adequate waste transfer system to allow growth in the collection of commercial food waste in the region and provide equitable access to transfer services, Metro is seeking to expand its facilities’ capacity to accept this material as well as determine the role that private transfer facilities should play in helping to also provide this capacity. In order to expand system capacity for commercial food waste, staff recommends that the Metro Council require a transfer station with current or pending infrastructure in place to accept food waste for reload and transfer to an approved recovery facility, whereas a facility that does not have the necessary infrastructure in place will not be subject to the same requirement. Forest Grove Transfer Station

will not be required to accept food waste at this time, but the franchise authorizes the Chief Operating Officer to amend the franchise to require the facility to accept food waste if necessary to implement the Council's policies.

6. Align confidentiality language with public records law

Section 13.4, Confidential information, has been updated to align with current public records law which has more restrictive timelines for responding to a requestor. Metro will provide a franchisee with a courtesy notice of a public records request within five days of receiving such a request. Metro has the legal obligation to determine if any information marked "confidential" by the franchisee is objectively confidential according to public records law.

7. Clarify franchise amendment process

Current franchise language states that the franchise can be amended by the Metro Council adopting an ordinance. Proposed language in Section 12.1(b) expands this authority to include amendment by resolution.

8. Streamline franchise language for modernization and consistency

A suite of non-substantive updates have been made to clarify existing requirements and to streamline authorization language within and across facility classes.

KNOWN OPPOSITION / SUPPORT / COMMUNITY FEEDBACK

Metro posted notice and provided an opportunity for the public to review and submit comments on the franchise application. The public notice was posted on Metro's website, mailed to approximately 268 property owners and residents within one-quarter mile of the proposed facility, and emailed to local community groups, neighborhood associations and various other parties that are generally interested in solid waste issues. The 30-day public comment period began on August 1, 2019, and closed on August 30, 2019.

Metro provided the applicant with a redline copy of the franchise that outlined the proposed changes. On August 1, 2019, Metro staff met with Forest Grove Transfer Station staff to discuss these changes and to listen to their feedback.

Metro received two written comments during the public comment period. A detailed description of these comments is provided in the *Public Comment Report* included as Attachment 2 to this staff report. One comment is in support of the facility and one comment expressed concerns about the facility's proximity to residential areas and its location within the Metro region.

This facility has been operating as a transfer station in this location since 1985 and has been owned and operated by Waste Management of Oregon, Inc. since 1997. As discussed in detail below in the Background section of this report, staff finds that it has a good compliance history. On October 31, 2019, the Metro Council will hold a public hearing on this proposed franchise renewal. Written and verbal public comments will be accepted at the meeting, prior to the Council voting on the resolution.

LEGAL ANTECEDENTS

Pursuant to Metro Code 5.01.180, the Council must 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 Waste Plan;*

Staff finds that the proposed activity is consistent with the regional values and policies outlined in the 2030 Regional Waste Plan and specifically aligns with many of the goals of the plan, including goals 12, 13 and 16:

- **Goal 12:** Manage all garbage and recycling operations to reduce their nuisance, safety and environmental impacts on workers and the public.
- **Goal 13:** Invest in communities that receive garbage and recyclables from the Metro region so that those communities regard solid waste facilities as assets.
- **Goal 16:** Maintain a system of facilities, from small recycling drop-off depots to larger full-service stations, to ensure equitable distribution of and access to services.

- (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;*

Forest Grove Transfer Station has not requested any significant change in authorization or activities at this facility. The effect of granting a renewed franchise would be to minimize significant disruption to the solid waste system with regard to the cost of solid waste recycling and disposal services for the residents of the region in 2020.

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

Metro staff is not aware of any facility incidents or operating procedures that have adversely affected the health, safety and welfare of Metro's residents in an unreasonable manner during the term of the current franchise. Staff finds it unlikely that the franchised operation will adversely affect the health, safety and welfare of Metro's residents due to the type of activity performed and the good compliance record of the operator. The facility is also regulated and monitored by Metro and DEQ.

- (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;*

Metro staff is not aware of any significant complaints or impacts on the surrounding neighborhood during the term of the current franchise aside from the one comment that was received during the public comment period. Staff finds it unlikely that Forest Grove Transfer Station would adversely impact the surrounding neighborhood due to the operator's experience and compliance record.

- (5) *Whether the applicant has demonstrated the strong likelihood that it will comply with all requirement 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, and regulations, ordinances, orders or permits pertaining in any manner to the proposed franchise.*

Metro has a long history with this facility and staff finds that the applicant is likely to comply with regulations and standards if the franchise is renewed.

ANTICIPATED EFFECTS

Approval of Resolution No. 19-5024 will authorize the Chief Operating Officer to renew the franchise for Waste Management of Oregon, Inc. to operate Forest Grove Transfer Station. In addition, the Metro Council authorizes the Chief Operating Officer to determine annual tonnage allocations using the tonnage allocation methodology adopted by administrative rule. The tonnage allocation for 2020 will be

determined using a percentage based approach once the solid waste forecast is final in November. If approved, the proposed franchise becomes effective on January 1, 2020, and expires on December 31, 2024.

FINANCIAL IMPLICATIONS

As mentioned above, staff are developing administrative rules that will set forth a detailed process for determining and adjusting future tonnage allocations. Staff notes that this prescribed tonnage allocation process, beginning in 2020, may result in a different, to be determined, tonnage allocation for each of the region's transfer stations. Metro will adjust tonnage allocations for all privately-owned transfer stations and require that at least 40 percent of the region's wet waste tonnage flows to publicly-owned transfer stations (Metro Central and South). Therefore, approval of the proposed franchise is expected to have minimal impact to Metro's Solid Waste Fund operating costs and revenues.

As a result of future adjustments, individual Community Enhancement Committees might experience an increase or reduction in funds based on potential future tonnage shifts.

BACKGROUND

The applicant, Waste Management of Oregon, Inc., is the owner and operator of Forest Grove Transfer Station, an existing solid waste facility located at 1525 B Street in Forest Grove (Metro Council District 4). The facility commenced operation and obtained its first Metro franchise in 1985. On December 31, 1997, Metro issued Solid Waste Facility Franchise FR-004 to USA Waste of Oregon, Inc. (USA Waste), dba Metropolitan Disposal and Recycling Corporation. In July 1998, USA Waste merged with Waste Management of Oregon, Inc. The applicant has been the owner and operator of the facility since that time.

The facility currently holds a Metro-issued franchise (F-004-08F) to operate a transfer station authorized to receive solid waste and accept source-separated recyclable materials. Under the terms of the existing franchise, Forest Grove Transfer Station is authorized to accept up to 125,000 tons of putrescible waste generated from within the Metro region in calendar year 2019. Forest Grove Transfer Station also holds a solid waste disposal site permit for a transfer station issued by DEQ (Permit No. 368). The applicant is well known to Metro as an operator of a Metro-franchised solid waste facility and as a long-standing solid waste management company in the Metro area. The applicant has operated this facility for over 21 years and has extensive experience in recycling, solid waste collection, transfer and disposal. Staff concludes that the applicant is fully qualified to operate and manage this facility in a competent and efficient manner.

In addition to its franchise, Forest Grove Transfer Station has one non-system license (N-010-16C) that authorizes it to transport Metro area waste to Columbia Ridge Landfill in Arlington, Oregon and Coffin Butte Landfill in Corvallis, Oregon.

Metro has conducted 46 site inspections at Forest Grove Transfer Station from January 1, 2009 to date. Staff has found the facility to be a well-run operation with no observable reason to suspect impending problems or issues. Metro issued one notice of violation during the franchise term (NOV-401-17). The facility delivered 11 loads (297.03 tons) of putrescible waste generated within the Metro region to Riverbend Landfill on April 3 and 4, 2017, violating a condition of the non-system license which prohibited transfer of waste to Riverbend Landfill after April 1, 2017. Metro issued a \$5,739 civil penalty that was paid in full. Forest Grove Transfer Station is currently in compliance with its Metro issued non-system license and franchise.

DEQ and the city of Forest Grove have reported that there are no current enforcement or compliance issues associated with this site.

On July 22, 2019, the applicant submitted to Metro a complete solid waste facility franchise application accompanied by payment of the appropriate application fee of \$500. The applicant has not requested any new authorizations, tonnage increases or changes to its current franchise provisions.

Tonnage Allocation

A major component of the 2030 Regional Waste Plan is to take a broad look at the role, configuration and services offered by publicly and privately-owned transfer stations. In 2016, under Council's direction, Metro established a transfer system configuration policy to:

1. Ensure that the region's transfer system provides maximum public benefit;
2. Maintain the current configuration of publicly and privately-owned transfer stations;
3. Ensure that an adequate amount of wet waste flows to publicly-owned stations (at least 40 percent of the region's wet waste);
4. Limit the amount of wet waste that any one company may accept for transfer within the region to no more than 40 percent of the tonnage reserved for private transfer stations; and
5. Improve rate transparency.

The configuration policy also seeks to promote more efficient off-route transport of waste to reduce greenhouse gas emissions and provide opportunities for small, locally-based businesses to participate in the region's solid waste system.

The transfer system configuration policy shifted Metro away from its historical "tonnage cap" approach, in which the Metro Council had established annual facility tonnage limits, to a more systematic and predictable "tonnage allocation" system, in which tonnage authority is proportionally allocated to privately-owned stations each year. Beginning in 2020, Metro will determine and adjust tonnage allocations for all privately-owned transfer stations in the region, including Forest Grove Transfer Station, by applying a percentage-based allocation methodology currently being developed using the allocation framework that Metro Council adopted in November 2018 via Ordinance No. 18-1426.

This new approach to the wet waste tonnage allocation methodology includes reserving 40 percent of the region's wet waste tonnage for Metro's publicly-owned facilities and allowing the remaining 60 percent to be allocated in accordance with the finalized methodology. Staff is proposing a phased implementation of the new allocation methodology, where the 2020 allocations are intended to limit disruption to the system and help transition to full implementation of the new methodology in 2021.

Beginning in 2021, the allocation methodology will include a "base share" component for system stability and a "goal share" component to more directly support Metro's equity, service and environmental goals from the 2030 Regional Waste Plan. The goal shares will be determined by evaluating each transfer station's efforts to support and achieve Regional Waste Plan goals such as more efficient off-route travel, increased diversity of workers, paying living wages, addressing community concerns, providing reasonable, consistent and responsive rates and other goals that Council may deem to be important.

The forecasted tonnage for 2020 is projected to generally decrease relative to 2019. This projected decrease in tonnage, along with the addition of two new transfer stations in the region, make it infeasible to replicate current transfer station tonnage allocations in 2020 while maintaining Metro's 40 percent reserve.

ATTACHMENTS

- A. Exhibit A to Resolution No. 19-5023: Draft franchise F-004-20
- B. Attachment 1 to Staff Report: Images
- C. Attachment 2 to Staff Report: Public comment report

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5024

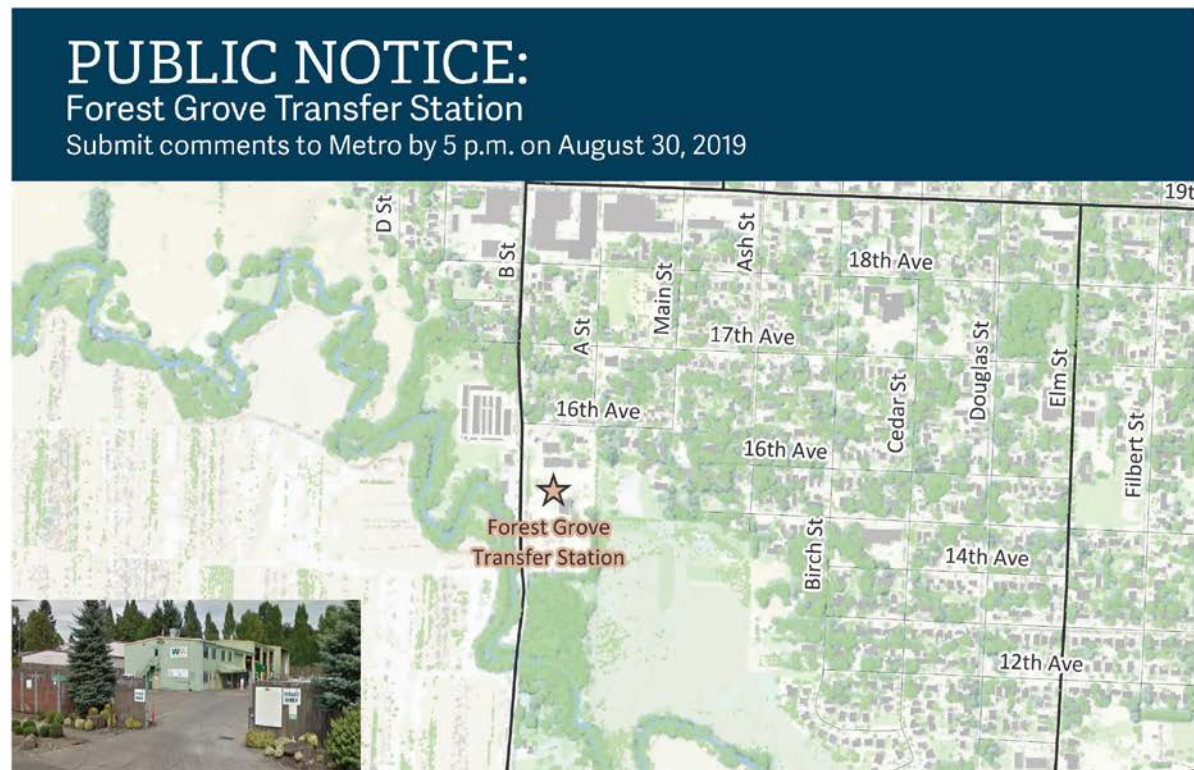


Photo 1: Public Notice post card, front

Forest Grove Transfer Station submitted an application to Metro to renew its transfer station franchise to receive garbage and recyclable materials generated within the Metro region for reload and transport to a landfill for disposal or an approved facility for recovery. Waste Management of Oregon Inc. is the owner and operator of Forest Grove Transfer Station. Current operations would not change under the proposed franchise renewal.

Facility Location: 1525 B St, Forest Grove, OR 97116

Written comments must be submitted by 5 p.m., August 30, 2019

Metro Solid Waste Information Compliance & Cleanup
600 NE Grand Ave., Portland, OR 97232

Fax: 503-813-7544 Email: SWICC@oregonmetro.gov

More information: oregonmetro.gov/solidwastepublicnotices

Esta es una notificación de su oportunidad para comentar sobre una solicitud para operar un establecimiento de desechos sólidos (basura o reciclado) en su comunidad. Si necesita asistencia con el idioma, llame al 503-797-1890 (de 8 a 5, lunes a viernes).

Настоящим уведомляем, что у вас есть возможность оставить свой отзыв относительно заявки на эксплуатацию учреждения по переработке твердых отходов (или вторсырья), расположенного в вашем районе. Языковую поддержку можно запросить по номеру 503-797-1890 в рабочие дни с 8:00 до 17:00.

Đây là thông báo về cơ hội của quý vị được trình bày ý kiến bằng đơn trong việc điều hành cơ sở quản lý rác thải (rác hoặc đồ tái chế) trong cộng đồng của quý vị. Nếu quý vị cần trợ giúp về ngôn ngữ, xin gọi số 503-797-1890 (từ 8 giờ sáng đến 5 giờ chiều vào những ngày thường).

本公告旨在通知您利用這個機會評論在您所在社區經營固體廢棄物(垃圾或回收服務)設施的申請。需要語言援助者請在撥打503-797-1890(工作日上午8點至下午5點)。

본 통지서는 지역사회의 고형 폐기물(쓰레기 또는 재활용) 시설 운영 신청에 대해 귀하의 의견을 제시할 수 있는 기회를 알려 드리기 위한 것입니다. 언어 지원 서비스가 필요한 경우 전(근무일 기준) 503-797-1890으로 전화하십시오(주중 오전 8시 - 오후 5시).

Photo 2: Public Notice post card, back

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5024

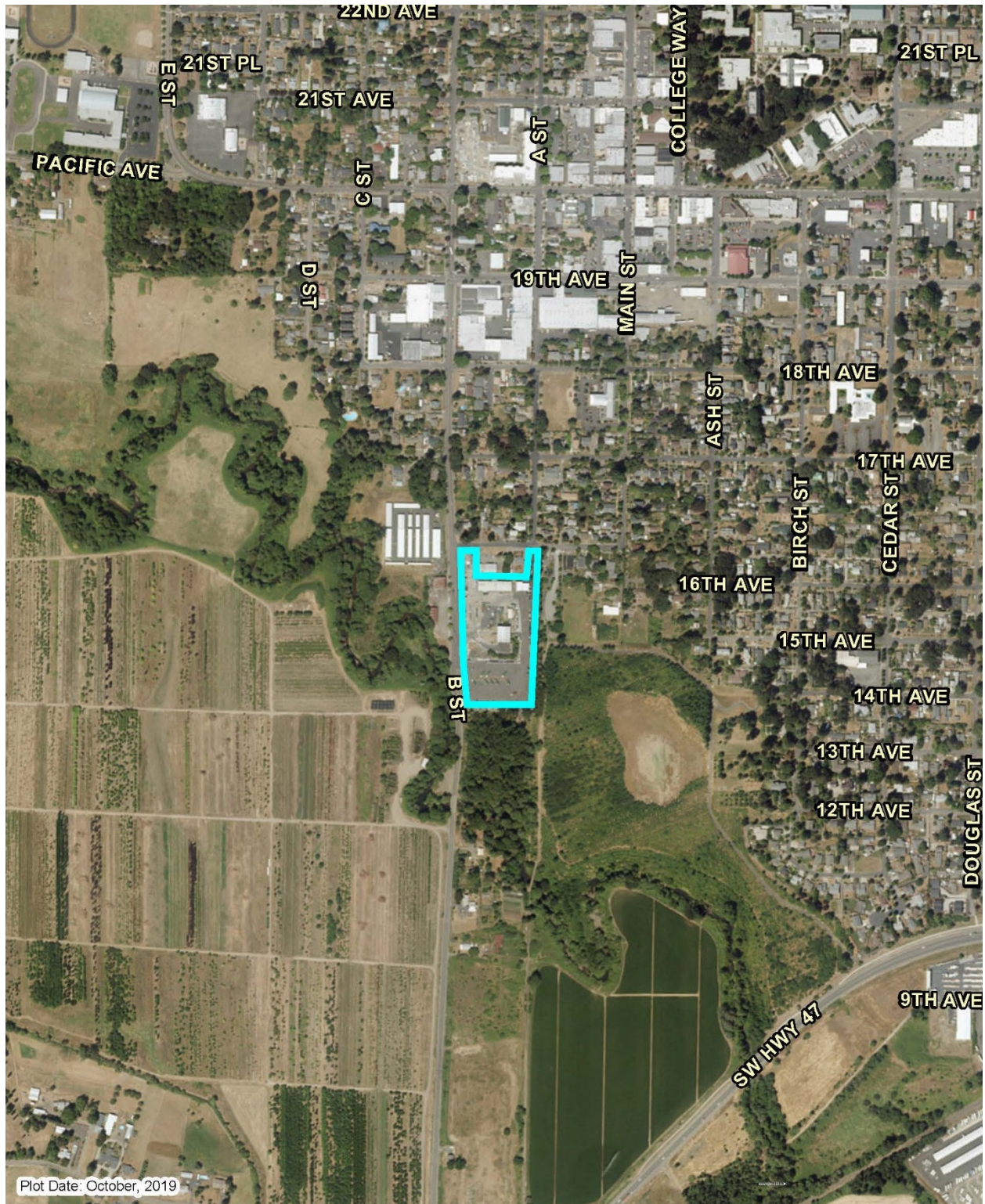


Photo 3: Aerial photo of Forest Grove Transfer Station located at 1525 B St. in Forest Grove

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5024



Photo 4: Forest Grove Transfer Station located at 1525 B St. in Forest Grove



Photo 5: Forest Grove Transfer Station located at 1525 B St. in Forest Grove

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5024

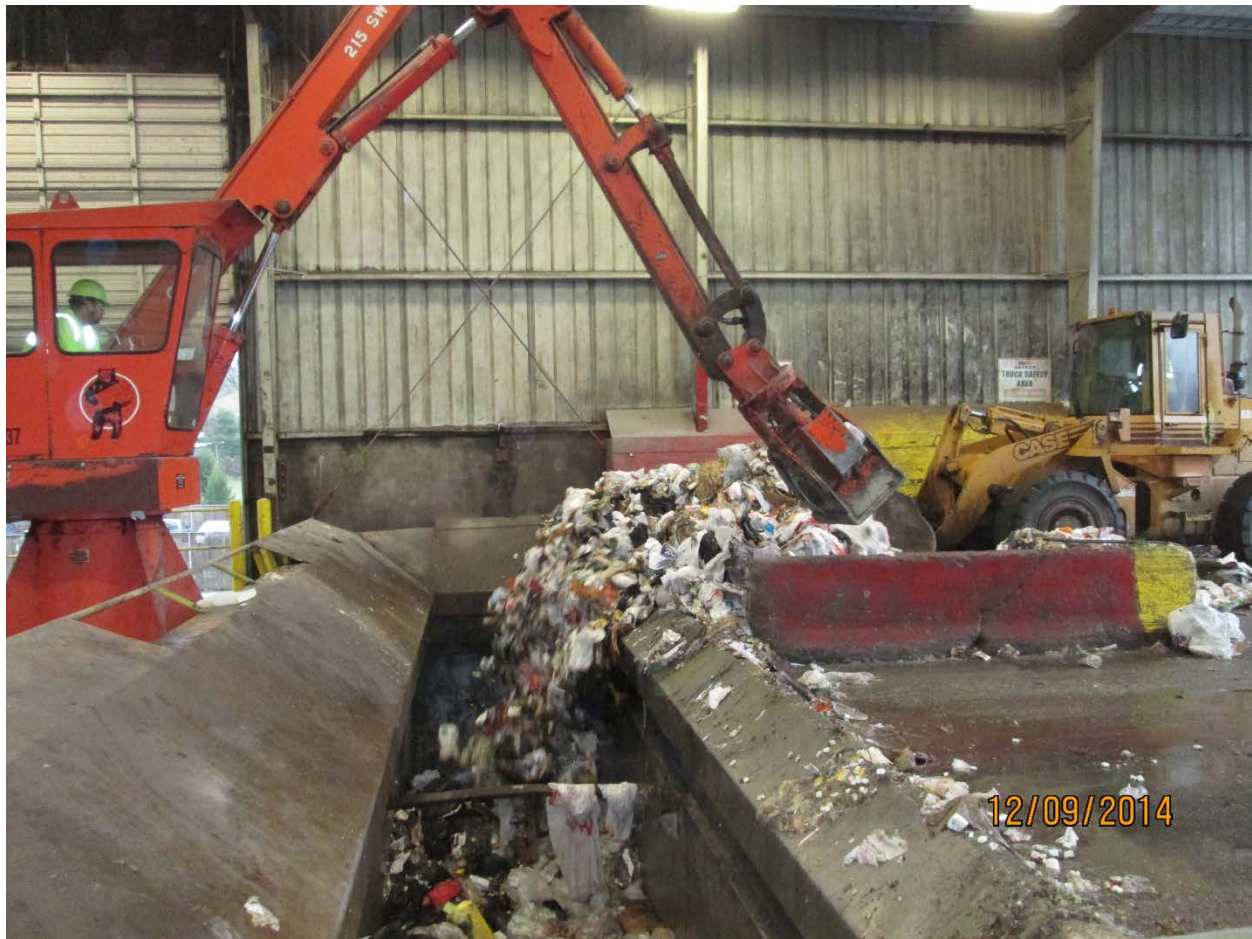


Photo 6: Forest Grove Transfer Station located at 1525 B St. in Forest Grove

Public comment report

Attachment 2 to Staff Report for Resolution No. 19-5024



October 17, 2019

Prepared by: Joanna Dyer
503-813-7550

Background

Adoption of Resolution No. 19-5024 will authorize the Chief Operating Officer to issue a renewed solid waste facility franchise to Waste Management of Oregon Inc. to operate Forest Grove Transfer Station for a term of five years.

On July 22, 2019, the applicant submitted to Metro a complete solid waste facility franchise application accompanied by payment of the appropriate application fee of \$500. The applicant has not requested any new authorizations, tonnage increases or changes to its current franchise provisions.

Public Notice and Opportunity to Comment

Metro posted notice and provided an opportunity for the public to review and submit comments on the renewal application. The public notice was posted on Metro's website, mailed to 268 property owners and residents within one-quarter mile of the facility and emailed to local community groups, neighborhood associations and various other parties that are generally interested in solid waste issues. The 30-day public comment period began on August 1, 2019, and closed on August 30, 2019.

Summary of written public comments on application

Metro received two comments during the public comment period, which can be found in full below. One comment is in support of the facility and one comment expressed concerns in three areas:

1. History of the site – The commenter noted that the facility was originally sited as a storage facility for trucks associated with hauling operations prior to the facility becoming a transfer station. Even though the facility is in a General Industrial zone and is permitted, the commenter believes the facility would likely not be allowed if it were trying to site in that location today.
2. Noise – The commenter believes the facility makes efforts to be a friendly neighbor, but noises from the operation make it difficult for the commenter to enjoy their home.
3. Facility location and proximity to sources of waste – The commenter states the facility is handling waste from areas outside of Forest Grove which is at the western boundary of the Metro region. The commenter believes the facility should be issued a one year extension and relocated to a more central, industrial location, to better serve the region.

Metro response to comments:

Metro acknowledges the comment in support of renewing this franchise.

Metro is tasked with planning, management and oversight of the region's solid waste system. It has an obligation to the public to ensure that 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. In carrying out its oversight responsibilities, Metro balances the need to preserve solid waste transfer capacity in the region with the needs of the local communities that live and work near these facilities. Metro primarily relies on local governments, such as the city of Forest Grove, for land use determinations and the Department of Environmental Quality (DEQ) for environmental oversight. The facility is also permitted by DEQ.

Public comment report

Attachment 2 to Staff Report for Resolution No. 19-5024



The facility commenced operation and obtained its first Metro franchise in 1985. According to the city of Forest Grove, the Forest Grove Transfer Station is located in a “General Industrial” zone and holds the necessary land use approval for transfer station operations.

Forest Grove Transfer Station plays a very important role in the region’s solid waste transfer system, especially on the west side of the region, providing 16 percent of the region’s putrescible waste transfer capacity in 2018. The solid waste system in the Metro region is made up of facilities that are owned and operated by public agencies, like Metro Central and Metro South Transfer Stations, and others that are privately owned and operated, like Forest Grove Transfer Station.

Metro staff is not aware of excessive complaints or impacts on the surrounding neighborhood during the term of the current franchise aside from this comment received during the public comment period. The operator’s experience and track record leads staff to conclude that it is unlikely that Forest Grove Transfer Station would adversely impact the surrounding neighborhood.

Metro has conducted 46 site inspections at Forest Grove Transfer Station from January 1, 2009 to date. Staff has found the facility to be a well-run operation with no observable reason to suspect impending problems or issues. Forest Grove Transfer Station is currently in compliance with its Metro issued franchise (F-004-08F) and non-system license (N-010-16C). Metro issued one notice of violation during the franchise term (NOV-401-17). The facility delivered 11 loads (297.03 tons) of putrescible waste generated within the Metro region to Riverbend Landfill on April 3 and 4, 2017, violating a condition of the non-system license which prohibited transfer of waste to Riverbend Landfill after April 1, 2017. Metro issued a \$5,739 civil penalty that was paid in full.

DEQ and the city of Forest Grove have reported that there are no current enforcement or compliance issues associated with this site.

The following comments were received as part of the public comment period. Comments are listed in the order they were received:

From: Annalisa Ames
To: [SWICC](#)
Subject: Renewal support
Date: Monday, August 5, 2019 11:07:31 AM

To whom it may concern,

We support the renewal of WM’s Forest Grove transit center.

Our son loves driving by and seeing all the trucks. It is also very convenient to drop off extra recycling, such as cardboard as needed.

Regards,
Annalisa & Gene Ames

Public comment report

Attachment 2 to Staff Report for Resolution No. 19-5024



From: James Vance
To: [SWICC](#)
Cc: [REDACTED]
Subject: Forest Grove transfer station renewal application
Date: Wednesday, August 28, 2019 7:39:00 PM

Joanna Dyer

I would like to submit comments pertaining to the renewal of the franchise for the Forest Grove waste transfer facility.

I am a resident of Forest Grove and reside in the old town section of city which is adjacent to the waste transfer facility. Prior to the commencement of the current facility the site was used and occupied by the company that provided waste collection services for the Forest Grove area. The location was essentially used as a parking facility for a handful of trucks and equipment used to provide service in this area. I'm sure that when the current waste transfer operation was commenced, no one, especially the adjacent residential citizens had any idea that the operation would evolve from a local waste collection service into a regional hub. While the property is zoned General Industrial and the operation of a transfer station is permitted, I don't think that this type of facility would be allowed to be located adjacent to a residential area today. Perhaps someone from metro should visit the site and evaluate the proximity to the residences which were here long before the transfer facility began operation.

The facility, while making an attempt to be a friendly neighbor, is quite disruptive to the adjacent residents. There are frequent noises originating from the facility from early morning into the evening that makes the peaceful enjoyment of my home difficult. I've been awakened as early as 4:00 am to the sound of air ratchets making repairs or changing tires, and the sound of backup alarms and the sounds of dumping operations continue throughout the day. The location of this facility within view of my home has certainly negatively affected the value of my property.

This facility appears to be handling waste collection and transfer operations from areas well outside of the local area. Forest Grove is at the far west boundary of the metro footprint, which requires waste to be hauled from as far away as the Beaverton area to Forest Grove and then transferred to its ultimate disposal site. The transfer station should be located midway between the Beaverton area and Forest Grove. I seriously doubt that a facility like this would ever be permitted to operate this close to residences. The other two waste transfer facilities that I am aware of in northwest Portland and Oregon City are in actual industrial areas, not adjacent to residential property.

I recommend that serious consideration be given to the relocation of this facility to the _ industrial area in Forest Grove south of hwy 47, or more ideally to a location closer to the center point of its service area. Metro should issue a one year extension to operate at its current location, with the stipulation that the transfer facility be relocated.

Please advise me of the date and time that the Metro Council will be meeting to consider renewing this franchise.

Respectfully submitted

James Vance
[REDACTED] 16th Ave
Forest Grove, OR. 97116
503-[REDACTED]
[REDACTED]

Agenda Item No. 5.4

Resolution No. 19-5025, For the Purpose of Approving a
Solid Waste Facility Franchise Renewal Application and
Authorizing Waste Management of Oregon dba Troutdale
Transfer Station to Operate a Transfer Station

Public Hearing

Metro Council Meeting
Thursday, October 31, 2019
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE SOLID	)	RESOLUTION NO. 19-5025
WASTE FACILITY FRANCHISE RENEWAL)	
APPLICATION OF WASTE MANAGEMENT OF	)	Introduced by Acting Chief Operating
OREGON, INC., AND AUTHORIZING THE CHIEF	)	Officer Andrew Scott in concurrence with
OPERATING OFFICER TO ISSUE A RENEWED	)	Council President Lynn Peterson
SOLID WASTE FACILITY FRANCHISE TO)	
OPERATE TROUTDALE TRANSFER STATION)	

WHEREAS, Metro Code Section 5.01.150 states that a Metro Solid Waste Facility Franchise is required for any person owning or controlling a facility that operates a transfer station; and

WHEREAS, Waste Management of Oregon, Inc. holds Metro Solid Waste Facility Franchise Number F-001-08I to operate Troutdale Transfer Station, which will expire on December 31, 2019; and

WHEREAS, Waste Management of Oregon, Inc. filed a complete application seeking a renewal of its Metro Solid Waste Facility Franchise pursuant to Metro Code Section 5.01.210(a); and

WHEREAS, Metro Council adopted Resolution No. 18-1426 to establish a framework for allocating the region's putrescible waste tonnage to privately-owned transfer stations beginning in 2020; and

WHEREAS, beginning in 2020, Metro will allocate the region's putrescible waste tonnage to privately-owned transfer stations in accordance with Metro's tonnage allocation methodology; and

WHEREAS, Waste Management of Oregon, Inc.'s putrescible waste tonnage allocation amount may change during the term of the Metro Solid Waste Facility Franchise in accordance with Metro's tonnage allocation methodology; and

WHEREAS, Metro Council adopted the 2030 Regional Waste Plan via Ordinance No. 19-1431, which may require future amendments to the Metro Solid Waste Facility Franchise to implement the Plan; and

WHEREAS, Waste Management of Oregon, Inc. does not propose to alter any other activities that already occur at its transfer station site; and

WHEREAS, the Metro Council finds that the proposed Metro Solid Waste Facility Franchise renewal is in the public interest and meets the criteria set forth in Metro Code Section 5.01.180; now therefore

BE IT RESOLVED that the Metro Council:

1. Approves the Metro Solid Waste Facility Franchise application for Waste Management of Oregon, Inc. to operate Troutdale Transfer Station subject to the terms, conditions and limitations contained in Exhibit A.
2. Authorizes the Chief Operating Officer to issue to Waste Management of Oregon, Inc. a renewed Metro Solid Waste Facility Franchise for Troutdale Transfer Station substantially similar to the one attached as Exhibit A.
3. Authorizes the Chief Operating Officer to amend the Metro Solid Waste Facility Franchise as necessary without further Council action in order to allocate putrescible tonnage in accordance with Metro's tonnage allocation methodology based on Metro's solid waste tonnage forecast.

ADOPTED by the Metro Council this ____ day of October 2019.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney



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

METRO SOLID WASTE FACILITY FRANCHISE

No. F-001-20

FRANCHISEE:	FACILITY NAME AND LOCATION:
Waste Management of Oregon, Inc. 7227 NE 55 th Avenue Portland, Oregon 97218 Phone: (503) 667-5264	Troutdale Transfer Station 869 NW Eastwind Drive Troutdale, Oregon 97060 Phone: (503) 667-5264
OPERATOR:	PROPERTY OWNER:
Waste Management of Oregon, Inc. 7227 NE 55 th Avenue Portland, Oregon 97218 Phone: (503) 667-5264	TDK Corp. 333 NE 3rd Gresham, Oregon 97030 Phone: (503) 665-3860

ISSUED BY METRO:

Roy W. Brower, Interim Property and Environmental Services Director

Date

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1.0	ISSUANCE	
1.1	Corporate affiliation	Waste Management, Inc. 1001 Fannin, Suite 4000 Houston, Texas 77002
1.2	Contact	Nicholas Godfrey Phone: (971) 261-4008 E-mail: NGodfrey@wm.com
1.3	Term	January 1, 2020 to December 31, 2024, unless amended, suspended or revoked as provided in this franchise.
1.4	Renewal	The franchisee may apply for a franchise renewal as provided in Metro Code Chapter 5.01.
1.5	Facility name and mailing address	Troutdale Transfer Station 869 NW Eastwind Drive Troutdale, Oregon 97060
1.6	Facility premises description	Tax Lot Identification No. 1N3E27A-00103, City of Troutdale, Multnomah County, State of Oregon. Metro may inspect the facility site and any areas directly related to the transfer station operations as per Section 13.3.
1.7	Permission to operate	The property owner consents to the use of the property as a transfer station by the franchisee.

2.0	CONDITIONS AND DISCLAIMERS	
2.1	Guarantees	This franchise does not vest any right or privilege in the franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise.
2.2	Non-exclusive franchise	This franchise does not limit Metro from granting other solid waste franchises within Metro's jurisdictional boundary.
2.3	Property rights	This franchise does not convey any property rights in either real or personal property.
2.4	Amendment	Except as provided in Section 12.0, no amendment is effective unless approved by the Metro Council.
2.5	No recourse	The franchisee will have no recourse against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement

		of the franchise or in the event Metro determines that the franchise or any part thereof is invalid.
2.6	Indemnification	The franchisee must indemnify Metro, the Council, the Chief Operating Officer and any of Metro’s employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the granting of this franchise or the franchisee's performance of or failure to perform any of its obligations under the franchise or Metro Code Chapter 5.01, including without limitation patent infringement and any claims or disputes involving subcontractors.
2.7	Waivers	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 12.0 and be in writing and signed by Metro.
2.8	Effect of waiver	Waiver of a term or condition of this franchise does not waive nor prejudice Metro’s right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.9	Enforceability	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise will not be affected.
2.10	Franchise not a waiver	This franchise does not relieve any owner, operator or the franchisee from the obligation to obtain all required permits, franchises or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.11	Franchise not limiting	This franchise does not limit the power of a federal, state or local agency to enforce any provision of law relating to the facility.
2.12	Definitions	<ol style="list-style-type: none"> 1. “Mixed Non-Putrescible Waste” means a mixture of more than one type of non-putrescible waste, including commingled recyclables other than residential curbside recyclable material. This category includes construction and demolition waste but excludes cleanup materials, source-separated recyclable material, special waste, land clearing debris and yard debris. 2. Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.00.

3.0	AUTHORIZATIONS	
3.1	General conditions on solid waste	The franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.

3.2	General conditions on activities	The franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.
3.3	Acceptance and management of putrescible solid waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 13.2. The franchisee also is authorized to accept putrescible waste for material recovery. 2. The franchisee must receive, manage, store, reload and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight, covered containers or within covered transport trailers. 3. The franchisee is authorized to accept putrescible waste generated inside the Metro region only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
3.4	Acceptance and management of mixed non-putrescible solid waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept mixed non-putrescible solid waste from all customers including public self-haul for material recovery. 2. The franchisee must receive, sort, store, reload and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover prior to processing, within 12 hours of receipt or by the end of the business day, whichever is earlier.
3.5	Material recovery required	<ol style="list-style-type: none"> 1. The franchisee must perform material recovery on mixed non-putrescible wastes at no less than the minimum level stipulated in Metro Code Chapter 5.01 or must reload and transfer such waste to a facility authorized by Metro to perform material recovery. 2. The franchisee must ensure that the facility is designed and operated so that materials are recovered in a timely manner and that the reloading and transfer of non-putrescible waste to a Metro-authorized material recovery facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery. 3. The franchisee must take quarterly samples of processing residual, when generated at the facility, that are statistically valid and representative of the facility's residual. Each sample required by this section shall weigh at least 300 pounds.
3.6	Management of processing residual	The franchisee must store, reload and transfer all non-putrescible waste processing residual on an impervious surface and inside a roofed building

	from material recovery	that is enclosed on at least three sides or alternatively, inside watertight, covered containers or within covered transport trailers.
3.7	Acceptance of source-separated recyclable materials	<ol style="list-style-type: none"> 1. The franchisee must provide a place for collecting source-separated recyclable materials on the facility premises. 2. The franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.
3.8	Acceptance of yard debris	The franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce odors detectable beyond the boundaries of the facility. The franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro.
3.9	Acceptance of source-separated food waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept source-separated food waste for reloading to an authorized facility for composting, anaerobic digestion or other resource recovery process as described in an operating plan and approved in writing by Metro. 2. Notwithstanding subsection 3.9.1 above, the Chief Operating Officer may amend this franchise as described in section 12.0 to require the franchisee to accept source-separated food waste. 3. If the franchisee accepts source-separated food waste, then the franchisee must: <ol style="list-style-type: none"> (a) Reload and remove all source-separated food waste from the site in a timely manner so that it does not reach a state of decomposition sufficient to produce odors detectable beyond the boundaries of the facility; (b) Protect the quality of source-separated food waste such that it is suitable for composting, anaerobic digestion or other resource recovery process that is approved in writing by Metro; and (c) Transport all source-separated food waste to a Metro-authorized facility for recovery.
3.10	Acceptance of untreated wood	The franchisee is authorized to accept, for processing and reloading, source-separated, untreated and unpainted wood waste, for example untreated lumber and wood pallets. The franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro.

3.11	Acceptance of painted and treated wood	The franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro. The franchisee must not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock or any other product unless otherwise described in an operating plan and approved in writing by Metro.
3.12	Acceptance of electronics devices	The franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse, recycling or disposal as required by the Oregon Department of Environmental Quality (DEQ).
3.13	Acceptance of inert material	The franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer and other similar functions related to preparing these materials for useful purposes.
3.14	Production of hogged fuel	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept and process only untreated wood, painted wood and incidental quantities of treated wood for delivery to facilities with industrial boilers for use as hogged fuel. 2. The franchisee is prohibited from mixing any other solid waste with the wood wastes described above in subsection 3.14.1 for the production of hogged fuel.

4.0	LIMITATIONS AND PROHIBITIONS	
4.1	Tonnage allocation	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept putrescible waste generated inside the Metro region as provided in this franchise. 2. By January 1 of each year, Metro will amend this franchise to establish an annual tonnage allocation amount for the franchisee. 3. Metro will determine the tonnage allocation amount in accordance with allocation methodology provided in Metro Code Chapter 5.01 and applicable administrative rules. 4. For calendar year 2020, beginning on January 1 and ending December 31, 2020, the franchisee is authorized to accept up to XX,XXX tons of putrescible waste generated inside the Metro region.
4.2	Waste hauler access	<p>It is in the public's best interest that transfer stations located inside the Metro region maintain adequate capacity to accommodate solid waste generated within the region and provide adequate access to waste haulers. Therefore:</p> <ol style="list-style-type: none"> 1. The franchisee must not accept solid waste generated outside the Metro region if to do so would limit the franchisee from accepting

		<p>any putrescible or non-putrescible waste generated inside the Metro region;</p> <p>2. The franchisee must not deny access to any unaffiliated waste hauler without due cause or written notice 30-days in advance. Due cause includes, but is not limited to, load contamination, failure to pay or risk of exceeding the franchise tonnage allocation; and</p> <p>3. Metro may require the franchisee to provide a written explanation of its rationale if the facility denies access or refuses service to a waste hauler.</p>
4.3	Prohibited waste	The franchisee must not knowingly receive, process, reload or dispose of any solid waste not authorized by this franchise. The franchisee must not knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; explosives; or any waste prohibited by DEQ.
4.4	Prohibition on mixing	The franchisee must not mix different waste types unless such mixing is described in an operating plan and approved in writing by Metro.
4.5	Prohibition of size reduction on non-putrescible waste	The franchisee must not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, processing residual consolidation or loading operations, and such size reduction is described in an operating plan and approved in writing by Metro.
4.6	No disposal of recyclable materials	The franchisee must not transfer source-separated recyclable materials to a disposal site including, without limitation, landfills and incineration facilities, without written permission from Metro and DEQ.
4.7	Composting prohibited	The franchisee must not keep yard debris on site long enough for more than negligible biological decomposition to begin.
4.8	Limits not exclusive	This franchise will not be construed to limit, restrict, curtail or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

5.0	REGIONAL WASTE PLAN	
5.1	Regional Waste Plan	1. Metro plans, manages and oversees the region's solid waste system to achieve the goals and actions outlined in the 2030 Regional Waste Plan.

		2. Metro may amend this franchise and establish new requirements for the franchisee to achieve the goals and actions of the 2030 Regional Waste Plan.
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6.0	OPERATING CONDITIONS	
6.1	General performance standards	<p>The franchisee must operate in a manner that meets the following general performance standards:</p> <ol style="list-style-type: none"> 1. Environment. The franchisee must design and operate the facility to avoid undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution and improper acceptance and management of hazardous waste, asbestos and other prohibited wastes. 2. Health and safety. The franchisee must design and operate the facility to avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris. 3. Nuisances. The franchisee must design and operate the facility to avoid nuisance conditions including, but not limited to, litter, dust, odors and noise.
6.2	Qualified operator	<ol style="list-style-type: none"> 1. The franchisee must, during all hours of operation, provide an operating staff employed by the facility that is qualified and competent to carry out the functions required by this franchise and to otherwise comply with Metro Code Chapter 5.01. 2. Facility personnel, as relevant to their job duties and responsibilities, must be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan. 3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.
6.3	Fire prevention	<p>The franchisee must provide fire prevention, protection and control measures including, but not limited to:</p> <ol style="list-style-type: none"> 1. Adequate water supply for fire suppression; and 2. The isolation of potential heat sources and/or flammables from processing and storage areas.
6.4	Adequate vehicle accommodation	<p>The franchisee must:</p> <ol style="list-style-type: none"> 1. Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. The franchisee must maintain access roads to allow the orderly egress and ingress of

		<p>vehicular traffic when the facility is in operation, including during inclement weather.</p> <ol style="list-style-type: none"> Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles must not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances. Post signs to inform customers not to queue on public roadways. Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site covering and uncovering of loads.
6.5	Managing prohibited wastes	<ol style="list-style-type: none"> The franchisee must reject prohibited waste upon discovery and must properly manage and dispose of prohibited waste when unknowingly received. The franchisee must implement a load-check program to prevent the acceptance of prohibited waste. This program must include at a minimum: <ol style="list-style-type: none"> Visual inspection. As each load is tipped, a qualified operator must visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise. Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas must be covered and enclosed to prevent leaking and contamination. Record maintenance. The franchisee must maintain records of the training of personnel in the recognition, proper handling and disposition of prohibited waste and make those records available for review by Metro. Upon discovery, the franchisee must remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the franchisee unknowingly receives must be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by DEQ or local government.
6.6	Storage and exterior stockpiles	<p>The franchisee must:</p> <ol style="list-style-type: none"> Manage, contain and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards; Maintain storage areas in an orderly manner and keep the areas free of litter; Position exterior stockpiles within footprints identified on the facility site plan or operating plan; and

		<p>4. Not stockpile recovered or source-separated materials for longer than 180 days.</p>
6.7	Dust, airborne debris and litter	<p>The franchisee must operate the facility in a manner that controls and minimizes the generation of dust, airborne debris and litter, and must prevent its migration beyond property boundaries. The franchisee must:</p> <ol style="list-style-type: none"> 1. Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit; 2. Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit; 3. Maintain and operate all access roads and receiving, processing, storage and reload areas in such a manner as to control and minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site; 4. Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation; 5. Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; and 6. Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, must be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Metro Code Chapter 5.09.
6.8	Odor	<ol style="list-style-type: none"> 1. The franchisee must operate the facility in a manner that controls and minimizes the generation of odors that are detectable off-site. 2. The franchisee must establish and follow procedures in the operating plan for minimizing odor at the facility.
6.9	Vectors (e.g. birds, rodents, insects)	<ol style="list-style-type: none"> 1. The franchisee must operate the facility in a manner that is not conducive to harboring rodents, birds, insects or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another. 2. If vectors are present or detected at the facility, the franchisee must implement vector control measures.

6.10	Noise	The franchisee must operate the facility in a manner that avoids controls and minimizes any noise sufficient to cause adverse off-site impacts and meets applicable regulatory standards and land-use regulations.
6.11	Water contaminated by solid waste and solid waste leachate	<p>The franchisee must operate the facility consistent with an approved DEQ stormwater management plan or equivalent and must:</p> <ol style="list-style-type: none"> 1. Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; and 2. Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state and federal laws and regulations.
6.12	Access control	<ol style="list-style-type: none"> 1. The franchisee must control access to the facility as necessary to prevent unauthorized entry and dumping. 2. The franchisee must maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.
6.13	Signage	<p>The franchisee must post signs at all public entrances to the facility. The signs must comply with local government signage regulations. These signs must be easily and readily visible and legible from off-site during all hours and must contain at least the following information:</p> <ol style="list-style-type: none"> 1. Name of the facility; 2. Address of the facility; 3. Emergency telephone number for the facility; 4. Operating hours during which the facility is open for the receipt of authorized waste; 5. Fees and charges; 6. Metro's name and telephone number (503) 234-3000; 7. A list of authorized and prohibited wastes; 8. Vehicle / traffic flow information or diagram; 9. Covered load requirements; and 10. Directions not to queue on public roadways.
6.14	Complaints	<ol style="list-style-type: none"> 1. The franchisee must respond to all complaints in timely manner including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic and vectors, and must keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint. 2. If the facility receives a complaint, the franchisee must:

		<p>(a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts, whether successful or unsuccessful; and</p> <p>(b) Log all such complaints as provided by the operating plan. The franchisee must retain each log entry for one year and it must be available for inspection by Metro.</p>
6.15	Access to franchise document	The franchisee must maintain a copy of this franchise on the facility's premises in a location where facility personnel and Metro representatives have ready access to it.
6.16	Employment standard	The franchisee must be in compliance with Oregon's "ban the box" law (ORS 659A.360) which makes it unlawful for an employer to inquire about criminal convictions before the interview stage of hiring. The franchisee must maintain a copy of the facility's employment application on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.

7.0	OPERATING PLAN	
7.1	Plan compliance	The franchisee must operate the facility in accordance with an operating plan approved in writing by Metro. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this franchise. The franchisee may amend or revise the operating plan from time to time, subject to written approval by Metro.
7.2	Plan maintenance	The franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures and requirements. The franchisee must submit amendments and revisions of the operating plan to Metro for written approval prior to implementation.
7.3	Access to operating plan	The franchisee must maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
7.4	Procedures for inspecting loads	<p>The operating plan must establish:</p> <ol style="list-style-type: none"> 1. Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes; 2. Procedures for identifying incoming and outgoing loads for waste classifications; 3. A set of objective criteria for accepting and rejecting loads; and 4. An asbestos testing protocol for all materials that appear to contain asbestos.

7.5	Procedures for mixing waste types	<p>The operating plan must establish:</p> <ol style="list-style-type: none"> 1. Circumstances under which waste types will be mixed; and 2. Procedures for record keeping and reporting for mixed outbound loads.
7.6	Procedures for processing and storage of loads	<p>The operating plan must establish procedures for:</p> <ol style="list-style-type: none"> 1. Processing authorized solid wastes; 2. Reloading and transfer of authorized solid wastes; 3. Managing stockpiles to ensure that they remain within the authorized weights, volumes and pile heights; 4. Storing authorized solid wastes; and 5. Minimizing storage times and avoiding delay in processing of authorized solid wastes.
7.7	Procedures for managing prohibited wastes	<p>The operating plan must establish procedures for managing, reloading and transferring to appropriate facilities or disposal sites any prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan must establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.</p>
7.8	Procedures for odor prevention	<p>The operating plan must establish procedures for controlling and minimizing odors generated at the facility from being detected off the premises of the facility. The plan must include:</p> <ol style="list-style-type: none"> 1. A management plan that the franchisee will use to monitor and manage odors of any derivation including odorous loads delivered to the facility; and 2. Procedures for receiving and recording odor complaints, immediately investigating all odor complaints to determine the cause of odor emissions and remedying promptly all odor problems at the facility.
7.9	Procedures for dust prevention	<p>The operating plan must establish procedures for controlling and minimizing dust from blowing off the premises of the facility. The plan must include:</p> <ol style="list-style-type: none"> 1. A management plan that the franchisee will use to monitor and manage dust of any derivation; and 2. Procedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions and remedying promptly all dust problems at the facility.
7.10	Procedures for emergencies	<p>The operating plan must establish procedures that the franchisee will follow in case of fire or other emergency.</p>

7.11	Procedures for complaints	<p>The operating plan must establish procedures for managing complaints.</p> <ol style="list-style-type: none"> 1. For every complaint received (for example odor, dust, vibrations and litter), the franchisee must record: <ol style="list-style-type: none"> (a) The nature of the complaint; (b) The date the complaint was received; (c) The name, address and telephone number of the person or persons making the complaint; and (d) Any actions taken by the operator in response to the complaint, whether successful or unsuccessful. 2. The franchisee must make records of such information available to Metro upon request. The franchisee must retain each complaint record for a period of not less than one year.
7.12	Closure protocol	<ol style="list-style-type: none"> 1. The franchisee must establish protocol for closure and restoration of the site in the event of a cessation of operations as provided in Metro Code Chapter 5.01. 2. The plan must include protocol for: <ol style="list-style-type: none"> (a) Short-term closure (duration of time that is more than two consecutive business days but less than 120 days in length); and (b) Long-term closure (duration of time that is 120 consecutive days or more in length). 3. The franchisee must give at least 24-hour notice to Metro prior to the short-term closure of the facility. 4. The franchisee must give at least 90 days written notice to Metro prior to the long-term closure of the facility.

8.0	FEES AND RATES	
8.1	Annual fee	The franchisee must pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
8.2	Rates	<ol style="list-style-type: none"> 1. The rates charged by the franchisee for accepting solid waste are not subject to regulation by Metro unless the Metro Council adopts an ordinance that establishes Metro's rate regulation authority. 2. Notwithstanding the provision above, the rates charged by the franchisee must not exceed the rates posted at the facility as described in Section 6.13.

8.3	Metro fee and tax imposed on disposal	The franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.
8.4	Metro community enhancement fee imposed on waste received	The franchisee must collect and remit to Metro a community enhancement fee, as provided in Metro Code Chapter 5.06, in an amount equal to \$1.00 per ton for all putrescible waste including food waste and residential yard debris mixed with food waste. The franchisee must remit the community enhancement fees to Metro on a monthly basis in conjunction with fees remitted in Section 8.3.

9.0	RECORD KEEPING AND REPORTING	
9.1	Record keeping requirements	For all solid waste and materials the franchisee is authorized to accept under Section 3.0, the franchisee must keep and maintain accurate records of the amount of authorized materials the franchisee accepts, recovers, recycles, reloads and disposes. These records must include the information specified in the Metro document titled, <u>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees and Parties to Designated Facility Agreements.</u>
9.2	Reporting requirements	The franchisee must transmit to Metro records required under Section 9.0 no later than fifteen days following the end of each month in a format prescribed by Metro.
9.3	Material recovery reporting	The franchisee must provide the results of its quarterly sampling of processing residual, as provided in Section 3.5, to Metro as a component of its monthly report no later than fifteen days following the end of the each quarter in a format prescribed by Metro.
9.4	Account number listing	Within five business days of Metro's request, the franchisee must provide Metro with a listing that cross-references the account numbers used in the transaction database with the company's name and address.
9.5	Transactions based on scale weights	Except for minimum fee transactions for small, lightweight loads, the franchisee must record each inbound and outbound transaction electronically based on actual and accurate scale weights using the franchisee's on-site scales.
9.6	DEQ submittals	The franchisee must provide Metro with copies of all correspondence, exhibits or documents submitted to DEQ relating to the terms or conditions of DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
9.7	Copies of enforcement actions provided to Metro	The franchisee must ensure Metro receives copies of any notice of violation or noncompliance, citation or any other similar enforcement

		actions issued to the franchisee by any federal, state or local government (other than Metro) related to the operation of the facility.
9.8	Unusual occurrences	<ol style="list-style-type: none"> 1. The franchisee must keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. 2. The franchisee must notify Metro within 24 hours of any breakdown of the franchisee's equipment if the breakdown will substantially impact the facility's ability to comply with this franchise, with Metro Code or which will create off-site impacts. 3. The franchisee must report any facility fires, accidents, emergencies and other significant incidents to Metro within 12 hours of the discovery of their occurrence. 4. The franchisee must report any long term or short term closures as provided in Section 7.12.
9.9	Changes in ownership	<ol style="list-style-type: none"> 1. Any change in control of the franchisee or the transfer of a controlling interest of the franchisee requires prior written notice to Metro. "Transfer of a controlling interest of the franchisee" includes without limitation the transfer of 10% or more of the ownership of the franchisee to or from a single entity. Metro may amend this franchise under Section 12.2 to require the new ownership of the franchisee to assume all the rights and obligations of this franchise. 2. The franchisee may not lease, assign, mortgage, sell or otherwise transfer control of the franchise unless the franchisee follows the requirements of Metro Code Chapter 5.01.

10.0	INSURANCE REQUIREMENTS	
10.1	General liability	The franchisee must carry the most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed operations. The franchisee's coverage will be primary as respects Metro.
10.2	Automobile	The franchisee must carry automobile insurance with coverage for bodily injury and property damage, and with limits not less than minimum of \$1,000,000 per accident or combined single limit.

10.3	Additional insureds	Metro, its elected officials, departments, employees, volunteers and agents must be named as ADDITIONAL INSUREDS on the Commercial General Liability policy. Franchisee must include the additional insured endorsement along with the certificate of insurance.
10.4	Workers' compensation insurance	<ol style="list-style-type: none"> 1. The franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law, and must comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. 2. The Workers' Compensation Insurance must meet Oregon statutory requirements including Employer's Liability with limits not less than \$1,000,000 per accident or disease. 3. The franchisee must provide Metro with certification of Workers' Compensation insurance including employer's liability. If the franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
10.5	Certificate of insurance	<ol style="list-style-type: none"> 1. The franchisee must provide Metro with a Certificate of Insurance complying with this Section 10. 2. The franchisee must list Metro as the certificate holder. 3. Upon insurance renewal, the franchisee must submit an updated certificate of insurance and the additional insured endorsement to Metro via email (SWICC@oregonmetro.gov).
10.6	Notification	The franchisee must give at least 30 days written notice to Metro of any lapse or proposed cancellation of insurance coverage.

11.0	ENFORCEMENT	
11.1	Authority vested in Metro	The power and right to regulate, in the public interest, the exercise of the privileges granted by this franchise is at all times vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against the franchisee.
11.2	No enforcement limitations	This franchise may not be construed to and does not limit, restrict, curtail or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor does this franchise limit or preclude Metro from adopting ordinances that regulate the health, safety or welfare of any person or persons within the Metro jurisdictional boundary, notwithstanding any incidental impact that such ordinances may have upon the terms of this franchise or the franchisee's operation of the facility.

11.3	Penalties	Each violation of a franchise condition is punishable by penalties as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation.
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12.0	AMENDMENT, SUSPENSION AND REVOCATION	
12.1	Amendment by Metro Council	<p>Except as provided in Section 12.2, the provisions of this franchise will remain in effect unless the Metro Council:</p> <ol style="list-style-type: none"> 1. Amends the Metro Code, amends the 2030 Regional Waste Plan or implements other legislation of broad applicability that affects the class of facilities of which this franchisee is a member; or 2. Adopts an ordinance or resolution amending this franchise to implement policy, code or other requirements such as the 2030 Regional Waste Plan.
12.2	Amendment, suspension or revocation by Metro	<p>The Chief Operating Officer may, at any time before the expiration date, amend, suspend or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ol style="list-style-type: none"> 1. Violation of the terms or conditions of this franchise, Metro Code or any applicable statute, rule or standard; 2. Changes in local, regional, state or federal laws or regulations that should be specifically incorporated into this franchise, such as Metro actions to implement new requirements from the 2030 Regional Waste Plan; 3. Failure to disclose fully all relevant facts; 4. A significant release into the environment from the facility; 5. Significant change in the character of solid waste received or in the operation of the facility; 6. Any change in ownership or control; 7. A request from the local government stemming from impacts resulting from facility operations; 8. A change of authorization request received from the franchisee; 9. Compliance history of the franchisee; and 10. Changes in the tonnage allocation based on new information, or changes in methodology, administrative rule or Metro Code.

13.0	GENERAL OBLIGATIONS	
13.1	Compliance with law	The franchisee must fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative rules adopted pursuant to Chapter 5.01, whether or not those provisions have been specifically mentioned or cited in this franchise. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility are deemed part of this franchise as if specifically set forth in this franchise. These conditions and permits include those cited within or attached as exhibits to the franchise document, any existing at the time the franchise is issued but not cited or attached, and any issued or amended during the term of the franchise.
13.2	Deliver waste to appropriate destinations	The franchisee must ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.
13.3	Right of inspection and audit	<ol style="list-style-type: none"> 1. The franchisee must allow Metro’s authorized representatives to access the facility and premises at any time during business hours, with or without advanced notice. For non-business hours, the franchise must allow access to Metro’s authorized representatives upon receiving advanced notice of not less than 24 hours. 2. Metro’s authorized representatives may take photographs, collect samples of materials and perform any inspection or audits as Metro considers appropriate. 3. Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the applicable confidentiality provisions in Section 13.4, Metro’s right to inspect includes the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the facility’s operation and its rates. 4. The franchisee must permit access to the facility premises to authorized representatives of Metro, including personnel on contract to Metro, to perform research at all times during business hours, with or without notice. The franchisee must provide: <ol style="list-style-type: none"> (a) Access to all areas where it generates, manages, stores and reloads waste, including without limitation to transfer vehicles; (b) Access to facility personnel and equipment to collect, sort, store and weigh waste; and (c) Access to a safe, covered location away from working areas and

		vehicle traffic on site where authorized representatives of Metro analyze waste and record data.
13.4	Confidential information	<ol style="list-style-type: none"> 1. The franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The franchisee must prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro will treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. 2. If Metro receives a public records request seeking disclosure of information identified as confidential by the franchisee, Metro will provide the franchisee with a courtesy notice of that request within five days of receipt of the request. 3. This Section 13.0 does not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. 4. Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, those representatives agree to continue to treat the information as confidential and make good faith efforts not to disclose the information.
13.5	Compliance by agents	The franchisee is responsible for ensuring that its agents and contractors comply with this franchise.

STAFF REPORT

FOR THE PURPOSE OF APPROVING THE SOLID WASTE FACILITY FRANCHISE RENEWAL APPLICATION OF WASTE MANAGEMENT OF OREGON, INC., AND AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED SOLID WASTE FACILITY FRANCHISE TO OPERATE TROUTDALE TRANSFER STATION

Date: October 17, 2019
Department: Property and Environmental
Services (PES)
Meeting Date: October 31, 2019

Prepared by: Joanna Dyer, 503-813-7550,
joanna.dyer@oregonmetro.gov
Presenters: Roy Brower and Joanna Dyer
Length: 15 minutes

ISSUE STATEMENT

Waste Management of Oregon Inc. seeks to renew its Metro solid waste facility franchise for Troutdale Transfer Station, a Metro-authorized transfer station located at 869 NW Eastwind Dr. in the city of Troutdale. Metro Code Section 5.01.210 requires the Metro Council to approve or deny a solid waste facility franchise renewal.

ACTION REQUESTED

Approve Resolution No. 19-5025 which will authorize the Chief Operating Officer to issue a renewed solid waste facility franchise to Waste Management of Oregon Inc. to operate Troutdale Transfer Station for a term of five years.

IDENTIFIED POLICY OUTCOMES

Approval of this resolution will support the goals of the 2030 Regional Waste Plan, the Business Food Waste Requirement and the Transfer System Configuration Policy. This staff report further describes these expected policy outcomes.

POLICY QUESTION

Should the Metro Council grant the Chief Operating Officer authority to renew the Metro solid waste facility franchise for Waste Management of Oregon Inc. to operate Troutdale Transfer Station according to the provisions of Metro Code Chapter 5.01.210 and as described in this resolution?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Approve the resolution as proposed to renew the Metro solid waste facility franchise for Waste Management of Oregon Inc. to operate Troutdale Transfer Station.
2. Amend the resolution to renew the franchise with different conditions other than those recommended by staff.
3. Do not approve Resolution No. 19-5025.

STAFF RECOMMENDATIONS

Staff recommends that Council adopt Resolution No. 19-5025 to approve the renewal of the solid waste facility franchise for Troutdale Transfer Station. If Council approves this resolution, the renewed franchise (F-001-20) will go into effect on January 1, 2020.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

A franchise term is typically five years. The current franchise became effective on January 1, 2009 and was set to expire December 31, 2013. Due to projects impacting the solid waste system including the Solid Waste Road Map and the expiration of Metro's disposal contract with Waste Management (which required that 90 percent of the Metro region's putrescible waste be disposed at a Waste Management landfill), the franchise term was extended by the Metro Council three times since 2013 resulting in the current term end date of December 31, 2019.

This franchise renewal is an opportunity to update and better align existing language for increased consistency as well as incorporate additional requirements that implement policy decisions made since the last renewal, such as the adoption of the 2030 Regional Waste Plan (Ordinance No. 19-1431), the Metro Transfer Station Configuration Policy (Resolution No. 16-4716) and the adoption of a Business Food Waste Requirement (Ordinance No. 18-1418). Metro staff propose changes to eight areas of the franchise, which are outlined below. References to specific franchise sections have been included when applicable. Franchisees had the opportunity to provide verbal and written feedback on the proposed changes, some of which resulted in additional modifications to the proposed language.

1. Begin implementation of the 2030 Regional Waste Plan

The proposed franchise includes a new section, Section 5.0, which authorizes Metro's Chief Operating Officer to amend the franchise for the purpose of implementing Council's policies advancing progress on the 2030 Regional Waste Plan actions.

All solid waste facilities within the region, including transfer stations, must operate in a manner that helps to advance progress towards achieving goals of the 2030 Regional Waste Plan (Action 12.6). The 2030 Regional Waste Plan provides the region with long-term policy and program direction for materials management and solid waste system planning efforts. While Metro implements the 2030 Regional Waste Plan primarily through cooperative working relationships among Metro, the Oregon Department of Environmental Quality (DEQ), local governments and the private sector, the plan contains actions that must be implemented throughout Metro's solid waste system.

2. Incorporate new tonnage allocation methodology

The proposed franchise has been updated to reflect a new tonnage allocation methodology that begins in 2020. The new methodology uses a percentage based approach that determines allocations based on Metro's annual solid waste forecast. The solid waste forecast is being finalized; therefore, there are placeholders in the proposed franchise where the number of tons will be included later. The tonnage amount for 2020 will be available before the franchise term begins and will be inserted prior to issuing the franchise. The Chief Operating Officer will continue Metro's long-standing practice of amending franchises each November to update the number of tons allocated for the following year.

3. Clarify the nature of the franchise

The proposed franchise has been updated to clarify that a Metro franchise is the grant of authority given by the Council to operate a transfer station as specified under Metro Code Chapter 5.01. This is a distinction from that of local governments which issue solid waste franchises that grant the right and responsibility to provide collection service in a specific area. There are solid waste companies that hold a Metro franchise and a local government franchise, which can cause confusion because the nature of these separate franchises is different. A Metro franchise is a regulatory permit and not a negotiated agreement.

To help clarify this important distinction, this proposed franchise has been updated to remove contract-like language. Franchisees retain the opportunity to contest provisions of the franchise and seek amendments through a change of authorization process per Metro Code 5.01.230, but Metro determines whether to approve or deny any change of authorization.

4. Incorporate operations and performance standards that advance equity

The proposed franchise includes a new requirement to advance progress on the 2030 Regional Waste Plan and the Property and Environmental Services Diversity, Racial Equity and Inclusion Work Plan goals. The franchise requires the franchisee to comply with Oregon’s “ban the box” law (ORS 659A.360) (Section 6.16). Oregon’s “ban the box” law makes it illegal for an employer to inquire about criminal convictions before the interview stage of hiring. This law removes barriers to employment for people convicted of crimes. Additional existing federal, state, and local provisions that advance equity may be incorporated in future franchise amendments.

5. Align franchises with the Food Waste Framework

The proposed franchise includes a new requirement to advance progress on the Business Food Waste Requirement. In a 2014 work session, the Metro Council reviewed the region’s current commercial food waste recovery efforts and staff introduced potential paths forward to ensure that the region has a stable and sustainable commercial food waste transfer and processing system for the long term. The Council confirmed its desire to accelerate the region’s recovery of commercial food waste and its wish to process that waste in or as close to the region as possible. The Council determined that in order to increase commercial food waste recovery and attract stable, local processing capacity, Metro should:

1. Require certain businesses to separate their food waste for recovery and eventually prohibit the disposal of food from businesses;
2. Determine how to efficiently collect and deliver food waste for processing; and
3. Secure local and stable processing capacity.

Based on Council direction, staff developed policies and initiatives to fulfill these objectives. To address the first objective, the Metro Council adopted Ordinance No. 18-1418 in July 2018 which added the Business Food Waste Requirement to Metro Code 5.10. Under this ordinance, each local government must require certain businesses in its jurisdiction to separate and recover food waste to be delivered to a facility authorized by Metro. Businesses in the first group (largest generators) will be required to begin separating food waste in March 2020, the second group in March 2021, and the third in September 2022. The adoption and implementation of this policy was a major step forward in developing a stable and sustainable food waste recovery system. As of the date of this report, 16 of the 21 local governments required to adopt the Business Food Waste Requirement have done so, two have received extensions and three have received a notice of non-compliance from Metro for not meeting the policy requirements. The city of Troutdale has not adopted the Business Food Waste Requirement and has received an extension until the end of October.

To address the need for an adequate waste transfer system to allow growth in the collection of commercial food waste in the region and provide equitable access to transfer services, Metro is seeking to expand its facilities’ capacity to accept this material as well as determine the role that private transfer facilities should play in helping to also provide this capacity. In order to expand system capacity for commercial food waste, staff recommends that the Metro Council require a transfer station with current or pending infrastructure in place to accept food waste for reload and transfer to an approved recovery facility, whereas a facility that does not have the necessary

infrastructure in place will not be subject to the same requirement. Troutdale Transfer Station will not be required to accept food waste at this time, but the franchise authorizes the Chief Operating Officer to amend the franchise to require the facility to accept food waste if necessary to implement the Council's policies.

6. Align confidentiality language with public records law

Section 13.4, Confidential information, has been updated to align with current public records law which has more restrictive timelines for responding to a requestor. Metro will provide a franchisee with a courtesy notice of a public records request within five days of receiving such a request. Metro has the legal obligation to determine if any information marked "confidential" by the franchisee is objectively confidential according to public records law.

7. Clarify franchise amendment process

Current franchise language states that the franchise can be amended by the Metro Council adopting an ordinance. Proposed language in Section 12.1(b) expands this authority to include amendment by resolution.

8. Streamline franchise language for modernization and consistency

A suite of non-substantive updates have been made to clarify existing requirements and to streamline authorization language within and across facility classes.

KNOWN OPPOSITION / SUPPORT / COMMUNITY FEEDBACK

Metro posted notice and provided an opportunity for the public to review and submit comments on the franchise application. The public notice was posted on Metro's website, mailed to approximately 75 property owners and residents within one-quarter mile of the proposed facility, and emailed to local community groups, neighborhood associations and various other parties that are generally interested in solid waste issues. The 30-day public comment period began on August 1, 2019, and closed on August 30, 2019.

Metro provided the applicant with a redline copy of the franchise that outlined the proposed changes. On July 31, 2019, Metro staff met with Troutdale Transfer Station staff to discuss these changes and to listen to their feedback.

Metro received one comment during the public comment period. The Senior Legal Counsel of Waste Management submitted a written comment on behalf of Troutdale Transfer Station outlining questions and concerns with the proposed franchise language. A detailed description of this written comment is provided in the *Public Comment Report* included as Attachment 2 to this staff report. No comments were received regarding the operation of the facility. On October 31, 2019, the Metro Council will hold a public hearing on this proposed franchise renewal. Written and verbal public comments will be accepted at the meeting, prior to the Council voting on the resolution.

LEGAL ANTECEDENTS

Pursuant to Metro Code 5.01.180, the Council must 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 Waste Plan;*

Staff finds that the proposed activity is consistent with the regional values and policies outlined in the 2030 Regional Waste Plan and specifically aligns with many of the goals of the plan, including goals 12, 13 and 16:

- **Goal 12:** Manage all garbage and recycling operations to reduce their nuisance, safety and environmental impacts on workers and the public.
 - **Goal 13:** Invest in communities that receive garbage and recyclables from the Metro region so that those communities regard solid waste facilities as assets.
 - **Goal 16:** Maintain a system of facilities, from small recycling drop-off depots to larger full-service stations, to ensure equitable distribution of and access to services.
- (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;*

Troutdale Transfer Station requested an increase in tonnage authorization in its renewal application, but did not request any significant change in authorization or activities at this facility. The effect of granting a renewed franchise would be to minimize significant disruption to the solid waste system with regard to the cost of solid waste recycling and disposal services for the residents of the region in 2020.

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

Metro staff is not aware of any facility incidents or operating procedures that have adversely affected the health, safety and welfare of Metro's residents in an unreasonable manner during the term of the current franchise. Staff finds it unlikely that the franchised operation will adversely affect the health, safety and welfare of Metro's residents due to the type of activity performed and the good compliance record of the operator. The facility is also regulated and monitored by Metro and DEQ.

- (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;*

Metro staff is not aware of any significant complaints or impacts on the surrounding neighborhood during the term of the current franchise. Staff finds it unlikely that Troutdale Transfer Station would unreasonably adversely impact the surrounding neighborhood due to the operator's experience and compliance record.

- (5) *Whether the applicant has demonstrated the strong likelihood that it will comply with all requirement 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, and regulations, ordinances, orders or permits pertaining in any manner to the proposed franchise.*

Metro has a long history with this facility and staff finds that the applicant is likely to comply with regulations and standards if the franchise is renewed.

ANTICIPATED EFFECTS

Approval of Resolution No. 19-5025 will authorize the Chief Operating Officer to renew the franchise for Waste Management of Oregon Inc. to operate Troutdale Transfer Station. In addition, the Metro Council authorizes the Chief Operating Officer to determine annual tonnage allocations using the tonnage allocation methodology adopted by administrative rule. The tonnage allocation for 2020 will be determined using a percentage based approach once the solid waste forecast is final in November. If approved, the proposed franchise becomes effective on January 1, 2020, and expires on December 31, 2024.

FINANCIAL IMPLICATIONS

As mentioned above, staff are developing administrative rules that will set forth a detailed process for determining and adjusting future tonnage allocations. Staff notes that this prescribed tonnage allocation process, beginning in 2020, may result in a different, to be determined, tonnage allocation for each of the region's transfer stations. Metro will adjust tonnage allocations for all privately-owned transfer stations and require that at least 40 percent of the region's wet waste tonnage flows to publicly-owned transfer stations (Metro Central and South). Therefore, approval of the proposed franchise is expected to have minimal impact to Metro's Solid Waste Fund operating costs and revenues.

As a result of future adjustments, individual Community Enhancement Committees might experience an increase or reduction in funds based on potential future tonnage shifts.

BACKGROUND

The applicant, Waste Management of Oregon Inc., is the owner and operator of Troutdale Transfer Station, an existing solid waste facility located at 869 NW Eastwind Drive in Troutdale (Metro Council District 1). Troutdale Transfer Station commenced operation in 1996 as a material recovery facility. The facility currently holds a Metro-issued franchise (F-001-08I) to operate a transfer station authorized to receive putrescible waste, perform material recovery on non-putrescible waste and accept source-separated recyclable materials. Under the terms of the existing franchise, Troutdale Transfer Station is authorized to accept up to 79,880 tons of putrescible waste generated from within the Metro region in calendar year 2019. Troutdale Transfer Station also holds a solid waste disposal site permit for a transfer station and material recovery facility issued by DEQ (Permit No. 459). The applicant is well known to Metro as an operator of a Metro-franchised solid waste facility and as a long-standing solid waste management company in the Metro area. The applicant has extensive experience in recycling, solid waste collection, transfer and disposal. Staff concludes that the applicant is fully qualified to operate and manage this facility in a competent and efficient manner.

In addition to its franchise, Troutdale Transfer Station has three non-system licenses that authorize it to transport Metro area waste to the following facilities outside of the region: Columbia Ridge Landfill in Arlington, Oregon and Coffin Butte Landfill in Corvallis, Oregon (N-001-17B), Dirt Hugger in Dallesport, Washington (N-001-17(2)) and Recology Oregon Compost in North Plains, Oregon (N-001-16(3)).

Metro has conducted 54 site inspections at Troutdale Transfer Station from January 1, 2009 to date. Staff has found the facility to be a well-run operation with no observable reason to suspect impending problems or issues. Metro issued two notices of violation during the current franchise term. On May 11, 2012, the facility delivered a 20.83 ton load of unprocessed mixed waste to the Riverbend Landfill where the load was disposed without processing for recovery (NOV-312-12). The facility violated its franchise when it failed to perform material recovery on unprocessed non-putrescible waste generated within the Metro region, violated its non-system license when it delivered non-putrescible waste to Riverbend Landfill and violated Code by failing to perform material recovery. The facility was issued a \$50 civil penalty, which was paid in full, and transfer station staff were retrained. Between December 26 and December 31, 2018 the facility exceeded its non-system license calendar year 2018 tonnage allocation for yard debris mixed with food waste delivered to Recology Oregon Compost by 191 tons (NOV-415-19). The facility was issued a \$289.20 civil penalty, which was paid in full. Troutdale Transfer Station is currently in compliance with its Metro issued non-system license and franchise.

On December 4, 2017, Troutdale Transfer Station was issued a Warning Letter with Opportunity to Correct from DEQ Stormwater for failing to fully implement a stormwater plan in accordance with its permit; failing to perform representative sampling; and causing waste to be placed in a location where

such wastes are likely to be carried to waters of the state. Troutdale Transfer Station took corrective actions and the enforcement action was considered closed as of September 10, 2019.

DEQ and City of Troutdale have reported that there are no current solid waste enforcement or compliance issues associated with this site.

On July 23, 2019, the applicant submitted to Metro a complete solid waste facility franchise application accompanied by payment of the appropriate application fee of \$500. The applicant requested an increase in tonnage authorization in its renewal application, but did not request any significant change in authorization or activities at this facility.

Tonnage Allocation

A major component of the 2030 Regional Waste Plan is to take a broad look at the role, configuration and services offered by publicly and privately-owned transfer stations. In 2016, under Council's direction, Metro established a transfer system configuration policy to:

1. Ensure that the region's transfer system provides maximum public benefit;
2. Maintain the current configuration of publicly and privately-owned transfer stations;
3. Ensure that an adequate amount of wet waste flows to publicly-owned stations (at least 40 percent of the region's wet waste);
4. Limit the amount of wet waste that any one company may accept for transfer within the region to no more than 40 percent of the tonnage reserved for private transfer stations; and
5. Improve rate transparency.

The configuration policy also seeks to promote more efficient off-route transport of waste to reduce greenhouse gas emissions and provide opportunities for small, locally-based businesses to participate in the region's solid waste system.

The transfer system configuration policy shifted Metro away from its historical "tonnage cap" approach, in which the Metro Council had established annual facility tonnage limits, to a more systematic and predictable "tonnage allocation" system, in which tonnage authority is proportionally allocated to privately-owned stations each year. Beginning in 2020, Metro will determine and adjust tonnage allocations for all privately-owned transfer stations in the region, including Troutdale Transfer Station, by applying a percentage-based allocation methodology currently being developed using the allocation framework that Metro Council adopted in November 2018 via Ordinance No. 18-1426.

This new approach to the wet waste tonnage allocation methodology includes reserving 40 percent of the region's wet waste tonnage for Metro's publicly-owned facilities and allowing the remaining 60 percent to be allocated in accordance with the finalized methodology. Staff is proposing a phased implementation of the new allocation methodology, where the 2020 allocations are intended to limit disruption to the system and help transition to full implementation of the new methodology in 2021.

Beginning in 2021, the allocation methodology will include a "base share" component for system stability and a "goal share" component to more directly support Metro's equity, service and environmental goals from the 2030 Regional Waste Plan. The goal shares will be determined by evaluating each transfer station's efforts to support and achieve Regional Waste Plan goals such as more efficient off-route travel, increased diversity of workers, paying living wages, addressing community concerns, providing reasonable, consistent and responsive rates and other goals that Council may deem to be important.

The forecasted tonnage for 2020 is projected to generally decrease relative to 2019. This projected decrease in tonnage, along with the addition of two new transfer stations in the region, make it infeasible to replicate current transfer station tonnage allocations in 2020 while maintaining Metro's 40 percent reserve.

ATTACHMENTS

- A. Exhibit A to Resolution No. 19-5023: Draft franchise F-001-20
- B. Attachment 1 to Staff Report: Images
- C. Attachment 2 to Staff Report: Public comment report

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5025

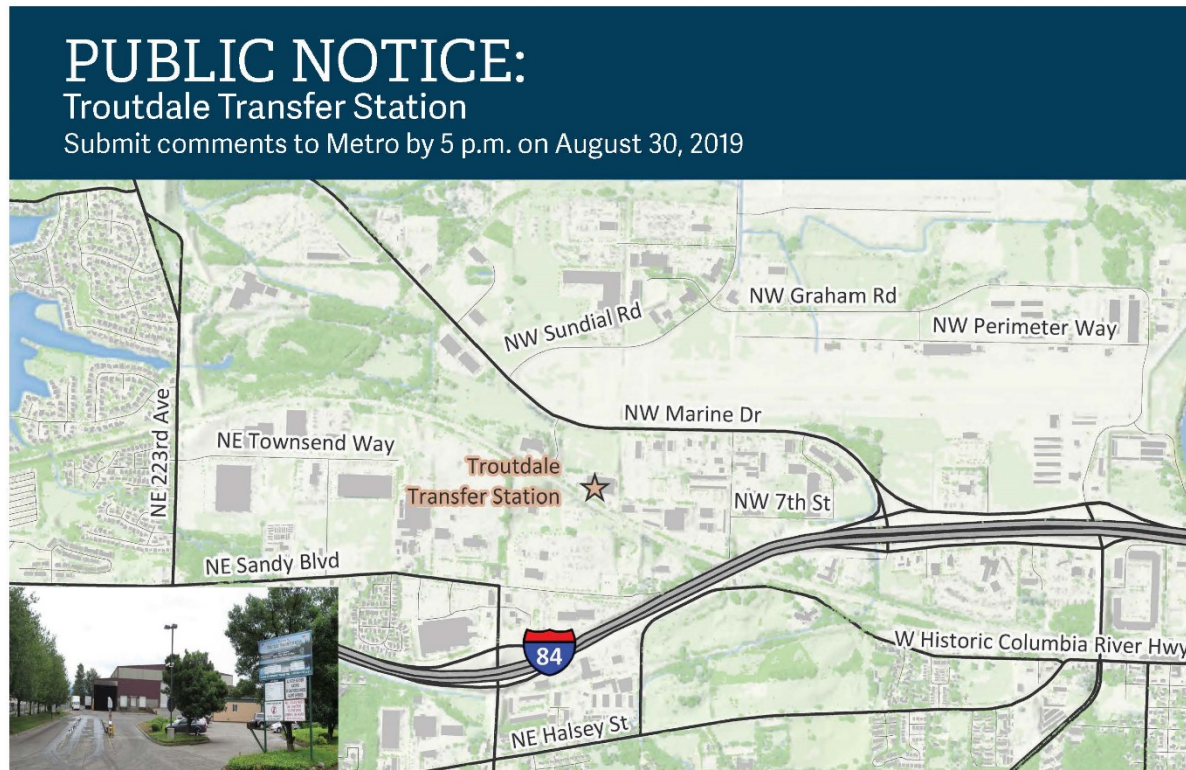


Photo 1: Public Notice post card, front

Troutdale Transfer Station submitted an application to Metro to renew its transfer station franchise to receive garbage and recyclable materials, including yard debris mixed with food waste, generated within the Metro region for reload and transport to a landfill for disposal or an approved facility for recovery. Waste Management of Oregon Inc. is the owner and operator of Troutdale Transfer Station. Current operations would not change under the proposed franchise renewal.

Facility Location: 869 NW Eastwind Dr, Troutdale, OR 97060

Written comments must be submitted by 5 p.m., August 30, 2019

Metro Solid Waste Information Compliance & Cleanup
600 NE Grand Ave., Portland, OR 97232

Fax: 503-813-7544 Email: SWICC@oregonmetro.gov

More information: oregonmetro.gov/solidwastepublicnotices

Esta es una notificación de su oportunidad para comentar sobre una solicitud para operar un establecimiento de desechos sólidos (basura o reciclado) en su comunidad. Si necesita asistencia con el idioma, llame al 503-797-1890 (de 8 a 5, lunes a viernes).

Настоящим уведомляем, что у вас есть возможность оставить свой отзыв относительно заявки на эксплуатацию учреждения по переработке твердых отходов (или вторсырья), расположенного в вашем районе. Языковую поддержку можно запросить по номеру 503-797-1890 в рабочие дни с 8:00 до 17:00.

Đây là thông báo về cơ hội của quý vị được trình bày ý kiến bằng đơn trong việc điều hành cơ sở quản lý rác thải (rác hoặc đồ tái chế) trong cộng đồng của quý vị. Nếu quý vị cần trợ giúp về ngôn ngữ, xin gọi số 503-797-1890 (từ 8 giờ sáng đến 5 giờ chiều vào những ngày thường).

本公告旨在通知您利用這個機會評論在您的社區經營固體廢棄物(垃圾或回收服務)設施的申請。需要語言援助者請在撥打503-797-1890(工作日上午8點至下午5點)。

본 통지서는 지역사회 내 고형 폐기물(쓰레기 또는 재활용) 시설 운영 신청에 대해 귀하의 의견을 제시할 수 있는 기회를 알리기 위한 것입니다. 언어 지원 서비스가 필요한 경우 전(근무일 기준) 503-797-1890으로 전화하십시오(주중 오전 8시 - 오후 5시).



Printed on recycled content paper.

Photo 2: Public Notice post card, back

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5025

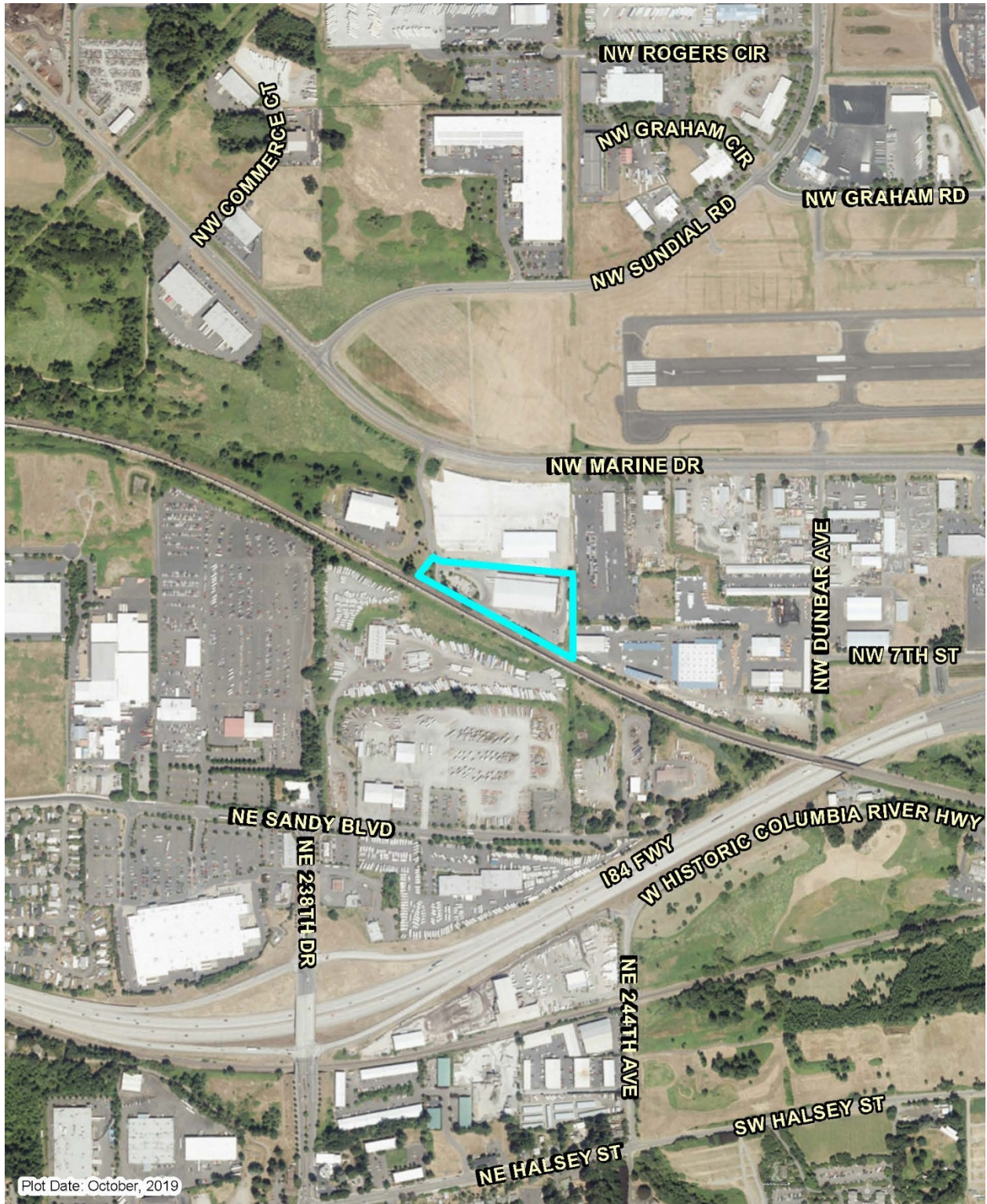


Photo 3: Aerial photo of Troutdale Transfer Station located at 869 NW Eastwind Dr. in Troutdale

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5025



Photo 4: Troutdale Transfer Station located at 869 NW Eastwind Dr. in Troutdale



Photo 5: Troutdale Transfer Station located at 869 NW Eastwind Dr. in Troutdale

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5025



Photo 6: Troutdale Transfer Station located at 869 NW Eastwind Dr. in Troutdale

Public comment report

Attachment 2 to Staff Report for Resolution No. 19-5025



October 17, 2019

Prepared by: Joanna Dyer
503-813-7550

Background

Adoption of Resolution No. 19-5025 will authorize the Chief Operating Officer to issue a renewed solid waste facility franchise to Waste Management of Oregon Inc. to operate Troutdale Transfer Station (TTS) for a term of five years.

On July 23, 2019, the applicant submitted to Metro a complete solid waste facility franchise application accompanied by payment of the appropriate application fee of \$500. The applicant requested an increase in its tonnage authorization in the renewal application, but did not request any other significant change in authorization or activities at this facility.

Public notice and opportunity to comment

Metro posted notice and provided an opportunity for the public to review and submit comments on the renewal application. The public notice was posted on Metro's website, mailed to 75 property owners and residents within one-quarter mile of the facility and emailed to local community groups, neighborhood associations and various other parties that are generally interested in solid waste issues. The 30-day public comment period began on August 1, 2019, and closed on August 30, 2019.

Summary of written public comments on application

Metro received one comment during the public comment period. The Senior Legal Counsel of Waste Management submitted a written comment on behalf of Troutdale Transfer Station outlining questions and concerns with the proposed franchise language that was provided to the applicant on July 30, 2019. This was the only comment received during the public comment period.

The letter includes 10 comments which are summarized below, and are included in full at the end of this document.

Metro response to comments:

Below is a summary of the 10 comments received from Waste Management. Metro's response follows each comment summary.

1. The franchise should not impose an obligation on TTS to accept source-separated food waste if Metro decides to amend the franchise. (Section 3.9)

- Waste Management is not aware of Metro's authority to unilaterally impose an obligation on a transfer station to accept a specific waste stream.
- There may be legitimate health, safety, environmental, financial and practical reasons why a transfer station would not willingly agree to accept source-separated food waste.
- Metro should work cooperatively with the transfer stations to determine whether accepting source-separated food waste makes sense for any particular transfer station.

Metro Response #1 – Food waste

As described in detail in the staff report, Metro is looking to address the need for an adequate transfer system to allow growth in the collection of commercial food waste in the region and provide equitable access to transfer services. Metro acknowledges the importance of the health, safety, environmental and financial factors that may impact the operation of a transfer station. Metro also has broad legal authority to regulate solid waste facilities generally. This authority is derived from the Oregon Constitution, Metro's home rule Charter and explicit statutory powers in ORS Chapters 268, 459 and 459A.

Metro will continue to use an informed decision making process when imposing new requirements.

- 2. Insofar as Metro is now characterizing the franchise as a permit rather than an “agreement”, the franchise should establish and define the rights of a franchise holder to appeal any Metro decisions made concerning the franchise, including enforcement, amendments, suspension, revocation, denial of approvals, etc.**

Metro Response #2 – Rights of franchise holders

Metro has never considered franchises as agreements in practice. A Metro Solid Waste Facility Franchise is a grant of authority that the Metro Council may amend at any time by means of a duly adopted ordinance or resolution. During such adoption procedures, the Metro Council will provide due process by providing a public review period and an opportunity for a public hearing on the proposed amendments. Additionally, under Metro Code Chapter 5.01, franchisees have the right to request a contested case hearing regarding solid waste facility decisions made by Metro.

- 3. By replacing “COO” with “Metro” throughout, the franchise is ambiguous as to when something has been formally approved by Metro.**

Metro Response #3 – Chief Operating Officer vs. Metro

The majority of references to the Chief Operating Officer (COO) in the franchise have been changed to Metro, though the authority to amend, suspend or revoke a franchise remains with the COO and the Metro Council (Section 12.0). This change from COO to Metro is being made across all classes of Metro authorizations. When a franchisee receives written correspondence from a Metro employee, the franchisee should assume the sender has the authority over the content of the correspondence.

- 4. Metro should clarify its prohibition against mixing wastes in Section 4.4.**

Metro Response #4– Mixing of Waste

Metro revised this section of the franchise for increased clarity. Any mixing of waste types must be described in an operating plan and approved in writing by Metro so that Metro can ensure waste is going to the appropriate facility and that it is tracked and reported properly (Section 7.5).

5. Some of the proposed changes allowing for future amendments to the franchise are too open-ended and vague.

- Waste Management has concerns about Metro amending the franchise in the future to achieve future goals without allowances for parties to appeal such changes, specifically referencing future changes related to the implementation of the Regional Waste Plan (Section 5.0).

Metro Response #5 – Vague language

Metro added Section 5.0 Regional Waste Plan as a signal to solid waste facility operators that there will be future changes to the franchise resulting from the implementation of the 2030 Regional Waste Plan. The goals and actions of the [2030 Regional Waste Plan](#) are available to review for facility operators to gain a better understanding of the types of requirements that may be included in the franchise in the future. The 2030 Regional Waste Plan is the vision for the Metro Region's solid waste system and the blueprint for achieving that vision. Metro has the responsibility to ensure that all solid waste generated in the region is managed in a manner that protects public health and safety and safeguards the environment. All programs, services and facilities related to solid waste management and disposal are addressed by the plan, including waste reduction, collection, transfer and disposal. This plan is designed to address the changes and challenges we face and to provide opportunities to innovate, invest and continue our efforts to protect people and quality of life in the region.

As outlined in Metro's response to comment No. 1, Metro has broad legal authority over the Metro region's solid waste system. Under Metro Code Chapter 5.01, franchisees have the right to request a contested case hearing regarding any decision made by the Chief Operating Officer.

6. Rather than set different standards, the franchise should incorporate Oregon DEQ's stormwater best management practices for minimizing stormwater exposure.

- Waste Management proposed including DEQs best management practices from the Oregon DEQ's 1200-Z stormwater permit.

Metro Response #6 – Stormwater

The current franchise language states that "watertight covered *or tarped* containers" are acceptable storage for putrescible waste and non-putrescible waste processing residual. Metro removed the words "or tarped" because a tarped container is also watertight and covered. The phrase now reads "watertight, covered containers" with the expectation the containers should be covered and watertight so that rain does not enter the container and that the container does not leak. Metro relies on DEQ to monitor and enforce ground water, storm water and air quality requirements at the site. Metro generally inspects Troutdale Transfer Station more frequently than DEQ, and will continue to refer applicable matters to other agencies when appropriate.

7. As the proposed revisions do not as yet specify the amount of waste TTS will be authorized to accept, WMO should be allowed to comment or challenge its allocation in the future when the waste allocation is announced. (Section 4.1)

Metro Response #7 – Franchisee right to contest a Metro decision

As mentioned in previous comment responses, Metro has broad legal authority to regulate solid waste facilities, including the types and amounts of waste a facility may receive. Additionally, under

Metro Code Chapter 5.01, franchisees have the right to request a contested case hearing regarding solid waste decisions made by Metro.

8. The franchise should not include reference to the “ban the box” law in Section 9.10.

Metro Response #8 – Ban the Box

Guidance for new language in the proposed franchises comes from the 2030 Regional Waste Plan that the Metro Council adopted earlier in 2019 and the Property and Environmental Services Diversity, Racial Equity and Inclusion Work Plan. The 2030 Regional Waste Plan provides direction for Metro’s regulation of the solid waste industry, including franchise provisions. By focusing on Oregon’s “ban the box” law, proposed Section 6.16 advances progress on Metro’s goals for the solid waste system. All the goals and actions that inform future franchise amendments can be found in the 2030 Regional Waste Plan. Please note that the provision that includes “ban the box” is now located in Section 6.16 of the proposed franchise.

9. The franchise cannot require WMO to list Metro as a certificate holder in Section 10.5.

Metro Response #9 – Insurance

Metro requires all Metro regulated solid waste facilities to name Metro as an insurance certificate holder. Standard certificate of insurance forms state at the top “This certificate is issued as a matter of information only and confers no rights upon the certificate holder.” Adding Metro as a certificate holder triggers the insurance company to issue the certificate of insurance to Metro upon renewal which cuts down on administrative burden on both parties as the issuance is automatic.

10. Metro’s right of inspection should be limited to “reasonable” times during business hours.

Metro Response #10 – Right of inspection

The word “reasonable” was removed from Section 13.3 because Metro considers it reasonable for any authorized Metro representative performing inspections of a franchised facility to access the site at any time during business hours. These inspections are necessary to ensure compliance with Metro Code, the franchise, administrative rules and performance standards.

Public comment report

Attachment 2 to Staff Report for Resolution No. 19-5025



The Senior Legal Counsel of Waste Management submitted this letter to Metro on August 30, 2019 Metro as part of the public comment period.



720 Fourth Avenue, Suite 400
Kirkland, WA 98033
(425) 823-6164

Andrew M. Keneflick
Senior Legal Counsel
Admitted in Washington
Direct (425) 825-2003 Fax (866) 863-7961
akeneflick@wm.com

August 30, 2019

VIA E-MAIL ONLY

Metro Solid Waste Information, Compliance & Cleanup
600 NE Grand Avenue
Portland, OR 97232

SWICC@oregonmetro.gov

**RE: Transfer Station Franchise Renewal
Troutdale Transfer Station, 869 NW Eastwind Drive, Troutdale, OR**

Dear Metro:

As the owner and operator of the Troutdale Transfer Station ("TTS"), Waste Management of Oregon, Inc. ("WMO") is obviously very interested in the renewal of its franchise to continue operating TTS. While WMO very much appreciates Metro's willingness to renew the franchise agreement, WMO has a few suggestions and concerns. Our comments are below.

Comment 1. The franchise should not impose an obligation on TTS to accept source-separated food waste if Metro decides to amend the franchise.

In Section 3.9.2, Metro proposes to reserve for itself the right to amend the franchise to require TTS and other transfer stations to accept source-separated food waste. While WMO may agree to accept food waste in the future, WMO is not aware of Metro's authority to unilaterally impose an obligation on a transfer station to accept a specific waste stream. WMO recognizes that governments can often prohibit facilities from managing certain wastes streams; however, it would be surprising— and likely beyond its authority— for a government to require a franchisee to accept a specific waste stream that the business is not willing to accept.

Moreover, there may be legitimate health, safety, environmental, financial, and practical reasons why a transfer station would not willingly agree to accept source-separated food waste, even if Metro amended the franchise to require it. A facility's permits may not allow the transfer station to accept food wastes. Neighborhood or community opposition may make it difficult to do so. The design and configuration of the transfer station itself may make it impracticable to accept and manage food waste. There may not be enough room in the transfer station to handle food waste. And it might be financially unworkable to accept food waste.

Finally, Section 3.9.2 fails to provide any detail or information as to what the requirements would be if such an obligation were to be imposed.

While WMO understands and supports Metro's interest in better management and handling of food waste, WMO does not support Metro reserving to itself the unilateral right to impose the

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requirement to accept food waste on transfer stations. Rather, Metro should work cooperatively with the transfer stations to determine whether accepting source-separated food waste makes sense for any particular transfer station.

Comment 2. Insofar as Metro is now characterizing the franchise as a permit rather than an “agreement”, the franchise should establish and define the rights of a franchise holder to appeal any Metro decisions made concerning the franchise, including enforcement, amendments, suspension, revocation, denial of approvals, etc.

Metro has stated that the franchise is intended to function be “more as a permit rather than an agreement.” If the franchise is in effect a permit to operate, then Metro should clarify and state what due process rights a franchise holder has to appeal any such “permit” decisions. Specifically, what right of appeal does a franchise holder have were Metro to decide unilaterally to amend or revoke the permit?

Comment 3. By replacing “COO” with “Metro” throughout, the franchise is ambiguous as to when something has been formally approved by Metro.

Apparently for the sake of simplifying and uniformity, the proposed franchise replaces almost all references to Metro’s Chief Operating Officer (COO) with “Metro”. While it may make sense to eliminate the requirement that the COO sign every approval, the change could create uncertainty and confusion as to what constitutes an actual “approval” from Metro. WMO recommends that the franchise clarify who or what positions in Metro are authorized to make approvals, such as waivers (§ 2.7), operating plan approvals (*e.g.*, §§3.8, 3.9, 4.4).

Comment 4. Metro should clarify its prohibition against mixing wastes in Section 4.4.

The proposed revisions include in Section 4.4 a prohibition against mixing any waste, unless approved by Metro. This section is vague and confusing. If read literally, it could prohibit the mixing of one load of residential waste with another load of residential waste. Obviously, this cannot be the intent of the revision. It is a fundamental aspect of operating a transfer station that loads of wastes collected in garbage trucks are dumped and transferred into larger containers, in which the wastes are obviously commingled – *i.e.*, mixed. Also, how does this prohibition address loads of wastes that arrive mixed? For example, residential solid waste typically includes both putrescible and non-putrescible waste – *i.e.*, putrescible wastes are already a mixture of wastes. Even putrescible waste consisting of mainly food waste might contain other non-food waste putrescible wastes. If these are already “mixed”, does the prohibition apply?

At a minimum, this provision must be revised to clarify that transfer stations cannot mix certain different waste **types**, and not imply that the transfer station cannot mix loads of wastes of the same type. But this would not be enough. This provision needs further revision to clarify its purpose. For example, does this provision prohibit mixing one load containing mostly putrescible non-food waste with another load containing mostly putrescible food waste? What about mixing of food waste and yard waste that are destined for the same composter? What purpose is served by prohibiting mixing processing residual with putrescible solid waste if both are destined for disposal into the same cell at a landfill?

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Comment 5. Some of the proposed changes allowing for future amendments to the franchise are too open-ended and vague.

WMO is concerned with proposed yet open-ended language in the franchise agreement that contemplates Metro amending the franchises in the future to achieve future goals. For example, Section 5.2 states, “Metro may amend this franchise and establish new requirements for the franchisee to achieve the goals and actions of the 2030 Regional Waste plan.” Likewise, Section 12.2 allow Metro to “amend, suspend, or revoke this franchise in whole or in part” While WMO understands the need to reserve the right to amend the franchise in the future, such authority cannot be open-ended and must make allowances for parties to appeal such changes. See Comment 2 above.

Comment 6. Rather than set different standards, the franchise should incorporate Oregon DEQ’s stormwater best management practices for minimizing stormwater exposure.

Several sections (§§ 3.3 & 3.6) of the franchise include requirements that materials be placed within “watertight covered containers.” This language is ambiguous in that it could mean that the covers must be watertight or that the containers must be watertight. Since the purpose of these provisions is to minimize exposure of waste materials to stormwater or snowmelt, the franchise should incorporate the stormwater “best management practices” (BMPs) from the Oregon DEQ 1200-Z stormwater permit. Specifically, WMO recommends the following language instead:

Minimize exposure of waste materials to rain, snow, snowmelt and runoff. To the extent technologically available and economically practicable and achievable in light of best industry practice, locate waste materials or containers indoors or protect them with storm-resistant covers if stormwater from affected areas may discharge to surface waters. Acceptable covers include, storage of bins or dumpsters under roofed areas and use of lids or temporary covers such as tarps.

See DEQ Permit No. 1200-Z (Aug. 1, 2017), Schedule A, §§ 1.a & 1.c.

Comment 7. As the proposed revisions do not as yet specify the amount of waste TTS will be authorized to accept, WMO should be allowed to comment or challenge its allocation in the future when the waste allocation is announced.

Section 4.1 of the franchise includes language setting TTS’s 2020 waste allocation, but does not specify the actual amount allocated. Insofar as it is not possible for WMO to comment on its allocation, WMO must reserve its right to comment on the proposed allocation once the allocation is known.

Comment 8. The franchise should not include reference to the “ban the box” law in Section 9.10.

While WMO does not dispute its obligation to comply with ORS 659A.360, WMO disagrees with inserting this requirement into the franchise. A franchise serves a specific purpose and is not intended to be a document that lists every local, state, and federal statute and regulation with which a franchisee must comply. What is the purpose of inserting this one requirement into the franchise when there are hundreds of other requirements that apply to WMO’s operations that are not included? Please delete Section 9.10.

Comment 9. The franchise cannot require WMO to list Metro as a certificate holder in Section 10.5.

If, as Metro has stated, the franchise is now viewed as a permit rather than an agreement, WMO is not aware of Metro’s authority to require WMO to name Metro as an insurance certificate holder

Public comment report

Attachment 2 to Staff Report for Resolution No. 19-5025



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under its insurance. If Metro has the legal authority for this requirement, WMO would appreciate the opportunity to review it.

Comment 10. Metro's right of inspection should be limited to "reasonable" times during business hours.

Section 13.3.1 states that the franchisee must allow Metro to have access to the TTS "at any time during business hours, with or without advanced notice." There is no mention of "reasonable" times. Yet, Section 13.3.4 then states that the franchisee must permit access "at all **reasonable** times during business hours, with or without notice." These two sections are inconsistent. Section 13.3.1 should be amended to insert "reasonable" into the access requirement.

* * *

Thank you for the opportunity to comment on the TTS franchise and for your attention to our comments. WMO looks forward to its continued role in managing solid waste and recyclables for Metro and its residents and businesses.

Sincerely,

A handwritten signature in dark ink that reads "Andrew M. Kenefick".

image/signature

Andrew M. Kenefick

cc: Nicholas Godfrey – Waste Management

Agenda Item No. 5.5

Resolution No. 19-5026, For the Purpose of Approving a
Solid Waste Facility Franchise Renewal Application and
Authorizing Willamette Resources Inc. to Operate a
Transfer Station

Public Hearing

Metro Council Meeting
Thursday, October 31, 2019
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE SOLID	)	RESOLUTION NO. 19-5026
WASTE FACILITY FRANCHISE RENEWAL)	
APPLICATION OF WILLAMETTE RESOURCES	)	Introduced by Acting Chief Operating
INC., AND AUTHORIZING THE CHIEF	)	Officer Andrew Scott in concurrence with
OPERATING OFFICER TO ISSUE A RENEWED	)	Council President Lynn Peterson
SOLID WASTE FACILITY FRANCHISE TO)	
OPERATE A TRANSFER STATION)	

WHEREAS, Metro Code Section 5.01.150 states that a Metro Solid Waste Facility Franchise is required for any person owning or controlling a facility that operates a transfer station; and

WHEREAS, Willamette Resources Inc. holds Metro Solid Waste Facility Franchise Number F-005-08I to operate a transfer station, which will expire on December 31, 2019; and

WHEREAS, Willamette Resources Inc. filed a complete application seeking a renewal of its Metro Solid Waste Facility Franchise pursuant to Metro Code Section 5.01.210(a); and

WHEREAS, Metro Council adopted Resolution No. 18-1426 to establish a framework for allocating the region's putrescible waste tonnage to privately-owned transfer stations beginning in 2020; and

WHEREAS, beginning in 2020, Metro will allocate the region's putrescible waste tonnage to privately-owned transfer stations in accordance with Metro's tonnage allocation methodology; and

WHEREAS, Willamette Resources Inc.'s putrescible waste tonnage allocation amount may change during the term of the Metro Solid Waste Facility Franchise in accordance with Metro's tonnage allocation methodology; and

WHEREAS, Metro Council adopted the 2030 Regional Waste Plan via Ordinance No. 19-1431, which may require future amendments to the Metro Solid Waste Facility Franchise to implement the Plan; and

WHEREAS, Willamette Resources Inc. does not propose to alter any other activities that already occur at its transfer station site; and

WHEREAS, the Metro Council finds that the proposed Metro Solid Waste Facility Franchise renewal is in the public interest and meets the criteria set forth in Metro Code Section 5.01.180; now therefore

BE IT RESOLVED that the Metro Council:

1. Approves the Metro Solid Waste Facility Franchise application for Willamette Resources Inc. to operate a transfer station subject to the terms, conditions and limitations contained in Exhibit A.

2. Authorizes the Chief Operating Officer to issue to Willamette Resources Inc. a renewed Metro Solid Waste Facility Franchise substantially similar to the one attached as Exhibit A.
3. Authorizes the Chief Operating Officer to amend the Metro Solid Waste Facility Franchise as necessary without further Council action in order to allocate putrescible tonnage in accordance with Metro's tonnage allocation methodology based on Metro's solid waste tonnage forecast.

ADOPTED by the Metro Council this ____ day of October 2019.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney



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

METRO SOLID WASTE FACILITY FRANCHISE

No. F-005-20

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

ISSUED BY METRO:

Roy W. Brower, Interim Property and Environmental Services Director

Date

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1.0	ISSUANCE	
1.1	Corporate affiliation	Republic Services, Inc. 18500 North Allied Way Phoenix, Arizona 85054
1.2	Contact	Jason Jordan, General Manager Phone: (503) 404-4180 E-mail: jason.jordan@republicservices.com
1.3	Term	January 1, 2020 to December 31, 2024, unless amended, suspended or revoked as provided in this franchise.
1.4	Renewal	The franchisee may apply for a franchise renewal as provided in Metro Code Chapter 5.01.
1.5	Facility name and mailing address	Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070
1.6	Facility premises description	Tax Lot Identification No. 3S102C001400, City of Wilsonville, Washington County, State of Oregon. Metro may inspect the facility site and any areas directly related to the transfer station operations as per Section 13.3.
1.7	Permission to operate	The franchisee is the property owner.

2.0	CONDITIONS AND DISCLAIMERS	
2.1	Guarantees	This franchise does not vest any right or privilege in the franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise.
2.2	Non-exclusive franchise	This franchise does not limit Metro from granting other solid waste franchises within Metro's jurisdictional boundary.
2.3	Property rights	This franchise does not convey any property rights in either real or personal property.
2.4	Amendment	Except as provided in Section 12.0, no amendment is effective unless approved by the Metro Council.
2.5	No recourse	The franchisee will have no recourse against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement

		of the franchise or in the event Metro determines that the franchise or any part thereof is invalid.
2.6	Indemnification	The franchisee must indemnify Metro, the Council, the Chief Operating Officer and any of Metro's employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the granting of this franchise or the franchisee's performance of or failure to perform any of its obligations under the franchise or Metro Code Chapter 5.01, including without limitation patent infringement and any claims or disputes involving subcontractors.
2.7	Waivers	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 12.0 and be in writing and signed by Metro.
2.8	Effect of waiver	Waiver of a term or condition of this franchise does not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.9	Enforceability	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise will not be affected.
2.10	Franchise not a waiver	This franchise does not relieve any owner, operator or the franchisee from the obligation to obtain all required permits, franchises or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.11	Franchise not limiting	This franchise does not limit the power of a federal, state or local agency to enforce any provision of law relating to the facility.
2.12	Definitions	<ol style="list-style-type: none"> 1. "Mixed Non-Putrescible Waste" means a mixture of more than one type of non-putrescible waste, including commingled recyclables other than residential curbside recyclable material. This category includes construction and demolition waste but excludes cleanup materials, source-separated recyclable material, special waste, land clearing debris and yard debris. 2. Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.00.

3.0	AUTHORIZATIONS	
3.1	General conditions on solid waste	The franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.

3.2	General conditions on activities	The franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.
3.3	Acceptance and management of putrescible solid waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 13.2. The franchisee also is authorized to accept putrescible waste for material recovery. 2. The franchisee must receive, manage, store, reload and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight, covered containers or within covered transport trailers. 3. The franchisee is authorized to accept putrescible waste generated inside the Metro region only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
3.4	Acceptance and management of mixed non-putrescible solid waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept mixed non-putrescible solid waste from all customers including public self-haul for material recovery. 2. Except as provided below in subsections (a) and (b), the franchisee must receive, sort, store, reload and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides. <ol style="list-style-type: none"> (a) Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover prior to processing, within 12 hours of receipt, or by the end of the business day, whichever is earlier. (b) Public self-haul customers may tip waste outside, provided that such waste is tipped directly into watertight containers that are covered within 12 hours of receipt, or by the end of the business day, whichever is earlier.
3.5	Material recovery required	<ol style="list-style-type: none"> 1. The franchisee must perform material recovery on mixed non-putrescible wastes at no less than the minimum level stipulated in Metro Code Chapter 5.01 or must reload and transfer such waste to a facility authorized by Metro to perform material recovery. 2. The franchisee must ensure that the facility is designed and operated so that materials are recovered in a timely manner and that the reloading and transfer of non-putrescible waste to a Metro-authorized material recovery facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery.

		<p>3. The franchisee must take quarterly samples of processing residual, when generated at the facility, that are statistically valid and representative of the facility's residual. Each sample required by this section must weigh at least 300 pounds.</p>
3.6	Management of processing residual from material recovery	<p>The franchisee must store, reload and transfer all non-putrescible waste processing residual on an impervious surface and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight, covered containers or within covered transport trailers.</p>
3.7	Acceptance of source-separated recyclable materials	<ol style="list-style-type: none"> 1. The franchisee must provide a place for collecting source-separated recyclable materials on the facility premises. 2. The franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.
3.8	Acceptance of yard debris	<p>The franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce odors detectable beyond the boundaries of the facility. The franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro.</p>
3.9	Acceptance of source-separated food waste	<ol style="list-style-type: none"> 1. The franchisee must accept source-separated food waste for reloading to an authorized facility for composting, anaerobic digestion or other resource recovery process as described in an operating plan and approved in writing by Metro. 2. The franchisee must not deny access to any waste hauler transporting source-separated food waste without due cause or written notice 30 days in advance, as outlined in Section 4.2. 3. The franchisee must maintain adequate capacity to accommodate commercial food waste generated within the region while meeting the requirements in subsection 3.9.4 and operating the facility in accordance with the operating plan approved in writing by Metro. 4. The franchisee must: <ol style="list-style-type: none"> (a) Reload and remove all source-separated food waste from the site in a timely manner so that it does not reach a state of decomposition sufficient to produce odors detectable beyond the boundaries of the facility; (b) Protect the quality of source-separated food waste such that it is suitable for composting, anaerobic digestion or other resource recovery process that is approved in writing by Metro; and (c) Transport all source-separated food waste to a Metro-authorized facility for recovery.

3.10	Acceptance of untreated wood	The franchisee is authorized to accept, for processing and reloading, source-separated, untreated and unpainted wood waste, for example untreated lumber and wood pallets. The franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro.
3.11	Acceptance of painted and treated wood	The franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro. The franchisee must not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock or any other product unless otherwise described in an operating plan and approved in writing by Metro.
3.12	Acceptance of electronics devices	The franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse, recycling or disposal as required by the Oregon Department of Environmental Quality (DEQ).
3.13	Acceptance of inert material	The franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer and other similar functions related to preparing these materials for useful purposes.
3.14	Production of hogged fuel	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept and process only untreated wood, painted wood and incidental quantities of treated wood for delivery to facilities with industrial boilers for use as hogged fuel. 2. The franchisee is prohibited from mixing any other solid waste with the wood wastes described above in subsection 3.14.1 for the production of hogged fuel.
3.15	Acceptance of infectious waste	The franchisee is authorized to accept infectious waste for short-term storage, up to 72 hours, pending transport to an appropriate disposal location.
3.16	Acceptance of special waste	The franchisee is authorized to accept non-hazardous special waste for short-term storage, up to 48 hours, pending transport to an appropriate disposal location.

4.0	LIMITATIONS AND PROHIBITIONS	
4.1	Tonnage allocation	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept putrescible waste generated inside the Metro region as provided in this franchise.

		<ol style="list-style-type: none"> By January 1 of each year, Metro will amend this franchise to establish an annual tonnage allocation amount for the franchisee. Metro will determine the tonnage allocation amount in accordance with allocation methodology provided in Metro Code Chapter 5.01 and applicable administrative rules. For calendar year 2020, beginning on January 1 and ending December 31, 2020, the franchisee is authorized to accept up to XX,XXX tons of putrescible waste generated inside the Metro region.
4.2	Waste hauler access	<p>It is in the public's best interest that transfer stations located inside the Metro region maintain adequate capacity to accommodate solid waste generated within the region and provide adequate access to waste haulers. Therefore:</p> <ol style="list-style-type: none"> The franchisee must not accept solid waste generated outside the Metro region if to do so would limit the franchisee from accepting any putrescible or non-putrescible waste generated inside the Metro region; The franchisee must not deny access to any unaffiliated waste hauler without due cause or written notice 30-days in advance. Due cause includes, but is not limited to, load contamination, failure to pay or risk of exceeding the franchise tonnage allocation; and Metro may require the franchisee to provide a written explanation of its rationale if the facility denies access or refuses service to a waste hauler.
4.3	Prohibited waste	<p>The franchisee must not knowingly receive, process, reload or dispose of any solid waste not authorized by this franchise. The franchisee must not knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing asbestos; lead acid batteries; liquid waste for disposal; vehicles; radioactive waste; hazardous waste; explosives; or any waste prohibited by DEQ.</p>
4.4	Prohibition on mixing	<p>The franchisee must not mix different waste types unless such mixing is described in an operating plan and approved in writing by Metro.</p>
4.5	Prohibition of size reduction on non-putrescible waste	<p>The franchisee must not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, processing residual consolidation or loading operations, and such size reduction is described in an operating plan and approved in writing by Metro.</p>
4.6	No disposal of recyclable materials	<p>The franchisee must not transfer source-separated recyclable materials to a disposal site including, without limitation, landfills and incineration facilities, without written permission from Metro and DEQ.</p>

4.7	Composting prohibited	The franchisee must not keep yard debris on site long enough for more than negligible biological decomposition to begin.
4.8	Limits not exclusive	This franchise will not be construed to limit, restrict, curtail or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

5.0	REGIONAL WASTE PLAN	
5.1	Regional Waste Plan	<ol style="list-style-type: none"> 1. Metro plans, manages and oversees the region's solid waste system to achieve the goals and actions outlined in the 2030 Regional Waste Plan. 2. Metro may amend this franchise and establish new requirements for the franchisee to achieve the goals and actions of the 2030 Regional Waste Plan.

6.0	OPERATING CONDITIONS	
6.1	General performance standards	<p>The franchisee must operate in a manner that meets the following general performance standards:</p> <ol style="list-style-type: none"> 1. Environment. The franchisee must design and operate the facility to avoid undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution and improper acceptance and management of hazardous waste, asbestos and other prohibited wastes. 2. Health and safety. The franchisee must design and operate the facility to avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris. 3. Nuisances. The franchisee must design and operate the facility to avoid nuisance conditions including, but not limited to, litter, dust, odors and noise.
6.2	Qualified operator	<ol style="list-style-type: none"> 1. The franchisee must, during all hours of operation, provide an operating staff employed by the facility that is qualified and competent to carry out the functions required by this franchise and to otherwise comply with Metro Code Chapter 5.01. 2. Facility personnel, as relevant to their job duties and responsibilities, must be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan. 3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during

		load checks and to properly manage prohibited waste that is unknowingly received.
6.3	Fire prevention	<p>The franchisee must provide fire prevention, protection and control measures including, but not limited to:</p> <ol style="list-style-type: none"> 1. Adequate water supply for fire suppression; and 2. Procedures in place to isolate potential heat sources and/or flammables from processing and storage areas.
6.4	Adequate vehicle accommodation	<p>The franchisee must:</p> <ol style="list-style-type: none"> 1. Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. The franchisee must maintain access roads to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather. 2. Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles must not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances. 3. Post signs to inform customers not to queue on public roadways. 4. Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site covering and uncovering of loads.
6.5	Managing prohibited wastes	<ol style="list-style-type: none"> 1. The franchisee must reject prohibited waste upon discovery and must properly manage and dispose of prohibited waste when unknowingly received. 2. The franchisee must implement a load-check program to prevent the acceptance of prohibited waste. This program must include at a minimum: <ol style="list-style-type: none"> (a) Visual inspection. As each load is tipped, a qualified operator must visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise. (b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas must be covered and enclosed to prevent leaking and contamination. (c) Record maintenance. The franchisee must maintain records of the training of personnel in the recognition, proper handling and disposition of prohibited waste and make those records available for review by Metro. 3. Upon discovery, the franchisee must remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All

		such wastes the franchisee unknowingly receives must be removed from the site and transported to an appropriate destination within 90 days of receipt, unless required to be removed earlier by DEQ or local government.
6.6	Storage and exterior stockpiles	<p>The franchisee must:</p> <ol style="list-style-type: none"> 1. Manage, contain and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards; 2. Maintain storage areas in an orderly manner and keep the areas free of litter; 3. Position exterior stockpiles within footprints identified on the facility site plan or operating plan; and 4. Not stockpile recovered or source-separated materials for longer than 180 days.
6.7	Dust, airborne debris and litter	<p>The franchisee must operate the facility in a manner that controls and minimizes the generation of dust, airborne debris and litter, and must prevent its migration beyond property boundaries. The franchisee must:</p> <ol style="list-style-type: none"> 1. Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit; 2. Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit; 3. Maintain and operate all access roads and receiving, processing, storage and reload areas in such a manner as to control and minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site; 4. Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation; 5. Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; and 6. Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, must be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Metro Code Chapter 5.09.

6.8	Odor	<ol style="list-style-type: none"> 1. The franchisee must operate the facility in a manner that controls and minimizes the generation of odors that are detectable off-site. 2. The franchisee must establish and follow procedures in the operating plan for minimizing odor at the facility.
6.9	Vectors (e.g. birds, rodents, insects)	<ol style="list-style-type: none"> 1. The franchisee must operate the facility in a manner that is not conducive to harboring rodents, birds, insects or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another. 2. If vectors are present or detected at the facility, the franchisee must implement vector control measures.
6.10	Noise	The franchisee must operate the facility in a manner that controls and minimizes any noise sufficient to cause adverse off-site impacts and meets applicable regulatory standards and land-use regulations.
6.11	Water contaminated by solid waste and solid waste leachate	<p>The franchisee must operate the facility consistent with an approved DEQ stormwater management plan or equivalent and must:</p> <ol style="list-style-type: none"> 1. Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; and 2. Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state and federal laws and regulations.
6.12	Access control	<ol style="list-style-type: none"> 1. The franchisee must control access to the facility as necessary to prevent unauthorized entry and dumping. 2. The franchisee must maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.
6.13	Signage	<p>The franchisee must post signs at all public entrances to the facility. The signs must comply with local government signage regulations. These signs must be easily and readily visible and legible from off-site during all hours and must contain at least the following information:</p> <ol style="list-style-type: none"> 1. Name of the facility; 2. Address of the facility; 3. Emergency telephone number for the facility; 4. Operating hours during which the facility is open for the receipt of authorized waste; 5. Fees and charges; 6. Metro's name and telephone number (503) 234-3000; 7. A list of authorized and prohibited wastes; 8. Vehicle / traffic flow information or diagram;

		<p>9. Covered load requirements; and</p> <p>10. Directions not to queue on public roadways.</p>
6.14	Complaints	<p>1. The franchisee must respond to all complaints in timely manner including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic and vectors, and must keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.</p> <p>2. If the facility receives a complaint, the franchisee must:</p> <p>(a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts, whether successful or unsuccessful; and</p> <p>(b) Log all such complaints as provided by the operating plan. The franchisee must retain each log entry for one year and it must be available for inspection by Metro.</p>
6.15	Access to franchise document	The franchisee must maintain a copy of this franchise on the facility's premises in a location where facility personnel and Metro representatives have ready access to it.
6.16	Employment standard	The franchisee must be in compliance with Oregon's "ban the box" law (ORS 659A.360) which makes it unlawful for an employer to inquire about criminal convictions before the interview stage of hiring. The franchisee must maintain a copy of the facility's employment application on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.

7.0	OPERATING PLAN	
7.1	Plan compliance	The franchisee must operate the facility in accordance with an operating plan approved in writing by Metro. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this franchise. The franchisee may amend or revise the operating plan from time to time, subject to written approval by Metro.
7.2	Plan maintenance	The franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures and requirements. The franchisee must submit amendments and revisions of the operating plan to Metro for written approval prior to implementation.
7.3	Access to operating plan	The franchisee must maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.

7.4	Procedures for inspecting loads	<p>The operating plan must establish:</p> <ol style="list-style-type: none"> 1. Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes; 2. Procedures for identifying incoming and outgoing loads for waste classifications; 3. A set of objective criteria for accepting and rejecting loads; and 4. An asbestos testing protocol for all materials that appear to contain asbestos.
7.5	Procedures for mixing waste types	<p>The operating plan must establish:</p> <ol style="list-style-type: none"> 1. Circumstances under which waste types will be mixed; and 2. Procedures for record keeping and reporting for mixed outbound loads.
7.6	Procedures for processing and storage of loads	<p>The operating plan must establish procedures for:</p> <ol style="list-style-type: none"> 1. Processing authorized solid wastes; 2. Reloading and transfer of authorized solid wastes including, but not limited to; 3. Managing stockpiles to ensure that they remain within the authorized weights, volumes and pile heights; 4. Storing authorized solid wastes; and 5. Minimizing storage times and avoiding delay in processing of authorized solid wastes.
7.7	Procedures for managing prohibited wastes	<p>The operating plan must establish procedures for managing, reloading and transferring to appropriate facilities or disposal sites any prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan must establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.</p>
7.8	Procedures for odor prevention	<p>The operating plan must establish procedures for controlling and minimizing odors generated at the facility from being detected off the premises of the facility. The plan must include:</p> <ol style="list-style-type: none"> 1. A management plan that the franchisee will use to monitor and manage odors of any derivation including odorous loads delivered to the facility; and 2. Procedures for receiving and recording odor complaints, immediately investigating all odor complaints to determine the cause of odor emissions and remedying promptly all odor problems at the facility.

7.9	Procedures for dust prevention	<p>The operating plan must establish procedures for controlling and minimizing dust from blowing off the premises of the facility. The plan must include:</p> <ol style="list-style-type: none"> 1. A management plan that the franchisee will use to monitor and manage dust of any derivation; and 2. Procedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions and remedying promptly all dust problems at the facility.
7.10	Procedures for emergencies	<p>The operating plan must establish procedures that the franchisee will follow in case of fire or other emergency.</p>
7.11	Procedures for complaints	<p>The operating plan must establish procedures for managing complaints.</p> <ol style="list-style-type: none"> 1. For every complaint received (for example odor, dust, vibrations and litter), the franchisee must record: <ol style="list-style-type: none"> (a) The nature of the complaint; (b) The date the complaint was received; (c) The name, address and telephone number of the person or persons making the complaint; and (d) Any actions taken by the operator in response to the complaint, whether successful or unsuccessful. 2. The franchisee must make records of such information available to Metro upon request. The franchisee must retain each complaint record for a period of not less than one year.
7.12	Closure protocol	<ol style="list-style-type: none"> 1. The franchisee must establish protocol for closure and restoration of the site in the event of a cessation of operations as provided in Metro Code Chapter 5.01. 2. The plan must include protocol for: <ol style="list-style-type: none"> (a) Short-term closure (duration of time that is more than two consecutive business days but less than 120 days in length); and (b) Long-term closure (duration of time that is 120 consecutive days or more in length). 3. The franchisee must give at least 24-hour notice to Metro prior to the short-term closure of the facility. 4. The franchisee must give at least 90 days written notice to Metro prior to the long-term closure of the facility.

8.0	FEES AND RATES	
8.1	Annual fee	The franchisee must pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
8.2	Rates	<ol style="list-style-type: none"> 1. The rates charged by the franchisee for accepting solid waste are not subject to regulation by Metro unless the Metro Council adopts an ordinance that establishes Metro's rate regulation authority. 2. Notwithstanding the provision above, the rates charged by the franchisee must not exceed the rates posted at the facility as described in Section 6.13.
8.3	Metro fee and tax imposed on disposal	The franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.
8.4	Metro community enhancement fee imposed on waste received	The franchisee must collect and remit to Metro a community enhancement fee, as provided in Metro Code Chapter 5.06, in an amount equal to \$1.00 per ton for all putrescible waste including food waste and yard debris mixed with food waste. The franchisee must remit the community enhancement fees to Metro on a monthly basis in conjunction with fees remitted in Section 8.3.

9.0	RECORD KEEPING AND REPORTING	
9.1	Record keeping requirements	For all solid waste and materials the franchisee is authorized to accept under Section 3.0, the franchisee must keep and maintain accurate records of the amount of authorized materials the franchisee accepts, recovers, recycles, reloads and disposes. These records must include the information specified in the Metro document titled, <u>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees and Parties to Designated Facility Agreements.</u>
9.2	Reporting requirements	The franchisee must transmit to Metro records required under Section 9.0 no later than fifteen days following the end of each month in a format prescribed by Metro.
9.3	Material recovery reporting	The franchisee must provide the results of its quarterly sampling of processing residual, as provided in Section 3.5, to Metro as a component of its monthly report no later than fifteen days following the end of the each quarter in a format prescribed by Metro.

9.4	Account number listing	Within five business days of Metro's request, the franchisee must provide Metro with a listing that cross-references the account numbers used in the transaction database with the company's name and address.
9.5	Transactions based on scale weights	Except for minimum fee transactions for small, lightweight loads, the franchisee must record each inbound and outbound transaction electronically based on actual and accurate scale weights using the franchisee's on-site scales.
9.6	DEQ submittals	The franchisee must provide Metro with copies of all correspondence, exhibits or documents submitted to DEQ relating to the terms or conditions of DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
9.7	Copies of enforcement actions provided to Metro	The franchisee must ensure Metro receives copies of any notice of violation or noncompliance, citation or any other similar enforcement actions issued to the franchisee by any federal, state or local government (other than Metro) related to the operation of the facility.
9.8	Unusual occurrences	<ol style="list-style-type: none"> 1. The franchisee must keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. 2. The franchisee must notify Metro within 24 hours of any breakdown of the franchisee's equipment if the breakdown will substantially impact the facility's ability to comply with this franchise, with Metro Code or which will create off-site impacts. 3. The franchisee must report any facility fires, accidents, emergencies and other significant incidents to Metro within 12 hours of the discovery of their occurrence. 4. The franchisee must report any long term or short term closures as provided in section 7.12.
9.9	Changes in ownership	<ol style="list-style-type: none"> 1. Any change in control of the franchisee or the transfer of a controlling interest of the franchisee requires prior written notice to Metro. "Transfer of a controlling interest of the franchisee" includes without limitation the transfer of 10% or more of the ownership of the franchisee to or from a single entity. Metro may amend this franchise under Section 12.2 to require the new ownership of the franchisee to assume all the rights and obligations of this franchise. 2. The franchisee may not lease, assign, mortgage, sell or otherwise transfer control of the franchise unless the franchisee follows the requirements of Metro Code Chapter 5.01.

10.0	INSURANCE REQUIREMENTS	
10.1	General liability	The franchisee must carry the most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed operations. The franchisee's coverage will be primary as respects Metro.
10.2	Automobile	The franchisee must carry automobile insurance with coverage for bodily injury and property damage, and with limits not less than minimum of \$1,000,000 per accident or combined single limit.
10.3	Additional insureds	Metro, its elected officials, departments, employees, volunteers and agents must be named as ADDITIONAL INSURED on the Commercial General Liability policy. The franchisee must include the additional insured endorsement along with the certificate of insurance.
10.4	Workers' compensation insurance	<ol style="list-style-type: none"> 1. The franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law, and must comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. 2. The Workers' Compensation Insurance must meet Oregon statutory requirements including Employer's Liability with limits not less than \$1,000,000 per accident or disease. 3. The franchisee must provide Metro with certification of Workers' Compensation insurance including employer's liability. If the franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
10.5	Certificate of insurance	<ol style="list-style-type: none"> 1. The franchisee must provide Metro with a Certificate of Insurance complying with this Section 10. 2. The franchisee must list Metro as the certificate holder. 3. Upon insurance renewal, the franchisee must submit an updated certificate of insurance and the additional insured endorsement to Metro via email (SWICC@oregonmetro.gov).
10.6	Notification	The franchisee must give at least 30 days written notice to Metro of any lapse or proposed cancellation of insurance coverage.

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

12.0	AMENDMENT, SUSPENSION AND REVOCATION	
12.1	Amendment by Metro Council	<p>Except as provided in Section 12.2, the provisions of this franchise will remain in effect unless the Metro Council:</p> <ol style="list-style-type: none"> 1. Amends the Metro Code, amends the 2030 Regional Waste Plan or implements other legislation of broad applicability that affects the class of facilities of which this franchisee is a member; or 2. Adopts an ordinance or resolution amending this franchise to implement policy, code or other requirements such as the 2030 Regional Waste Plan.
12.2	Amendment, suspension or revocation by Metro	<p>The Chief Operating Officer may, at any time before the expiration date, amend, suspend or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ol style="list-style-type: none"> 1. Violation of the terms or conditions of this franchise, Metro Code or any applicable statute, rule or standard; 2. Changes in local, regional, state or federal laws or regulations that should be specifically incorporated into this franchise, such as Metro actions to implement new requirements from the 2030 Regional Waste Plan; 3. Failure to disclose fully all relevant facts;

		<ol style="list-style-type: none"> 4. A significant release into the environment from the facility; 5. Significant change in the character of solid waste received or in the operation of the facility; 6. Any change in ownership or control; 7. A request from the local government stemming from impacts resulting from facility operations; 8. A change of authorization request received from the franchisee; 9. Compliance history of the franchisee; and 10. Changes in the tonnage allocation based on new information, or changes in methodology, administrative rule or Metro Code.
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13.0 GENERAL OBLIGATIONS		
13.1	Compliance with law	The franchisee must fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative rules adopted pursuant to Chapter 5.01, whether or not those provisions have been specifically mentioned or cited in this franchise. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility are deemed part of this franchise as if specifically set forth in this franchise. These conditions and permits include those cited within or attached as exhibits to the franchise document, any existing at the time the franchise is issued but not cited or attached, and any issued or amended during the term of the franchise.
13.2	Deliver waste to appropriate destinations	The franchisee must ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.
13.3	Right of inspection and audit	<ol style="list-style-type: none"> 1. The franchisee must allow Metro's authorized representatives to access the facility and premises at any time during business hours, with or without advanced notice. For non-business hours, the franchise must allow access to Metro's authorized representatives upon receiving advanced notice of not less than 24 hours. 2. Metro's authorized representatives may take photographs, collect samples of materials and perform any inspection or audits as Metro considers appropriate. 3. Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the applicable confidentiality provisions in Section 13.4, Metro's right to inspect includes the right to review all information from which all required reports are derived including all books, maps,

		<p>plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the facility's operation and its rates.</p> <p>4. The franchisee must permit access to the facility premises to authorized representatives of Metro, including personnel on contract to Metro, to perform research at all times during business hours, with or without notice. The franchisee must provide:</p> <p>(a) Access to all areas where it generates, manages, stores and reloads waste, including without limitation to transfer vehicles;</p> <p>(b) Access to facility personnel and equipment to collect, sort, store and weigh waste; and</p> <p>(c) Access to a safe, covered location away from working areas and vehicle traffic on site where authorized representatives of Metro analyze waste and record data.</p>
13.4	Confidential information	<p>1. The franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The franchisee must prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro will treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192.</p> <p>2. If Metro receives a public records request seeking disclosure of information identified as confidential by the franchisee, Metro will provide the franchisee with a courtesy notice of that request within five days of receipt of the request.</p> <p>3. This Section 13.0 does not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding.</p> <p>4. Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, those representatives agree to continue to treat the information as confidential and make good faith efforts not to disclose the information.</p>
13.5	Compliance by agents	<p>The franchisee is responsible for ensuring that its agents and contractors comply with this franchise.</p>

STAFF REPORT

FOR THE PURPOSE OF APPROVING THE SOLID WASTE FACILITY FRANCHISE RENEWAL APPLICATION OF WILLAMETTE RESOURCES INC., AND AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED SOLID WASTE FACILITY FRANCHISE TO OPERATE A TRANSFER STATION

Date: October 17, 2019
Department: Property and Environmental
Services (PES)
Meeting Date: October 31, 2019

Prepared by: Joanna Dyer, 503-813-7550,
joanna.dyer@oregonmetro.gov
Presenters: Roy Brower and Joanna Dyer
Length: 15 minutes

ISSUE STATEMENT

Willamette Resources Inc., a Metro-authorized transfer station located at 10295 SW Ridder Rd. in Wilsonville, seeks to renew its Metro solid waste facility franchise. Metro Code Section 5.01.210 requires the Metro Council to approve or deny a solid waste facility franchise renewal.

ACTION REQUESTED

Approve Resolution No. 19-5026 which will authorize the Chief Operating Officer to issue a renewed solid waste facility franchise to Willamette Resources Inc. for a term of five years.

IDENTIFIED POLICY OUTCOMES

Approval of this resolution will support the goals of the 2030 Regional Waste Plan, the Business Food Waste Requirement and the Transfer System Configuration Policy. This staff report further describes these expected policy outcomes.

POLICY QUESTION

Should the Metro Council grant the Chief Operating Officer authority to renew the Metro solid waste facility franchise for Willamette Resources Inc. according to the provisions of Metro Code Chapter 5.01.210 and as described in this resolution?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Approve the resolution as proposed to renew the Metro solid waste facility franchise for Willamette Resources Inc.
2. Amend the resolution to renew the franchise with different conditions other than those recommended by staff.
3. Do not approve Resolution No. 19-5026.

STAFF RECOMMENDATIONS

Staff recommends that Council adopt Resolution No. 19-5026 to approve the renewal of the solid waste facility franchise for Willamette Resources Inc. If Council approves this resolution, the renewed franchise (F-005-20) will go into effect on January 1, 2020.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

A franchise term is typically five years. The current franchise became effective on January 1, 2009 and was set to expire December 31, 2013. Due to projects impacting the solid waste system including the Solid Waste Road Map and the expiration of Metro's disposal contract with Waste Management (which required that 90 percent of the Metro region's putrescible waste be disposed at a Waste Management landfill), the franchise term was extended by the Metro Council three times since 2013 resulting in the current term end date of December 31, 2019.

This franchise renewal is an opportunity to update and better align existing language for increased consistency as well as incorporate additional requirements that implement policy decisions made since the last renewal, such as the adoption of the 2030 Regional Waste Plan (Ordinance No. 19-1431), the Metro Transfer Station Configuration Policy (Resolution No. 16-4716) and the adoption of a Business Food Waste Requirement (Ordinance No. 18-1418). Metro staff propose changes to eight areas of the franchise, which are outlined below. References to specific franchise sections have been included when applicable. Franchisees had the opportunity to provide verbal and written feedback on the proposed changes, some of which resulted in additional modifications to the proposed language.

1. Begin implementation of the 2030 Regional Waste Plan

The proposed franchise includes a new section, Section 5.0, which authorizes Metro's Chief Operating Officer to amend the franchise for the purpose of implementing Council's policies advancing progress on the 2030 Regional Waste Plan actions.

All solid waste facilities within the region, including transfer stations, must operate in a manner that helps to advance progress towards achieving goals of the 2030 Regional Waste Plan (Action 12.6). The 2030 Regional Waste Plan provides the region with long-term policy and program direction for materials management and solid waste system planning efforts. While Metro implements the 2030 Regional Waste Plan primarily through cooperative working relationships among Metro, the Oregon Department of Environmental Quality (DEQ), local governments and the private sector, the plan contains actions that must be implemented throughout Metro's solid waste system.

2. Incorporate new tonnage allocation methodology

The proposed franchise has been updated to reflect a new tonnage allocation methodology that begins in 2020. The new methodology uses a percentage based approach that determines allocations based on Metro's annual solid waste forecast. The solid waste forecast is being finalized; therefore, there are placeholders in the proposed franchise where the number of tons will be included later. The tonnage amount for 2020 will be available before the franchise term begins and will be inserted prior to issuing the franchise. The Chief Operating Officer will continue Metro's long-standing practice of amending franchises each November to update the number of tons allocated for the following year.

3. Clarify the nature of the franchise

The proposed franchise has been updated to clarify that a Metro franchise is the grant of authority or privilege given by the Council to operate a transfer station as specified under Metro Code Chapter 5.01. This is a distinction from that of local governments which issue solid waste franchise, that grant the right and responsibility to provide collection service in a specific area. There are solid waste companies that hold a Metro franchise and a local government franchise, which can cause confusion because the nature of these separate franchises is different. A Metro franchise is a regulatory permit and not a negotiated agreement.

To help clarify this important distinction, this proposed franchise has been updated to remove contract-like language. Franchisees retain the opportunity to contest provisions of the franchise and seek amendments through a change of authorization process per Metro Code 5.01.230, but Metro determines whether to approve or deny any change of authorization.

4. Incorporate operations and performance standards that advance equity

The proposed franchise includes a new requirement to advance progress on the 2030 Regional Waste Plan and the Property and Environmental Services Diversity, Racial Equity and Inclusion Work Plan goals. The franchise requires the franchisee to comply with Oregon’s “ban the box” law (ORS 659A.360) (Section 6.16). Oregon’s “ban the box” law makes it illegal for an employer to inquire about criminal convictions before the interview stage of hiring. This law removes barriers to employment for people convicted of crimes. Additional existing federal, state, and local provisions that advance equity may be incorporated in future franchise amendments.

5. Align franchises with the Food Waste Framework

The proposed franchise includes a new requirement to advance progress on the Business Food Waste Requirement. In a 2014 work session, the Metro Council reviewed the region’s current commercial food waste recovery efforts and staff introduced potential paths forward to ensure that the region has a stable and sustainable commercial food waste transfer and processing system for the long term. The Council confirmed its desire to accelerate the region’s recovery of commercial food waste and its wish to process that waste in or as close to the region as possible. The Council determined that in order to increase commercial food waste recovery and attract stable, local processing capacity, Metro should:

1. Require certain businesses to separate their food waste for recovery and eventually prohibit the disposal of food from businesses;
2. Determine how to efficiently collect and deliver food waste for processing; and
3. Secure local and stable processing capacity.

Based on Council direction, staff developed policies and initiatives to fulfill these objectives. To address the first objective, the Metro Council adopted Ordinance No. 18-1418 in July 2018 which added the Business Food Waste Requirement to Metro Code 5.10. Under this ordinance, each local government must require certain businesses in its jurisdiction to separate and recover food waste to be delivered to a facility authorized by Metro. Businesses in the first group (largest generators) will be required to begin separating food waste in March 2020, the second group in March 2021, and the third in September 2022. The adoption and implementation of this policy was a major step forward in developing a stable and sustainable food waste recovery system. As of the date of this report, 16 of the 21 local governments required to adopt the Business Food Waste Requirement have done so (including the city of Wilsonville), two have received extensions, and three have received a notice of non-compliance from Metro for not meeting the policy requirements.

To address the need for an adequate waste transfer system to allow growth in the collection of commercial food waste in the region and provide equitable access to transfer services, Metro is looking to expand its facilities’ capacity to accept this material as well as determine the role that private transfer facilities should play in helping to also provide this capacity. Currently, all franchisees are authorized to accept commercial food waste, but only Willamette Resources Inc. currently does. In order to expand system capacity for commercial food waste, staff recommends that the Metro Council require a transfer station with current or pending infrastructure in place to accept food waste for reload and transfer to an approved recovery facility, whereas a facility that

does not have the necessary infrastructure in place will not be subject to the same requirement. Section 3.9 has been updated to require Willamette Resources Inc. to accept commercial food waste as it currently has the infrastructure to manage the material. Metro may require other facilities to accept food waste in the future by action of the Chief Operating Officer.

6. Align confidentiality language with public records law

Section 13.4, Confidential information, has been updated to align with current public records law which has more restrictive timelines for responding to a requestor. Metro will provide a franchisee with a courtesy notice of a public records request within five days of receiving such a request. Metro has the legal obligation to determine if any information marked “confidential” by the franchisee is objectively confidential according to public records law.

7. Clarify franchise amendment process

Current franchise language states that the franchise can be amended by the Metro Council adopting an ordinance. Proposed language in Section 12.1(b) expands this authority to include amendment by resolution.

8. Streamline franchise language for modernization and consistency

A suite of non-substantive updates have been made to clarify existing requirements and to streamline authorization language within and across facility classes.

KNOWN OPPOSITION / SUPPORT / COMMUNITY FEEDBACK

Metro posted notice and provided an opportunity for the public to review and submit comments on the franchise application. The public notice was posted on Metro’s website, mailed to approximately 77 property owners and residents within one-quarter mile of the proposed facility, and emailed to local community groups, neighborhood associations and various other parties that are generally interested in solid waste issues. The 30-day public comment period began on August 1, 2019, and closed on August 30, 2019.

Metro provided the applicant with a redline copy of the franchise that outlined the proposed changes. Metro staff met with Willamette Resources Inc. staff to tour the facility on July 31, 2019, and again on September 12, 2019 to discuss the proposed changes and to listen to their feedback.

Metro received one written comment during the public comment period from the mayor of Wilsonville in support of Willamette Resources Inc. Mayor Knapp referred to Willamette Resources Inc. as a “good neighbor” and supported the positive contributions its operations make to the community. A detailed description of this written comment is provided in the *Public Comment Report* included as Attachment 2 to this staff report. On October 31, 2019, the Metro Council will hold a public hearing on this proposed franchise renewal. Written and verbal public comments will be accepted at the meeting, prior to the Council voting on the resolution.

LEGAL ANTECEDENTS

Pursuant to Metro Code 5.01.180, the Council must 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 Waste Plan;*

Staff finds that the proposed activity is consistent with the regional values and policies outlined in the 2030 Regional Waste Plan and specifically aligns with many of the goals of the plan, including goals 12, 13 and 16:

- **Goal 12:** Manage all garbage and recycling operations to reduce their nuisance, safety and environmental impacts on workers and the public.
 - **Goal 13:** Invest in communities that receive garbage and recyclables from the Metro region so that those communities regard solid waste facilities as assets.
 - **Goal 16:** Maintain a system of facilities, from small recycling drop-off depots to larger full-service stations, to ensure equitable distribution of and access to services.
- (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;*

Willamette Resources Inc. has not requested any significant change in authorization or activities at this facility. The effect of granting a renewed franchise would be to minimize significant disruption to the solid waste system with regard to the cost of solid waste recycling and disposal services for the residents of the region in 2020.

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

Metro staff is not aware of any facility incidents or operating procedures that have adversely affected the health, safety and welfare of Metro's residents in an unreasonable manner during the term of the current franchise. Staff finds it unlikely that the franchised operation will adversely affect the health, safety and welfare of Metro's residents due to the type of activity performed and the good compliance record of the operator. The facility is also regulated and monitored by Metro and DEQ.

- (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;*

Metro staff is not aware of any significant complaints or impacts on the surrounding neighborhood during the term of the current franchise. Staff finds it unlikely that Willamette Resources Inc. would unreasonably adversely impact the surrounding neighborhood due to the operator's experience and compliance record.

- (5) *Whether the applicant has demonstrated the strong likelihood that it will comply with all requirement 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, and regulations, ordinances, orders or permits pertaining in any manner to the proposed franchise.*

Metro has a long history with this facility and staff finds that the applicant is likely to comply with regulations and standards if the franchise is renewed.

ANTICIPATED EFFECTS

Approval of Resolution No. 19-5026 will authorize the Chief Operating Officer to renew the franchise for Willamette Resources Inc. In addition, the Metro Council authorizes the Chief Operating Officer to determine annual tonnage allocations using the tonnage allocation methodology adopted by administrative rule. The tonnage allocation for 2020 will be determined using a percentage based approach once the solid waste forecast is final in November. If approved, the proposed franchise becomes effective on January 1, 2020, and expires on December 31, 2024.

FINANCIAL IMPLICATIONS

As mentioned above, staff are developing administrative rules that will set forth a detailed process for determining and adjusting future tonnage allocations. Staff notes that this prescribed tonnage allocation process, beginning in 2020, may result in a different, to be determined, tonnage allocation for each of the region's transfer stations. Metro will adjust tonnage allocations for all privately-owned transfer stations and require that at least 40 percent of the region's wet waste tonnage flows to publicly-owned transfer stations (Metro Central and South). Therefore, approval of the proposed franchise is expected to have minimal impact to Metro's Solid Waste Fund operating costs and revenues.

As a result of future adjustments, individual Community Enhancement Committees might experience an increase or reduction in funds based on potential future tonnage shifts.

BACKGROUND

The applicant, Willamette Resources Inc., is the owner and operator of an existing solid waste facility located at 10295 SW Ridder Road in Wilsonville (Metro Council District 3). Willamette Resources Inc. is a wholly owned subsidiary of Republic Services based in Phoenix, Arizona. Willamette Resources Inc. commenced operation in 1994 as a material recovery facility. The facility currently holds a Metro-issued franchise (F-005-081) to operate a transfer station authorized to receive putrescible waste, perform material recovery on non-putrescible waste and accept source-separated recyclable materials. Under the terms of the existing franchise, Willamette Resources Inc. is authorized to accept up to 79,880 tons of putrescible waste generated from within the Metro region in calendar year 2019. Willamette Resources Inc. also holds a solid waste disposal site permit for a transfer station and material recovery facility issued by DEQ (Permit No. 435). The applicant is well known to Metro as an operator of a Metro-franchised solid waste facility and as a long-standing solid waste management company in the Metro area. The applicant has extensive experience in recycling, solid waste collection, transfer and disposal. Staff concludes that the applicant is fully qualified to operate and manage this facility in a competent and efficient manner.

In addition to its franchise, Willamette Resources Inc. holds four non-system licenses that authorize it to transport Metro area waste to the following facilities outside of the region: Columbia Ridge Landfill in Arlington, Oregon and Coffin Butte Landfill in Corvallis, Oregon (N-005-16D), Covanta Waste-to-Energy Facility in Brooks, Oregon (N-005-19(2)), Pacific Region Compost Facility in Monmouth, Oregon (N-005-17(4)) and Recology Organics Aumsville in Salem, Oregon (N-005-17(5)A).

Metro has conducted 64 site inspections at Willamette Resources Inc. from January 1, 2009 to date. Staff has found the facility to be a well-run operation with no observable reason to suspect impending problems or issues. Metro issued two notices of violation during the current franchise term. On June 9, 2014, a Metro facility inspector witnessed and documented waste received and processed outside of a roofed building that is enclosed on at least three sides, in violation of the franchise ((NOV-360-14)). No penalty was assessed. Between December 11 and December 15, 2015 the facility exceeded its non-system license calendar year 2018 tonnage allocation for putrescible waste delivered to Coffin Butte Landfill by 155 tons (NOV-394-16). The facility was issued a \$1,800 civil penalty, which was paid in full. Willamette Resources Inc. is currently in compliance with its Metro issued non-system license and franchise.

DEQ and the city of Wilsonville have reported that there are no current enforcement or compliance issues associated with this site.

On July 22, 2019, the applicant submitted to Metro a complete solid waste facility franchise application accompanied by payment of the appropriate application fee of \$500. The applicant has not requested any new authorizations, tonnage increases or changes to its current franchise provisions.

Tonnage Allocation

A major component of the 2030 Regional Waste Plan is to take a broad look at the role, configuration and services offered by publicly and privately-owned transfer stations. In 2016, under Council's direction, Metro established a transfer system configuration policy to:

1. Ensure that the region's transfer system provides maximum public benefit;
2. Maintain the current configuration of publicly and privately-owned transfer stations;
3. Ensure that an adequate amount of wet waste flows to publicly-owned stations (at least 40 percent of the region's wet waste);
4. Limit the amount of wet waste that any one company may accept for transfer within the region to no more than 40 percent of the tonnage reserved for private transfer stations; and
5. Improve rate transparency.

The configuration policy also seeks to promote more efficient off-route transport of waste to reduce greenhouse gas emissions and provide opportunities for small, locally-based businesses to participate in the region's solid waste system.

The transfer system configuration policy shifted Metro away from its historical "tonnage cap" approach, in which the Metro Council had established annual facility tonnage limits, to a more systematic and predictable "tonnage allocation" system, in which tonnage authority is proportionally allocated to privately-owned stations each year. Beginning in 2020, Metro will determine and adjust tonnage allocations for all privately-owned transfer stations in the region, including Willamette Resources Inc., by applying a percentage-based allocation methodology currently being developed using the allocation framework that Metro Council adopted in November 2018 via Ordinance No. 18-1426.

This new approach to the wet waste tonnage allocation methodology includes reserving 40 percent of the region's wet waste tonnage for Metro's publicly-owned facilities and allowing the remaining 60 percent to be allocated in accordance with the finalized methodology. Staff is proposing a phased implementation of the new allocation methodology, where the 2020 allocations are intended to limit disruption to the system and help transition to full implementation of the new methodology in 2021.

Beginning in 2021, the allocation methodology will include a "base share" component for system stability and a "goal share" component to more directly support Metro's equity, service and environmental goals from the 2030 Regional Waste Plan. The goal shares will be determined by evaluating each transfer station's efforts to support and achieve Regional Waste Plan goals such as more efficient off-route travel, increased diversity of workers, paying living wages, addressing community concerns, providing reasonable, consistent and responsive rates and other goals that Council may deem to be important.

The forecasted tonnage for 2020 is projected to generally decrease relative to 2019. This projected decrease in tonnage, along with the addition of two new transfer stations in the region, make it infeasible to replicate current transfer station tonnage allocations in 2020 while maintaining Metro's 40 percent reserve.

ATTACHMENTS

- A. Exhibit A to Resolution No. 19-5023: Draft franchise F-005-20
- B. Attachment 1 to Staff Report: Images
- C. Attachment 2 to Staff Report: Public comment report

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5026

PUBLIC NOTICE:

Willamette Resources Inc.

Submit comments to Metro by 5 p.m. on August 30, 2019

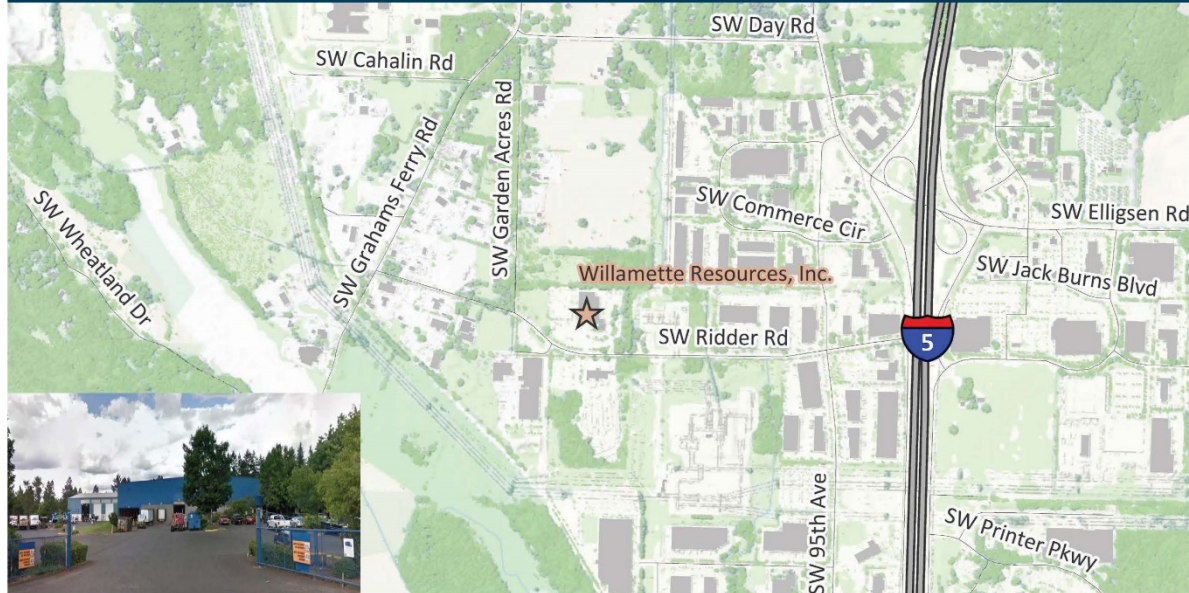


Photo 1: Public Notice post card, front

Willamette Resources Inc. (WRI) submitted an application to Metro to renew its transfer station franchise to receive garbage and recyclable materials, including yard debris and food waste, generated within the Metro region for reload and transport to a landfill for disposal or an approved facility for recovery. Republic Services is the owner and operator of Willamette Resources Inc. Current operations would not change under the proposed franchise renewal.

Facility Location:
10295 Southwest Ridder Road Wilsonville OR 97070

Written comments must be submitted by 5 p.m., August 30, 2019

Metro Solid Waste Information Compliance & Cleanup
600 NE Grand Ave., Portland, OR 97232

Fax: 503-813-7544 Email: SWICC@oregonmetro.gov

More information: oregonmetro.gov/solidwastepublicnotices

Esta es una notificación de su oportunidad para comentar sobre una solicitud para operar un establecimiento de desechos sólidos (basura o reciclado) en su comunidad. Si necesita asistencia con el idioma, llame al 503-797-1890 (de 8 a 5, lunes a viernes).

Настоящим уведомляем, что у вас есть возможность оставить свой отзыв относительно заявки на эксплуатацию учреждения по переработке твердых отходов (или авторсырья), расположенного в вашем районе. Языковую поддержку можно запросить по номеру 503-797-1890 в рабочие дни с 8:00 до 17:00.

Đây là thông báo về cơ hội của quý vị được trình bày ý kiến bằng đơn trong việc điều hành cơ sở quản lý rác thải (rác hoặc đồ tái chế) trong cộng đồng của quý vị. Nếu quý vị cần trợ giúp về ngôn ngữ, xin gọi số 503-797-1890 (từ 8 giờ sáng đến 5 giờ chiều vào những ngày thường).

本公告旨在通知您利用這個機會評論在您所在社區經營固體廢棄物(垃圾或回收服務)設施的申請。需要語言援助者請在撥打503-797-1890 (工作日上午8點至下午5點)。

본 통지서는 지역사회 내 고형 폐기물(쓰레기 또는 재사용) 시설 운영 신청에 대해 귀하의 의견을 제시할 수 있는 기회를 알려 드리기 위한 것입니다. 언어 지원 서비스가 필요한 경우 전화(근무일 기준) 503-797-1890으로 전화하십시오(주중 오전 8시 - 오후 5시).

Photo 2: Public Notice post card, back

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5026



Photo 3: Aerial photo of Willamette Resources Inc. located at 10295 Southwest Ridder Rd. in Wilsonville

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5026



Photo 4: Willamette Resources Inc. located at 10295 Southwest Ridder Rd. in Wilsonville



Photo 5: Willamette Resources Inc. located at 10295 Southwest Ridder Rd. in Wilsonville

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5026



Photo 6: Willamette Resources Inc. located at 10295 Southwest Ridder Rd. in Wilsonville

Public comment report

Attachment 2 to Staff Report for Ordinance No. 19-5026



October 17, 2019

Prepared by: Joanna Dyer
503-813-7550

Background

Adoption of Resolution No. 19-5026 will authorize the Chief Operating Officer to issue a renewed solid waste facility franchise for Willamette Resources Inc. for a term of five years.

On July 22, 2019, the applicant submitted to Metro a complete solid waste facility franchise application accompanied by payment of the appropriate application fee of \$500. The applicant has not requested any new authorizations, tonnage increases or changes to its current franchise provisions.

Public Notice and Opportunity to Comment

Metro posted notice and provided an opportunity for the public to review and submit comments on the renewal application. The public notice was posted on Metro's website, mailed to 77 property owners and residents within one-quarter mile of the facility and emailed to local community groups, neighborhood associations and various other parties that are generally interested in solid waste issues. The 30-day public comment period began on August 1, 2019, and closed on August 30, 2019.

Summary of written public comments on application

Metro received one comment during the public comment period from the mayor of Wilsonville in support of for Willamette Resources Inc., which can be found in full below. Mayor Knapp referred to Willamette Resources Inc. as a "good neighbor" and supported the positive contributions its operations make to the community, including the community enhancement grant which provides funds for important community projects. Mayor Knapp also noted that WRI's location provides easy access to a transfer station in the South Metro region which results in reduced vehicle miles traveled on local roadways and fewer greenhouse gas emissions.

Metro response to comments: Metro acknowledges the comment in support of this franchise renewal.

Public comment report

Attachment 2 to Staff Report for Ordinance No. 19-5026



The mayor of Wilsonville submitted this letter to Metro on August 22, 2019 as part of the public comment period.



August 21, 2019

Metro Solid Waste
600 NE Grand Ave.
Portland, OR 97232

*Submitted via email to:
SWICC@oregonmetro.gov*

**RE: Letter of Comment in Support of Willamette Resources Inc. (WRI)
application to Metro for renewal of transfer station franchise**

To whom it may concern:

The City of Wilsonville, as the local government with land-use regulatory authority for the Willamette Resources Inc. (WRI) operation in Wilsonville, supports WRI's application to Metro for renewal of the transfer station franchise.

The City and greater Wilsonville community have found WRI, a subsidiary of Republic Services of Clackamas and Washington Counties, to be a "good neighbor" that seeks to minimize disturbance and to provide community benefit.

The City's Community Development Department indicates receiving no reports of complaint from the public of WRI's operation. The City's Administration Department indicates that WRI's operation is crucial to the implementation of the Metro-Wilsonville Community Enhancement Program, which provides funds for important projects of community benefit.

The location in Wilsonville of WRI's operation provides easy access to a transfer station in the South Metro region, helping to decrease overall vehicle miles traveled on area roadways and also reducing greenhouse gas emissions if required to travel further.

In negotiating with the company for the improved Garden Acres Road that accesses the Metro-designated Coffee Creek Regionally Significant Industrial Area (RSIA) in the Wilsonville UGB area, WRI/Republic Services dedicated road right-of-way at no cost to the City.

The City is considering adding additional recycling services, including residential food-scrap collection and commercial Styrofoam and wood-pallet collection, in addition to the new Metro-mandated commercial food-scrap collection program that would be serviced by WRI.

For all these reasons, we support the franchise renewal. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Tim Knapp".

Tim Knapp, Mayor
City of Wilsonville

CITY OF WILSONVILLE • WILSONVILLE CITY COUNCIL

Phone 503-682-1011
Fax 503-682-1015

29799 SW Town Center Loop East
Wilsonville, OR 97070

www.ci.wilsonville.or.us
council@ci.wilsonville.or.us

Agenda Item No. 5.6

Resolution No. 19-5027, For the Purpose of Amending a
Solid Waste Facility Franchise and Authorizing City of
Roses Disposal and Recycling to Continue to Operate a
Transfer Station

Public Hearing

Metro Council Meeting
Thursday, October 31, 2019
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING A ONE YEAR	)	RESOLUTION NO. 19-5027
TERM EXTENSION AND AUTHORIZING THE)	
CHIEF OPERATING OFFICER TO ISSUE AN	)	Introduced by Acting Chief Operating
AMENDED SOLID WASTE FACILITY FRANCHISE	)	Officer Andrew Scott in concurrence with
FOR CITY OF ROSES DISPOSAL & RECYCLING	)	Council President Lynn Peterson

WHEREAS, Metro Code Section 5.01.150 states that a Metro Solid Waste Facility Franchise is required for any person owning or controlling a facility that operates a transfer station; and

WHEREAS, City of Roses Disposal & Recycling holds Metro Solid Waste Facility Franchise Number F-057-19 to operate COR Transfer Station, which will expire on December 31, 2023; and

WHEREAS, the City of Roses Disposal & Recycling Metro Solid Waste Facility Franchise should be extended for one year in order to align its expiration date with that of the other five private transfer stations in the region; and

WHEREAS, Metro Council adopted Resolution No. 18-1426 to establish a framework for allocating the region's putrescible waste tonnage to privately-owned transfer stations beginning in 2020; and

WHEREAS, beginning in 2020, Metro will allocate the region's putrescible waste tonnage to privately-owned transfer stations in accordance with Metro's tonnage allocation methodology; and

WHEREAS, City of Roses Disposal and Recycling's putrescible waste tonnage allocation amount may change during the term of the Metro Solid Waste Facility Franchise in accordance with Metro's tonnage allocation methodology; and

WHEREAS, Metro Council adopted the 2030 Regional Waste Plan via Ordinance No. 19-1431, which may require future amendments to the Metro Solid Waste Facility Franchise to implement the Plan; and

WHEREAS, the Chief Operating Officer recommends amending the Metro Solid Waste Facility Franchise to extend the term one year to align with other Solid Waste Facility Franchises and to include additional requirements that implement policy decisions made since the Metro Solid Waste Facility Franchise was issued; now therefore,

BE IT RESOLVED that the Metro Council:

1. Approves a one year term extension to December 31, 2024 for City of Roses Disposal and Recycling to operate COR Transfer Station subject to the terms, conditions and limitations contained in Exhibit A.
2. Authorizes the Chief Operating Officer to issue to City of Roses Disposal and Recycling an amended Metro Solid Waste Facility Franchise for COR Transfer Station substantially similar to the one attached as Exhibit A.

3. Authorizes the Chief Operating Officer to amend the Metro Solid Waste Facility Franchise as necessary without further Council action in order to allocate putrescible tonnage in accordance with Metro's tonnage allocation methodology based on Metro's solid waste tonnage forecast.

ADOPTED by the Metro Council this ____ day of October, 2019.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney



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

METRO SOLID WASTE FACILITY FRANCHISE

No. F-057-19A

FRANCHISEE:	FACILITY NAME AND LOCATION:
City of Roses Disposal & Recycling, Inc. P.O. Box 301427 Portland, OR 97294 Phone: 503-285-9940	COR Transfer Station 4530 NE 138 TH Avenue Portland, OR 97230 Phone: 503-285-9940
OPERATOR:	PROPERTY OWNER:
CORE Recycling 4530 NE 138 TH Avenue Portland, OR 97230 Phone: 503-285-9940	NE 138 th LLC. P.O. Box 301427 Portland, OR 97294 Phone: 503-285-9940

This franchise replaces and supersedes the provisions of Metro Solid Waste Facility License No. L-057-19.

ISSUED BY METRO:

Roy W. Brower, Interim Property and Environmental Services Director

Date

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1.0	ISSUANCE	
1.1	Corporate affiliation	City of Roses Disposal & Recycling, Inc. P.O. Box 301427 Portland, OR 97294
1.2	Contact	Alando Simpson Phone: (503) 285-9940 E-mail: alandosimpson@cityofrosesdisposal.com
1.3	Term	The franchise originally commenced on August 14, 2019 and is now extended to terminate on December 31, 2024, unless amended, suspended or revoked as provided in this franchise.
1.4	Renewal	The franchisee may apply for a franchise renewal as provided in Metro Code Chapter 5.01.
1.5	Facility name and mailing address	COR Transfer Station P.O. Box 301427 Portland, OR 97294 Phone: 503-285-9940
1.6	Facility premises description	Tax Lot Identification Nos. 1N2E23D-00100 and 1N2E23D-00101, City of Portland, Multnomah County, State of Oregon. Metro may inspect the facility site and any areas directly related to the transfer station operations as per Section 13.3.
1.7	Permission to operate	The property owner consents to use of the property as a transfer station by the franchisee.

2.0	CONDITIONS AND DISCLAIMERS	
2.1	Guarantees	This franchise does not vest any right or privilege in the franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise.
2.2	Non-exclusive franchise	This franchise does not limit Metro from granting other solid waste franchises within Metro’s jurisdictional boundary.
2.3	Property rights	This franchise does not convey any property rights in either real or personal property.
2.4	Amendment	Except as provided in Section 12.0, no amendment is effective unless approved by the Metro Council.

2.5	No recourse	The franchisee will have no recourse against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement of the franchise or in the event Metro determines that the franchise or any part thereof is invalid.
2.6	Indemnification	The franchisee must indemnify Metro, the Council, the Chief Operating Officer, and any of Metro's employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the granting of this franchise or the franchisee's performance of or failure to perform any of its obligations under the franchise or Metro Code Chapter 5.01, including without limitation patent infringement and any claims or disputes involving subcontractors.
2.7	Waivers	To be effective, a waiver of any terms or conditions of this franchise must conform with Section 12.0 and be in writing and signed by Metro.
2.8	Effect of waiver	Waiver of a term or condition of this franchise does not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or any other term or condition.
2.9	Enforceability	If a court of competent jurisdiction determines that any provision of this franchise is invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this franchise will not be affected.
2.10	Franchise not a waiver	This franchise does not relieve any owner, operator or the franchisee from the obligation to obtain all required permits, franchises or other clearances and to comply with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
2.11	Franchise not limiting	This franchise does not limit the power of a federal, state, or local agency to enforce any provision of law relating to the facility.
2.12	Definitions	<ol style="list-style-type: none"> 1. "Mixed Non-Putrescible Waste" means a mixture of more than one type of non-putrescible waste, including commingled recyclables other than residential curbside recyclable material. This category includes construction and demolition waste but excludes cleanup material, source-separated recyclable material, special waste, land clearing debris and yard debris. 2. Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.00.

3.0	AUTHORIZATIONS	
3.1	General conditions on solid waste	The franchisee is authorized to accept at the facility only the solid wastes described in Section 3.0 of this franchise. The franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
3.2	General conditions on activities	The franchisee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0 of this franchise.
3.3	Acceptance and management of putrescible solid waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept putrescible waste for reload and transfer to an appropriate destination as provided in Section 13.2. The franchisee also is authorized to accept putrescible waste for material recovery. 2. The franchisee must receive, manage, store, reload and transfer all putrescible waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight, covered containers or within covered transport trailers. 3. The franchisee is authorized to accept putrescible waste generated inside the Metro region only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste. 4. The franchisee must not store putrescible waste on-site for more than 24-hours. 5. Putrescible waste stored on-site overnight must not exceed one truckload (25 cubic yards) and must be stored inside a covered container inside the closed building.
3.4	Acceptance and management of mixed non-putrescible solid waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept loads of mixed non-putrescible solid waste from all customers including public self-haul to perform material recovery. 2. The franchisee must receive, sort, store, reload and transfer all mixed non-putrescible solid waste on an impervious surface, for example asphalt or concrete, and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles, for example 30-foot tippers, may tip wastes outside, provided the tipped wastes are moved under cover prior to processing, within 12 hours of receipt, or by the end of the business day, whichever is earlier.
3.5	Material recovery required	<ol style="list-style-type: none"> 1. The franchisee must perform material recovery on mixed non-putrescible wastes at no less than the minimum level stipulated in Metro Code Chapter 5.01 or must reload and transfer such waste to a facility authorized by Metro to perform material recovery. 2. The franchisee must ensure that the facility is designed and operated so that materials are recovered in a timely manner and that the

		<p>reloading and transfer of non-putrescible waste to a Metro-authorized material recovery facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery.</p> <p>3. The franchisee must take quarterly samples of processing residual, when generated at the facility, that are statistically valid and representative of the facility's residual. Each sample required by this section must weigh at least 300 pounds.</p>
3.6	Management of processing residual from material recovery	The franchisee must store, reload and transfer all non-putrescible waste processing residual on an impervious surface and inside a roofed building that is enclosed on at least three sides or alternatively, inside watertight, covered containers or within covered transport trailers.
3.7	Acceptance of source-separated recyclable materials	<ol style="list-style-type: none"> 1. The franchisee must provide a place for collecting source-separated recyclable materials on the facility premises. 2. The franchisee is authorized to accept source-separated recyclable materials for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse or recycling.
3.8	Acceptance of yard debris	The franchisee is authorized to accept source-separated yard debris that has not reached a state of decomposition sufficient to produce odors detectable beyond the boundaries of the facility. The franchisee may accept yard debris for grinding and reloading to authorized facilities for composting, use as hogged fuel, or other useful purposes as described in an operating plan and approved in writing by Metro.
3.9	Acceptance of source-separated food waste	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept source-separated food waste for reloading to an authorized facility for composting, anaerobic digestion or other resource recovery process as described in an operating plan and approved in writing by Metro. 2. Notwithstanding subsection 3.9.1 above, the Chief Operating Officer may amend this franchise as described in section 12.0 to require the franchisee to accept source-separated food waste. 3. If the franchisee accepts source-separated food waste, then the franchisee must: <ol style="list-style-type: none"> (a) Reload and remove all source-separated food waste from the site in a timely manner so that it does not reach a state of decomposition sufficient to produce odors detectable beyond the boundaries of the facility; (b) Protect the quality of source-separated food waste such that it is suitable for composting, anaerobic digestion or other resource recovery process that is approved in writing by Metro; and

		(c) Transport all source-separated food waste to a Metro-authorized facility for recovery.
3.10	Acceptance of untreated wood	The franchisee is authorized to accept, for processing and reloading, source-separated, untreated and unpainted wood waste, for example untreated lumber and wood pallets. The franchisee may accept clean wood waste for grinding and reloading to authorized facilities for composting, use in paper production, use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro.
3.11	Acceptance of painted and treated wood	The franchisee is authorized to accept painted and treated wood waste for grinding and reloading to authorized facilities for use as hogged fuel or other useful purposes as described in an operating plan and approved in writing by Metro. The franchisee must not use or incorporate painted or treated wood into mulch, animal bedding, compost feedstock or any other product unless otherwise described in an operating plan and approved in writing by Metro.
3.12	Acceptance of electronics devices	The franchisee is authorized to accept source-separated electronic devices for the purpose of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for reuse, recycling or disposal as required by the Oregon Department of Environmental Quality (DEQ).
3.13	Acceptance of inert material	The franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer and other similar functions related to preparing these materials for useful purposes.
3.14	Production of hogged fuel	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept and process only untreated wood, painted wood and incidental quantities of treated wood for delivery to facilities with industrial boilers for use as hogged fuel. 2. The franchisee is prohibited from mixing any other solid waste with the wood wastes described above in subsection 3.14.1 for the production of hogged fuel.

4.0	LIMITATIONS AND PROHIBITIONS	
4.1	Tonnage allocation	<ol style="list-style-type: none"> 1. The franchisee is authorized to accept putrescible waste generated inside the Metro region as provided in this franchise. 2. By January 1 of each year, Metro will amend this franchise to establish an annual tonnage allocation amount for the franchisee. 3. Metro will determine the tonnage allocation amount in accordance with allocation methodology provided in Metro Code Chapter 5.01 and applicable administrative rules.

		4. For calendar year 2020, beginning on January 1 and ending December 31, 2020, the franchisee is authorized to accept up to XX,XXX tons of putrescible waste generated inside the Metro region.
4.2	Waste hauler access	<p>It is in the public's best interest that transfer stations located inside the Metro region maintain adequate capacity to accommodate solid waste generated within the region and provide adequate access to waste haulers. Therefore:</p> <ol style="list-style-type: none"> 1. The franchisee must not accept solid waste generated outside the Metro region if to do so would limit the franchisee from accepting any putrescible or non-putrescible waste generated inside the Metro region; 2. The franchisee must not deny access to any unaffiliated waste hauler without due cause or written notice 30-days in advance. Due cause includes, but is not limited to, load contamination, failure to pay or risk of exceeding the franchise tonnage allocation; and 3. Metro may require the franchisee to provide a written explanation of its rationale if the facility denies access or refuses service to a waste hauler.
4.3	Prohibited waste	The franchisee must not knowingly receive, process, reload or dispose of any solid waste not authorized by this franchise. The franchisee must not knowingly accept or retain any material amounts of the following types of waste: materials contaminated with or containing asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; explosives; or any waste prohibited by DEQ.
4.4	Prohibition on mixing	The franchisee must not mix different waste types unless such mixing is described in an operating plan and approved in writing by Metro
4.5	Prohibition of size reduction on non-putrescible waste	The franchisee must not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, processing residual consolidation or loading operations, and such size reduction is described in an operating plan and approved in writing by Metro.
4.6	No disposal of recyclable materials	The franchisee must not transfer source-separated recyclable materials to a disposal site, including without limitation, landfills and incineration facilities, without written permission from Metro and DEQ.
4.7	Composting prohibited	The franchisee must not keep yard debris on site long enough for more than negligible biological decomposition to begin.
4.8	Limits not exclusive	This franchise will not be construed to limit, restrict, curtail or abrogate any limitation or prohibition contained elsewhere in this franchise

		document, in Metro Code or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.
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5.0 REGIONAL WASTE PLAN		
5.1	Regional Waste Plan	<ol style="list-style-type: none"> 1. Metro plans, manages and oversees the region's solid waste system to achieve the goals and actions outlined in the 2030 Regional Waste Plan. 2. Metro may amend this franchise and establish new requirements for the franchisee to achieve the goals and actions of the 2030 Regional Waste Plan.

6.0 OPERATING CONDITIONS		
6.1	General performance standards	<p>The franchisee must operate in a manner that meets the following general performance standards:</p> <ol style="list-style-type: none"> 1. Environment. The franchisee must design and operate the facility to avoid undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution and improper acceptance and management of hazardous waste, asbestos and other prohibited wastes. 2. Health and safety. The franchisee must design and operate the facility to avoid conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris. 3. Nuisances. The franchisee must design and operate the facility to avoid nuisance conditions including, but not limited to, litter, dust, odors and noise.
6.2	Qualified operator	<ol style="list-style-type: none"> 1. The franchisee must, during all hours of operation, provide an operating staff employed by the facility that is qualified and competent to carry out the functions required by this franchise and to otherwise comply with Metro Code Chapter 5.01. 2. Facility personnel, as relevant to their job duties and responsibilities, must be familiar with the relevant provisions of this franchise and the relevant procedures contained within the facility's operating plan. 3. A qualified operator must be an employee of the facility with training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.

6.3	Fire prevention	<p>The franchisee must provide fire prevention, protection and control measures including, but not limited to:</p> <ol style="list-style-type: none"> 1. Adequate water supply for fire suppression; and 2. The isolation of potential heat sources and/or flammables from processing and storage areas.
6.4	Adequate vehicle accommodation	<p>The franchisee must:</p> <ol style="list-style-type: none"> 1. Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. The franchisee must maintain access roads to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather. 2. Take reasonable steps to notify and remind persons delivering solid waste to the facility that vehicles must not park or queue on public streets or roads except under emergency conditions or as provided by local traffic ordinances. 3. Post signs to inform customers not to queue on public roadways. 4. Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site covering and uncovering of loads.
6.5	Managing prohibited wastes	<ol style="list-style-type: none"> 1. The franchisee must reject prohibited waste upon discovery and must properly manage and dispose of prohibited waste when unknowingly received. 2. The franchisee must implement a load-check program to prevent the acceptance of prohibited waste. This program must include at a minimum: <ol style="list-style-type: none"> (a) Visual inspection. As each load is tipped, a qualified operator must visibly inspect the load to prevent the acceptance of waste that is prohibited by the franchise. (b) Containment area. A secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas must be covered and enclosed to prevent leaking and contamination. (c) Record maintenance. The franchisee must maintain records of the training of personnel in the recognition, proper handling and disposition of prohibited waste and make those records available for review by Metro. 3. Upon discovery, the franchisee must remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the operating plan. All such wastes the franchisee unknowingly receives must be removed from the site and transported to an appropriate destination within 90

		days of receipt, unless required to be removed earlier by DEQ or local government.
6.6	Storage and exterior stockpiles	<p>The franchisee must:</p> <ol style="list-style-type: none"> 1. Manage, contain and remove at sufficient frequency stored materials and solid wastes to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards; 2. Maintain storage areas in an orderly manner and keep the areas free of litter; 3. Position exterior stockpiles within footprints identified on the facility site plan or operating plan; and 4. Not stockpile recovered or source-separated materials for longer than 180 days.
6.7	Dust, airborne debris and litter	<p>The franchisee must operate the facility in a manner that controls and minimizes the generation of dust, airborne debris and litter, and must prevent its migration beyond property boundaries. The franchisee must:</p> <ol style="list-style-type: none"> 1. Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit; 2. Maintain and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit; 3. Maintain and operate all access roads and receiving, processing, storage and reload areas in such a manner as to control and minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site; 4. Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation; 5. Maintain on-site facility access roads to prevent or control dust and to prevent or control the tracking of mud off-site; and 6. Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, must be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Metro Code Chapter 5.09.
6.8	Odor	<ol style="list-style-type: none"> 1. The franchisee must operate the facility in a manner that controls and minimizes the generation of odors that are detectable off-site.

		2. The franchisee must establish and follow procedures in the operating plan for minimizing odor at the facility.
6.9	Vectors (e.g. birds, rodents, insects)	<ol style="list-style-type: none"> 1. The franchisee must operate the facility in a manner that is not conducive to harboring rodents, birds, insects or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another. 2. If vectors are present or detected at the facility, the franchisee must implement vector control measures.
6.10	Noise	The franchisee must operate the facility in a manner that controls and minimizes any noise sufficient to cause adverse off-site impacts and meets applicable regulatory standards and land-use regulations.
6.11	Water contaminated by solid waste and solid waste leachate	<p>The franchisee must operate the facility consistent with an approved DEQ stormwater management plan or equivalent and must:</p> <ol style="list-style-type: none"> 1. Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; and 2. Dispose of or treat water contaminated by solid waste generated on-site in a manner complying with local, state and federal laws and regulations.
6.12	Access control	<ol style="list-style-type: none"> 1. The franchisee must control access to the facility as necessary to prevent unauthorized entry and dumping. 2. The franchisee must maintain a gate or other suitable barrier at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.
6.13	Signage	<p>The franchisee must post signs at all public entrances to the facility. The signs must comply with local government signage regulations. These signs must be easily and readily visible and legible from off-site during all hours and must contain at least the following information:</p> <ol style="list-style-type: none"> 1. Name of the facility; 2. Address of the facility; 3. Emergency telephone number for the facility; 4. Operating hours during which the facility is open for the receipt of authorized waste; 5. Fees and charges; 6. Metro's name and telephone number (503) 234-3000; 7. A list of authorized and prohibited wastes; 8. Vehicle / traffic flow information or diagram; 9. Covered load requirements; and

		10. Directions not to queue on public roadways.
6.14	Complaints	<ol style="list-style-type: none"> 1. The franchisee must respond to all complaints in timely manner including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic and vectors, and must keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint. 2. If the facility receives a complaint, the franchisee must: <ol style="list-style-type: none"> (a) Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts, whether successful or unsuccessful; and (b) Log all such complaints as provided by the operating plan. The franchisee must retain each log entry for one year and it must be available for inspection by Metro.
6.15	Operating hours	Metro may reasonably regulate the hours of facility operations as it finds necessary to ensure compliance with this franchise.
6.16	Access to franchise document	The franchisee must maintain a copy of this franchise on the facility's premises in a location where facility personnel and Metro representatives have ready access to it.
6.17	Employment standard	The franchisee must be in compliance with Oregon's "ban the box" law (ORS 659A.360) which makes it unlawful for an employer to inquire about criminal convictions before the interview stage of hiring. The franchisee must maintain a copy of the facility's employment application on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
6.18	Additional operating conditions	<p>As conditions of the city's land use requirements, the franchisee must:</p> <ol style="list-style-type: none"> 1. Operate and maintain an odor control and neutralizing system; 2. Maintain landscaping (a high hedge) along the southern property line that meets landscaping standards; and 3. Maintain a capture and management system for leachate (liquid that has come into direct contact with solid waste and contains dissolved, miscible and/or suspended contaminants as a result of such contact).

7.0	OPERATING PLAN	
7.1	Plan compliance	The franchisee must operate the facility in accordance with an operating plan approved in writing by Metro. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this franchise. The franchisee may amend or revise the operating plan from time to time, subject to written approval by Metro.

7.2	Plan maintenance	The franchisee must revise the operating plan as necessary to keep it current with facility conditions, procedures and requirements. The franchisee must submit amendments and revisions of the operating plan to Metro for written approval prior to implementation.
7.3	Access to operating plan	The franchisee must maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
7.4	Procedures for inspecting loads	The operating plan must establish: <ol style="list-style-type: none"> 1. Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes; 2. Procedures for identifying incoming and outgoing loads for waste classifications; 3. A set of objective criteria for accepting and rejecting loads; and 4. An asbestos testing protocol for all materials that appear to contain asbestos.
7.5	Procedures for mixing waste types	The operating plan must establish: <ol style="list-style-type: none"> 1. Circumstances under which waste types will be mixed; and 2. Procedures for record keeping and reporting for mixed outbound loads.
7.6	Procedures for processing and storage of loads	The operating plan must establish procedures for: <ol style="list-style-type: none"> 1. Processing authorized solid wastes; 2. Reloading and transfer of authorized solid wastes; 3. Managing stockpiles to ensure that they remain within the authorized weights, volumes and pile heights; 4. Storing authorized solid wastes; and 5. Minimizing storage times and avoiding delay in processing of authorized solid wastes.
7.7	Procedures for managing prohibited wastes	The operating plan must establish procedures for managing, reloading and transferring to appropriate facilities or disposal sites any prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan must establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.
7.8	Procedures for odor prevention	The operating plan must establish procedures for controlling and minimizing odors generated at the facility from being detected off the premises of the facility. The plan must include: <ol style="list-style-type: none"> 1. A management plan that the franchisee will use to monitor and

		<p>manage odors of any derivation including odorous loads delivered to the facility; and</p> <p>2. Procedures for receiving and recording odor complaints, immediately investigating all odor complaints to determine the cause of odor emissions and remedying promptly all odor problems at the facility.</p>
7.9	Procedures for dust prevention	<p>The operating plan must establish procedures for controlling and minimizing dust from blowing off the premises of the facility. The plan must include:</p> <p>1. A management plan that the franchisee will use to monitor and manage dust of any derivation; and</p> <p>2. Procedures for receiving and recording dust complaints, immediately investigating all dust complaints to determine the cause of dust emissions and remedying promptly all dust problems at the facility.</p>
7.10	Procedures for emergencies	<p>The operating plan must establish procedures that the franchisee will follow in case of fire or other emergency.</p>
7.11	Procedures for complaints	<p>The operating plan must establish procedures for managing complaints.</p> <p>1. For every complaint received (for example odor, dust, vibrations and litter), the franchisee must record:</p> <ul style="list-style-type: none"> (a) The nature of the complaint; (b) The date the complaint was received; (c) The name, address and telephone number of the person or persons making the complaint; and (d) Any actions taken by the operator in response to the complaint, whether successful or unsuccessful. <p>2. The franchisee must make records of such information available to Metro upon request. The franchisee must retain each complaint record for a period of not less than one year.</p>
7.12	Closure protocol	<p>1. The franchisee must establish protocol for closure and restoration of the site in the event of a cessation of operations as provided in Metro Code Chapter 5.01.</p> <p>2. The plan must include protocol for:</p> <ul style="list-style-type: none"> (a) Short-term closure (duration of time that is more than two consecutive business days but less than 120 days in length); and (b) Long-term closure (duration of time that is 120 consecutive days or more in length). <p>3. The franchisee must give at least 24-hour notice to Metro prior to the short-term closure of the facility.</p>

		4. The franchisee must give at least 90 days written notice to Metro prior to the long-term closure of the facility.
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8.0	FEES AND RATES	
8.1	Annual fee	The franchisee must pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
8.2	Rates	<ol style="list-style-type: none"> 1. The rates charged by the franchisee for accepting solid waste are not subject to regulation by Metro unless the Metro Council adopts an ordinance that establishes Metro's rate regulation authority. 2. Notwithstanding the provision above, the rates charged by the franchisee must not exceed the rates posted at the facility as described in Section 6.13.
8.3	Metro fee and tax imposed on disposal	The franchisee is liable for payment of the Metro Regional System Fee, as provided in Metro Code Title V, and the Metro Excise Tax, as provided in Metro Code Title VII, on all solid wastes delivered to a disposal site.
8.4	Metro community enhancement fee imposed on waste received	The franchisee must collect and remit to Metro a community enhancement fee, as provided in Metro Code Chapter 5.06, in an amount equal to \$1.00 per ton for all putrescible waste including food waste and residential yard debris mixed with food waste. The franchisee must remit the community enhancement fees to Metro on a monthly basis in conjunction with fees remitted in Section 8.3.

9.0	RECORD KEEPING AND REPORTING	
9.1	Record keeping requirements	For all solid waste and materials the franchisee is authorized to accept under Section 3.0, the franchisee must keep and maintain accurate records of the amount of authorized materials the franchisee accepts, recovers, recycles, reloads and disposes. These records must include the information specified in the Metro document titled, <u>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees and Parties to Designated Facility Agreements.</u>
9.2	Reporting requirements	The franchisee must transmit to Metro records required under Section 9.0 no later than fifteen days following the end of each month in a format prescribed by Metro.
9.3	Material recovery reporting	The franchisee must provide the results of its quarterly sampling of processing residual, as provided in Section 3.5 of this franchise, to Metro

		as a component of its monthly report no later than fifteen days following the end of the each quarter in a format prescribed by Metro.
9.4	Account number listing	Within five business days of Metro’s request, the franchisee must provide Metro with a listing that cross-references the account numbers used in the transaction database with the company’s name and address.
9.5	Transactions based on scale weights	Except for minimum fee transactions for small, lightweight loads, the franchisee must record each inbound and outbound transaction electronically based on actual and accurate scale weights using the franchisee’s on-site scales.
9.6	DEQ submittals	The franchisee must provide Metro with copies of all correspondence, exhibits or documents submitted to DEQ relating to the terms or conditions of DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
9.7	Copies of enforcement actions provided to Metro	The franchisee must ensure Metro receives copies of any notice of violation or noncompliance, citation or any other similar enforcement actions issued to the franchisee by any federal, state or local government (other than Metro) related to the operation of the facility.
9.8	Unusual occurrences	<ol style="list-style-type: none"> 1. The franchisee must keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. 2. The franchisee must notify Metro within 24 hours of any breakdown of the franchisee’s equipment if the breakdown will substantially impact the facility’s ability to comply with this franchise, with Metro Code or which will create off-site impacts. 3. The franchisee must report any facility fires, accidents, emergencies and other significant incidents to Metro within 12 hours of the discovery of their occurrence. 4. The franchisee must report any long term or short term closures as provided in Section 7.12.
9.9	Changes in ownership	<ol style="list-style-type: none"> 1. Any change in control of the franchisee or the transfer of a controlling interest of the franchisee requires prior written notice to Metro. “Transfer of a controlling interest of the franchisee” includes without limitation the transfer of 10% or more of the ownership of the franchisee to or from a single entity. Metro may amend this franchise under Section 12.2 to require the new ownership of the franchisee to assume all the rights and obligations of this franchise.

		2. The franchisee may not lease, assign, mortgage, sell or otherwise transfer control of the franchise unless the franchisee follows the requirements of Metro Code Chapter 5.01.
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10.0 INSURANCE REQUIREMENTS		
10.1	General liability	The franchisee must carry the most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence. The policy will include coverage for bodily injury, property damage, personal injury, death, contractual liability, premises and products/completed operations. The franchisee's coverage will be primary as respects Metro.
10.2	Automobile	The franchisee must carry automobile insurance with coverage for bodily injury and property damage, and with limits not less than minimum of \$1,000,000 per accident or combined single limit.
10.3	Additional insureds	Metro, its elected officials, departments, employees, volunteers and agents must be named as ADDITIONAL INSURED on the Commercial General Liability policy. The franchisee must include the additional insured endorsement along with the certificate of insurance.
10.4	Workers' compensation insurance	<ol style="list-style-type: none"> 1. The franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law, and must comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. 2. The Workers' Compensation Insurance must meet Oregon statutory requirements including Employer's Liability with limits not less than \$1,000,000 per accident or disease. 3. The franchisee must provide Metro with certification of Workers' Compensation insurance including employer's liability. If the franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
10.5	Certificate of insurance	<ol style="list-style-type: none"> 1. The franchisee must provide Metro with a Certificate of Insurance complying with this Section 10. 2. The franchisee must list Metro as the certificate holder. 3. Upon insurance renewal, the franchisee must submit an updated certificate of insurance and the additional insured endorsement to Metro via email (SWICC@oregonmetro.gov).

10.6	Notification	The franchisee must give at least 30 days written notice to Metro of any lapse or proposed cancellation of insurance coverage.
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11.0	ENFORCEMENT	
11.1	Authority vested in Metro	The power and right to regulate, in the public interest, the exercise of the privileges granted by this franchise is at all times vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro’s authority, and to enforce all such requirements against the franchisee.
11.2	No enforcement limitations	This franchise may not be construed to and does not limit, restrict, curtail or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor does this franchise limit or preclude Metro from adopting ordinances that regulate the health, safety or welfare of any person or persons within the Metro jurisdictional boundary, notwithstanding any incidental impact that such ordinances may have upon the terms of this franchise or the franchisee’s operation of the facility.
11.3	Penalties	Each violation of a franchise condition is punishable by penalties as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation.

12.0	AMENDMENT, SUSPENSION AND REVOCATION	
12.1	Amendment by Metro Council	<p>Except as provided in Section 12.2, the provisions of this franchise will remain in effect unless the Metro Council:</p> <ol style="list-style-type: none"> 1. Amends the Metro Code, amends the 2030 Regional Waste Plan or implements other legislation of broad applicability that affects the class of facilities of which this franchisee is a member; or 2. Adopts an ordinance or resolution amending this franchise to implement policy, code or other requirements such as the 2030 Regional Waste Plan.
12.2	Amendment, suspension or revocation by Metro	<p>The Chief Operating Officer may, at any time before the expiration date, amend, suspend or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ol style="list-style-type: none"> 1. Violation of the terms or conditions of this franchise, Metro Code or any applicable statute, rule or standard; 2. Changes in local, regional, state or federal laws or regulations that should be specifically incorporated into this franchise, such as Metro

		<p>actions to implement new requirements from the 2030 Regional Waste Plan;</p> <ol style="list-style-type: none"> 3. Failure to disclose fully all relevant facts; 4. A significant release into the environment from the facility; 5. Significant change in the character of solid waste received or in the operation of the facility; 6. Any change in ownership or control; 7. A request from the local government stemming from impacts resulting from facility operations; 8. A change of authorization request received from the franchisee; 9. Compliance history of the franchisee; and 10. Changes in the tonnage allocation based on new information, or changes in methodology, administrative rule or Metro Code.
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13.0 GENERAL OBLIGATIONS		
13.1	Compliance with law	The franchisee must fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative rules adopted pursuant to Chapter 5.01, whether or not those provisions have been specifically mentioned or cited in this franchise. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility are deemed part of this franchise as if specifically set forth in this franchise. These conditions and permits include those cited within or attached as exhibits to the franchise document, any existing at the time the franchise is issued but not cited or attached, and any issued or amended during the term of the franchise.
13.2	Deliver waste to appropriate destinations	The franchisee must ensure that solid waste transported from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.
13.3	Right of inspection and audit	<ol style="list-style-type: none"> 1. The franchisee must allow Metro’s authorized representatives to access the facility and premises at any time during business hours, with or without advanced notice. For non-business hours, the franchise must allow access to Metro’s authorized representatives upon receiving advanced notice of not less than 24 hours. 2. Metro’s authorized representatives may take photographs, collect samples of materials and perform any inspection or audits as Metro considers appropriate.

		<p>3. Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the applicable confidentiality provisions in Section 13.4, Metro's right to inspect includes the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the facility's operation and its rates.</p> <p>4. The franchisee must permit access to the facility premises to authorized representatives of Metro, including personnel on contract to Metro, to perform research at all times during business hours, with or without notice. The franchisee must provide:</p> <ul style="list-style-type: none"> (a) Access to all areas where it generates, manages, stores and reloads waste, including without limitation to transfer vehicles; (b) Access to facility personnel and equipment to collect, sort, store and weigh waste; and (c) Access to a safe, covered location away from working areas and vehicle traffic on site where authorized representatives of Metro analyze waste and record data.
13.4	Confidential information	<p>1. The franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. The franchisee must prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" before it submits it to Metro for review. Metro will treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192.</p> <p>2. If Metro receives a public records request seeking disclosure of information identified as confidential by the franchisee, Metro will provide the franchisee with a courtesy notice of that request within five days of receipt of the request.</p> <p>3. This Section 13.0 does not limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding.</p> <p>4. Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, those representatives agree to continue to treat the information as confidential and make good faith efforts not to disclose the information.</p>



13.5	Compliance by agents	The franchisee is responsible for ensuring that its agents and contractors comply with this franchise.
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STAFF REPORT

FOR THE PURPOSE OF APPROVING A ONE YEAR TERM EXTENSION AND AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE AN AMENDED SOLID WASTE FACILITY FRANCHISE FOR CITY OF ROSES DISPOSAL & RECYCLING TO OPERATE COR TRANSFER STATION.

Date: October 17, 2019
Department: Property and Environmental
Services (PES)
Meeting Date: October 31, 2019

Prepared by: Joanna Dyer, 503-813-7550,
joanna.dyer@oregonmetro.gov
Presenters: Roy Brower and Joanna Dyer
Length: 15 minutes

ISSUE STATEMENT

Metro seeks to amend the franchise for City of Roses Disposal & Recycling, a partner company of CORE Recycling who operates COR Transfer Station, located at 4580 NE 138th Avenue in Portland, so that the franchise requirements and term align with the other five Metro authorized franchises which are currently up for renewal.

ACTION REQUESTED

Approve Resolution No. 19-5027 which will authorize the Chief Operating Officer to amend the solid waste facility franchise for City of Roses Disposal & Recycling to include updated requirements and extend the term one year to align with the other five privately-owned transfer stations.

IDENTIFIED POLICY OUTCOMES

Approval of this resolution will support the goals of the 2030 Regional Waste Plan, the Business Food Waste Requirement and the Transfer System Configuration Policy. This staff report further describes these expected policy outcomes.

POLICY QUESTION

Should the Metro Council grant the Chief Operating Officer authority to amend the Metro solid waste facility franchise for City of Roses Disposal & Recycling to operate COR Transfer Station to include updated requirements and extend the term one additional year to align with the other five privately-owned transfer stations, according to the provisions of Metro Code Chapter 5.01 and as described in this staff report?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Approve the resolution as proposed to authorize the Chief Operating Officer to amend the franchise to include updated requirements and extend the term one additional year to align with other privately-owned transfer stations.
2. Amend the resolution to amend the franchise with different conditions other than those recommended by staff.
3. Do not approve Resolution No. 19-5027.

STAFF RECOMMENDATIONS

Staff recommends that Council adopt Resolution No. 19-5027 to approve the amended solid waste facility franchise for City of Roses Disposal & Recycling. If Council approves this resolution, the amended franchise (F-057-19A) will go into effect on January 1, 2020.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

The other five Metro authorized transfer station franchises expire on December 31, 2019 and all five facilities applied for renewals. Franchise renewals provide an opportunity for staff to update and better align existing language for increased consistency as well as incorporate additional requirements that implement policy decisions made since the last renewal, such as the adoption of the 2030 Regional Waste Plan (Ordinance No. 19-1431), the Metro Transfer Station Configuration Policy (Resolution No. 16-4716) and the adoption of a Business Food Waste Requirement (Ordinance No. 18-1418). The franchise for COR Transfer Station was issued on August 14, 2019 and has more than four years remaining in its term. Staff want to ensure that all franchisees are subject to the same franchise provisions, unless other requirements are appropriate to address site-specific issues. Therefore, staff recommends amending the franchise for City of Roses Disposal & Recycling to operate COR Transfer Station's as described in this staff report.

Metro staff propose changes to nine areas of the franchise, which are outlined below. References to specific franchise sections have been included when applicable.

1. Begin implementation of the 2030 Regional Waste Plan

The proposed franchise includes a new section, Section 5.0, which authorizes Metro's Chief Operating Officer to amend the franchise for the purpose of implementing Council's policies advancing progress on the 2030 Regional Waste Plan actions.

All solid waste facilities within the region, including transfer stations, must operate in a manner that helps to advance progress towards achieving goals of the 2030 Regional Waste Plan (Action 12.6). The 2030 Regional Waste Plan provides the region with long-term policy and program direction for materials management and solid waste system planning efforts. While Metro implements the 2030 Regional Waste Plan primarily through cooperative working relationships among Metro, the Oregon Department of Environmental Quality (DEQ), local governments and the private sector, the plan contains actions that must be implemented throughout Metro's solid waste system.

2. Incorporate new tonnage allocation methodology

The proposed franchise has been updated to reflect a new tonnage allocation methodology that begins in 2020. The new methodology uses a percentage based approach that determines allocations based on Metro's annual solid waste forecast. The solid waste forecast is being finalized; therefore, there are placeholders in the proposed franchise where the number of tons will be included later. The tonnage amount for 2020 will be available before the franchise term begins and will be inserted prior to issuing the franchise. The Chief Operating Officer will continue Metro's long-standing practice of amending franchises each November to update the number of tons allocated for the following year.

3. Clarify the nature of the franchise

The proposed franchise has been updated to clarify that a Metro franchise is the grant of authority given by the Council to operate a transfer station as specified under Metro Code Chapter 5.01. This is a distinction from that of local governments which issue solid waste franchises that grant the right and responsibility to provide collection service in a specific area. There are solid waste

companies that hold a Metro franchise and a local government franchise, which can cause confusion because the nature of these separate franchises is different. A Metro franchise is a regulatory permit and not a negotiated agreement

To help clarify this important distinction, this proposed franchise has been updated to remove contract-like language. Franchisees retain the opportunity to contest provisions of the franchise and seek amendments through a change of authorization process per Metro Code 5.01.230, but Metro determines whether to approve or deny any change of authorization.

4. Incorporate operations and performance standards that advance equity

The proposed franchise includes a new requirement to advance progress on the 2030 Regional Waste Plan and the Property and Environmental Services Diversity, Racial Equity and Inclusion Work Plan goals. The franchise requires the franchisee to comply with Oregon's "ban the box" law (ORS 659A.360) (Section 6.17). Oregon's "ban the box" law makes it illegal for an employer to inquire about criminal convictions before the interview stage of hiring. This law removes barriers to employment for people convicted of crimes. Additional existing federal, state, and local provisions that advance equity may be incorporated in future franchise amendments.

5. Align franchises with the Food Waste Framework

The proposed franchise includes a new requirement to advance progress on the Business Food Waste Requirement. In a 2014 work session, the Metro Council reviewed the region's current commercial food waste recovery efforts and staff introduced potential paths forward to ensure that the region has a stable and sustainable commercial food waste transfer and processing system for the long term. The Council confirmed its desire to accelerate the region's recovery of commercial food waste and its wish to process that waste in or as close to the region as possible. The Council determined that in order to increase commercial food waste recovery and attract stable, local processing capacity, Metro should:

1. Require certain businesses to separate their food waste for recovery and eventually prohibit the disposal of food from businesses;
2. Determine how to efficiently collect and deliver food waste for processing; and
3. Secure local and stable processing capacity.

Based on Council direction, staff developed policies and initiatives to fulfill these objectives. To address the first objective, the Metro Council adopted Ordinance No. 18-1418 in July 2018 which added the Business Food Waste Requirement to Metro Code 5.10. Under this ordinance, each local government must require certain businesses in its jurisdiction to separate and recover food waste to be delivered to a facility authorized by Metro. Businesses in the first group (largest generators) will be required to begin separating food waste in March 2020, the second group in March 2021 and the third in September 2022. The adoption and implementation of this policy was a major step forward in developing a stable and sustainable food waste recovery system. As of the date of this report, 16 of the 21 local governments required to adopt the Business Food Waste Requirement have done so (including the city of Portland), two have received extensions and three have received a notice of non-compliance from Metro for not meeting the policy requirements.

To address the need for an adequate waste transfer system to allow growth in the collection of commercial food waste in the region and provide equitable access to transfer services, Metro is seeking to expand its facilities' capacity to accept this material as well as determine the role that private transfer facilities should play in helping to also provide this capacity. In order to expand

system capacity for commercial food waste, staff recommends that the Metro Council require a transfer station with current or pending infrastructure in place to accept food waste for reload and transfer to an approved recovery facility, whereas a facility that does not have the necessary infrastructure in place will not be subject to the same requirement. COR Transfer Station will not be required to accept food waste at this time, but the franchise authorizes the Chief Operating Officer to amend the franchise to require the facility to accept food waste if necessary to implement the Council's policies.

6. Align confidentiality language with public records law

Section 13.4, Confidential information, has been updated to align with current public records law which has more restrictive timelines for responding to a requestor. Metro will provide a franchisee with a courtesy notice of a public records request within five days of receiving such a request. Metro has the legal obligation to determine if any information marked "confidential" by the franchisee is objectively confidential according to public records law.

7. Clarify franchise amendment process

Current franchise language states that the franchise can be amended by the Metro Council adopting an ordinance. Proposed language in Section 12.1(b) expands this authority to include amendment by resolution.

8. Streamline franchise language for modernization and consistency

A suite of non-substantive updates have been made to clarify existing requirements and to streamline authorization language within and across facility classes.

9. Completion of pre-operating conditions

Metro included specific pre-operating conditions in COR's franchise that had to be met prior to the facility accepting putrescible waste: installing an odor control and neutralization system, installing landscaping and improving facility infrastructure for leachate management. These pre-operating conditions were met; therefore, the pre-operating conditions section has been removed and these requirements have been moved to Section 6.0 Operating conditions.

KNOWN OPPOSITION / SUPPORT / COMMUNITY FEEDBACK

This amended franchise is proposed by Metro and therefore did not require a public notice period. On October 31, 2019, the Metro Council will hold a public hearing on this proposed franchise amendment. Written and verbal public comments will be accepted at the meeting, prior to the Council voting on the resolution.

Metro provided an opportunity for the public to review and submit comments on the original franchise application (ORD 19-1435) during a public notice period that was opened on December 28, 2018, and closed on February 8, 2019. A detailed description of the written comments that Metro received during that time is provided in the Public Comment Report included as Attachment 2 to the staff report for Ordinance No. 19-1435.

On September 9, 2019, Metro provided the franchisee with a redline copy of the franchise that outlined the proposed changes. Staff discussed the changes with the franchisee in person and over the phone.

LEGAL ANTECEDENTS

The franchise and Metro Code Chapter 5.01 authorize the Metro Council to amend the franchise at any time.

ANTICIPATED EFFECTS

Approval of Resolution No. 19-5027 will authorize the Chief Operating Officer to amend the franchise for City of Roses Disposal & Recycling to update requirements and extend the franchise term one year. In addition, the Metro Council authorizes the Chief Operating Officer to determine annual tonnage allocations using the tonnage allocation methodology adopted by administrative rule. The tonnage allocation for 2020 will be determined using a percentage based approach once the solid waste forecast is final in November. If approved, the proposed amended franchise becomes effective on January 1, 2020, and expires on December 31, 2024.

FINANCIAL IMPLICATIONS

As mentioned above, staff are developing administrative rules that will set forth a detailed process for determining and adjusting future tonnage allocations. Staff notes that this prescribed tonnage allocation process, beginning in 2020, may result in a different, to be determined, tonnage allocation for each of the region's transfer stations. Metro will adjust tonnage allocations for all privately-owned transfer stations and require that at least 40 percent of the region's wet waste tonnage flows to publicly-owned transfer stations (Metro Central and South). Therefore, approval of the proposed franchise is expected to have minimal impact to Metro's Solid Waste Fund operating costs and revenues.

As a result of future adjustments, individual Community Enhancement Committees might experience an increase or reduction in funds based on potential future tonnage shifts.

BACKGROUND

The applicant is a locally-owned company that owns CORE Recycling which operates COR Transfer Station located at 4530 NE 138th Ave. in Portland (Metro Council District 1). The facility currently holds a Metro-issued franchise (F-057-19) which authorizes it to receive putrescible waste, perform material recovery on non-putrescible waste and accept source-separated recyclable materials. The facility specializes in the recovery of waste generated during construction projects that seek to obtain LEED (Leadership in Energy and Environmental Design) certification. LEED projects require that the solid waste resulting from construction activities be recovered to a higher degree and be more extensively documented than from standard construction projects.

Under the terms of the existing franchise, COR Transfer Station is authorized to accept up to 15,000 tons of putrescible waste generated from within the Metro region in calendar year 2019. The facility received a partial-year tonnage allocation because it started receiving putrescible waste in August of this year. COR Transfer Station also holds a solid waste disposal site permit for a transfer station and material recovery facility issued by DEQ (Permit No. 1606). The applicant is well known to Metro, first as an operator of a dry waste material recovery facility, and now as a Metro franchisee operating a transfer station.

In addition to its franchise, City of Roses Disposal & Recycling, Inc. has one non-system license (N-057-16D) that authorizes it to transport Metro area waste to Wasco County Landfill in The Dalles, Oregon and Cowlitz County Headquarters Landfill in Castle Rock, Washington.

Metro has conducted two site inspections at COR Transfer Station during the current franchise term. Staff has found the facility to be a well-run operation. COR Transfer Station is currently in compliance with its Metro issued non-system license and franchise.

DEQ and City of Portland have reported that there are no current solid waste enforcement or compliance issues associated with this site.

Tonnage Allocation

A major component of the 2030 Regional Waste Plan is to take a broad look at the role, configuration and services offered by publicly and privately-owned transfer stations. In 2016, under Council's direction, Metro established a transfer system configuration policy to:

1. Ensure that the region's transfer system provides maximum public benefit;
2. Maintain the current configuration of publicly and privately-owned transfer stations;
3. Ensure that an adequate amount of wet waste flows to publicly-owned stations (at least 40 percent of the region's wet waste);
4. Limit the amount of wet waste that any one company may accept for transfer within the region to no more than 40 percent of the tonnage reserved for private transfer stations; and
5. Improve rate transparency.

The configuration policy also seeks to promote more efficient off-route transport of waste to reduce greenhouse gas emissions and provide opportunities for small, locally-based businesses to participate in the region's solid waste system.

The transfer system configuration policy shifted Metro away from its historical "tonnage cap" approach, in which the Metro Council had established annual facility tonnage limits, to a more systematic and predictable "tonnage allocation" system, in which tonnage authority is proportionally allocated to privately-owned stations each year. Beginning in 2020, Metro will determine and adjust tonnage allocations for all privately-owned transfer stations in the region, including COR Transfer Station, by applying a percentage-based allocation methodology currently being developed using the allocation framework that Metro Council adopted in November 2018 via Ordinance No. 18-1426.

This new approach to the wet waste tonnage allocation methodology includes reserving 40 percent of the region's wet waste tonnage for Metro's publicly-owned facilities and allowing the remaining 60 percent to be allocated in accordance with the finalized methodology. Staff is proposing a phased implementation of the new allocation methodology, where the 2020 allocations are intended to limit disruption to the system and help transition to full implementation of the new methodology in 2021.

Beginning in 2021, the allocation methodology will include a "base share" component for system stability and a "goal share" component to more directly support Metro's equity, service and environmental goals from the 2030 Regional Waste Plan. The goal shares will be determined by evaluating each transfer station's efforts to support and achieve Regional Waste Plan goals such as more efficient off-route travel, increased diversity of workers, paying living wages, addressing community concerns, providing reasonable, consistent and responsive rates and other goals that Council may deem to be important.

The forecasted tonnage for 2020 is projected to generally decrease relative to 2019. This projected decrease in tonnage, along with the addition of two new transfer stations in the region, make it infeasible to replicate current transfer station tonnage allocations in 2020 while maintaining Metro's 40 percent reserve.

ATTACHMENTS

- A. Exhibit A to Resolution No. 19-5023: Draft franchise F-057-19A
- B. Attachment 1 to Staff Report: Images

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5027



Photo 1: Aerial photo of COR Transfer Station located at 4530 NE 138th Ave. in Portland

Attachment 1: Images

Attachment 1 to Staff Report for Resolution No. 19-5027



Photo 2: COR Transfer located at 4530 NE 138th Ave. in Portland



Photo 3: COR Transfer located at 4530 NE 138th Ave. in Portland

Materials following this page were distributed at the meeting.