

COMMUNITY DEVELOPMENT
DEPARTMENT REPORT



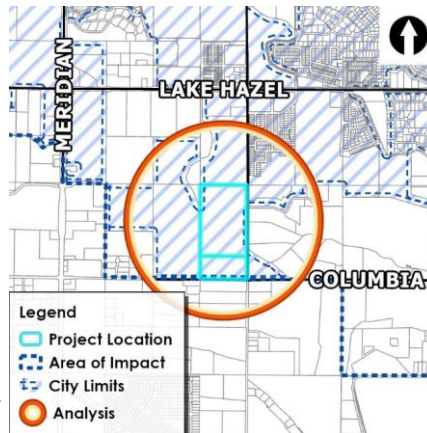
HEARING DATE: November 12, 2024
Continued from: August 20 and September 17, 2024

TO: Mayor & City Council
FROM: Sonya Allen, Associate Planner
208-884-5533
sallen@meridiancity.org

APPLICANT: Engineering Solutions, LLP

SUBJECT: [H-2024-0032](#)
Timber Creek Recycling – MDA

LOCATION: Northwest corner of S. Locust Grove Rd. and E. Columbia Rd., in the SE 1/4 of Section 6, T.2N., R.1E.



I. PROJECT OVERVIEW

A. Summary

Modification to the existing development agreement (H-2018-0042, Inst. #2019-053058) to further clarify the current and future permitted uses and timelines, create guidelines to allow for efficient and continued use of the property, and ensure the operation is meeting all State and Federal guidelines.

B. Issues/Waivers

None

C. Recommendation

Staff: Staff recommends denial of all proposed changes to the DA that expand, extend and/or intensify the existing approved use and approval of other changes as noted in Section III below.

D. Decision

To be determined

II. COMMUNITY METRICS

Table 1: Land Use

Description	Details
Existing Land Use(s)	Recycling & composting of materials
Proposed Land Use(s)	No changes proposed
Existing Zoning	R-4 (medium low-density residential)
Future Land Use Designation	LDR (Low-density Residential)

Table 2: Process Facts

Description	Details
Preapplication Meeting date	5/14/2024
Neighborhood Meeting	4/30/2024
Site posting date	8/7/2024 and 9/4/2024

III. STAFF ANALYSIS

Comprehensive Plan and Unified Development Code (UDC)

A. History

This property was annexed with an R-4 zoning district in 2016 as part of the larger South Meridian annexation, which incorporated a total of 1,322-acres of land in south Meridian. A Development Agreement (DA) was recorded for this property as a provision of annexation (Murgoitio LLC – Inst. [#2016-007075](#)). The agreement allowed any currently allowed use in the County pertaining to raising and maintaining livestock; discharge of firearms; currently stored or maintained farm equipment, vehicles, materials necessary for the agricultural operation of the property, etc. to remain on the property; and continued operation of Timber Creek Recycling on the property as an interim use, until such time as the property is developed in the future. The agreement outlined the primary activities of the recycling business, including the type and amounts of materials delivered to the site daily from the Ada County Landfill and miscellaneous contractors (i.e. wood, grass, leaves, sheetrock and other materials); and the recycling activities that were approved to operate on the site. It also included details on the termination of recycling operations on the site.

A modification to the DA was approved by City Council in 2019 [L & G Murgoitio, LLC ([H-2018-0042](#)) – MDA Inst. [#2019-053058](#)], which replaced the original DA. The amendment added a commercial composting component and retail sales to the existing recycling operations on the site and included a concept plan depicting the layout of the site and location of specified operations. Materials proposed for composting consist of food and garden waste and demolition debris; additional activities and equipment associated with the use were included in the agreement. The amendment also removed the daily limit for deliveries to the site of certain types of materials resulting in unlimited deliveries. Hours of operation for the composting program were also included.

On April 16, 2019, a Petition for Judicial Review of the City Council’s decision was filed by several neighbors near the property. The parties litigated the matter for 2.5 years, and on November 24, 2021, the District Court entered a judgment upholding the City Council’s Findings of Fact and Conclusions of Law.

Many letters of testimony on the previous application were received by the City from nearby residents for and against the proposed business expansion and DA amendment. A general summary of the testimony includes the following concerns/ comments pertaining to the proposed use: (see the [public record](#) for more detailed information)

- 1) Increase in truck traffic entering/exiting the property and impact on adjacent roads and traffic (suggestion to limit truck traffic to non-commuting hours to reduce traffic conflicts of trucks using two lanes to turn at the Columbia/Locust Grove intersection);
- 2) Increase in dust generated from the existing and proposed use and mitigation thereof;
- 3) Increased noise generated from heavy equipment, grinders and trucks and impact on residential neighbors;
- 3) Size and height of recycling materials piles and potential fire hazard of compost piles;
- 4) Unpleasant odors generated from decomposition of materials (food and waste) to be recycled and pests (i.e. rodents, birds, skunks, flies, bees, mosquitos, etc.) - suggestion to require regular inspections to ensure best practices for recycling/composting are being practiced to reduce issues;

- 5) Unsightly landscape of the site (i.e. trash, stock piles of materials to be recycled, etc.);
- 6) Limitation of business hours that the recycling operation is open to the public and that recycling activities occur to reduce impacts of light pollution and noise on neighbors;
- 7) Require fencing around the perimeter of the site to prevent future conflicts between the business and area residents;
- 8) Reduced residential property values and a less desirable location with the proposed use;
- 9) Concern pertaining to water quality (potential for toxins leaching into the water) and water table; increased risk of contamination of surface and groundwater (leachate) from the facility which borders an irrigation canal;
- 10) Negative impact on quality of life for adjacent residents (excess dust, noise, odor, appearance of site);
- 11) Support of proposed recycling operation which will reduce trash in landfills and is good for the community and environment;
- 12) Success of composting program in the City of Boise and benefit for residents;
- 13) Emission of bioaerosols (airborne particles that contain live organisms or were released from living organisms, may contain bacteria, fungi, viruses, microbial toxins, pollen, plant fibers, etc.) from composting activities which may pose a hazard to susceptible members of the public;
- 14) Need for improvements to infrastructure to support homes that are currently under development in the area and increased traffic from large commercial trucks from the proposed use;
- 15) Industrial/commercial use does not belong in residential area that is continuing to grow with families;
- 16) High winds in this area blowing trash onto adjacent properties;
- 17) Potential for insects drawn to the proposed use to carry disease to residents, pets and livestock on neighboring properties; and,
- 18) Potential contamination of soil.

Table 3: Project Overview

Description	Details
History	H-2015-0019 South Meridian (Murgoitio LLC – Inst. # 2016-007075); H-2018-0042 (L & G Murgoitio, LLC – MDA Inst. # 2019-053058)
Acreage	80.52-acres

B. General Overview

The Applicant requests a modification to the existing development agreement (H-2018-0042, Inst. #[2019-053058](#)) to further clarify the current and future permitted uses and timelines, create guidelines to allow for efficient and continued use of the property, and ensure the operation is meeting all State and Federal guidelines. This modification, if approved, will replace the previous DA in its entirety and removes the parcel (i.e. Parcel 2) from the agreement located on Lake Hazel Rd. where some business operations were occurring as that property has since redeveloped. The existing site plan, included in Section VI.B below is proposed to be replaced with the updated site plan in Section VI.C.

C. Staff's Analysis

The Applicant has submitted a full version of the proposed amended DA in strike-out/underline format showing the existing text and proposed changes to the agreement, which is included in the public record and also linked in Section VI.D below. An updated version was submitted after the last Council meeting based on the proposed new Phased Transition Plan for Council's consideration (see link in Section VI.D).

The Applicant's [narrative](#) describing a summary of the proposed changes is also included in the public record.

The main changes proposed to the agreement are as follows: *(Staff's analysis of the proposed change is included in italics below each item)*

- The list of materials received on the site for recycling, which are currently specified, are proposed to be removed to allow "any" materials, provided they're not prohibited by the Idaho Department of Environmental Quality (IDEQ) and Central District Health (CDH) (i.e. #5.1); a provision has been added that clarifies recycled materials do *not* include biosolids as defined by IDEQ (i.e. #5.1).

Staff is in favor of clarifying that biosolids are not an allowed recyclable material on the site. Of particular concern is the processing of a product called Waste Activated Sludge (WAS), which is sludge produced from a non-municipal wastewater treatment or disposal facility. According to IDEQ, Timber Creek Recycling is currently processing WAS at this property. Assuming this is processed into a soil amendment for agricultural use, this is allowed under the current development agreement. However, it is unclear whether this is allowed under the currently approved IDEQ/CDH operating plan.

Staff is not in favor of removing the specific materials that are allowed due to possible negative impacts from new materials on adjacent residential neighbors, which could result in issues that aren't able to be addressed by Code Enforcement. Listing specific materials provides clear direction on what materials are and are not allowed to be recycled on the site = the Applicant has rescinded their request for removal of specific materials from the DA. If City Council does approve this modification proposed by the applicant, staff would strongly advise City Council to require that the current operating plan, and any future operating plan, be appended to the modified agreement, and incorporated by reference.

- Clarification that recycling and associated activities will not include any materials or activities that are prohibited by IDEQ or CDH and removal of the description of each activity (i.e. #5.1).

Staff is in favor of clarifying that recycling and associated activities won't include any materials or activities that aren't allowed by IDEQ or CDH. However, Staff is not in favor of removing the descriptions of each activity as the descriptions provide clear direction on what activities are allowed to occur on the site.

- Addition of a stand-alone nuisance provision in section 6.9.5, by which the parties agree that the City may enforce the City nuisance code on this property.
Staff is in favor of the addition of this provision.

- The existing agreement specifies the operation of Timber Creek Recycling on the portion of the site depicted on the site plan as "Recycling Property" is allowed to be conducted on the property for a maximum period of 10 years from the date City Council approved the signed DA, which was on 6/11/2019. The use would terminate on 6/11/2029 unless Timber Creek submits a request for Council to review the recycling activities (no later than one (1) year prior to the expiration date) and determine whether to permit the recycling activities to continue (i.e. #4.8).

The Applicant proposes to remove the maximum operating period of the recycling activities on the site and includes a 5-year maximum timeline on composting activities with an option for an extension (i.e. #6.14.1). The Applicant states the change is necessary to meet the requirements of IDEQ, providing a hard deadline. *Since the last hearing, the Applicant met with the neighbors and based on testimony presented at the public hearing and feedback from neighbors, a Phased Transition Plan was submitted for the next three (3) years for all operations to be completed by December 2027, included in Section VI.F of this report and in the proposed amended DA as Exhibit E. The Plan focuses on the following issues: odor, dust, volume and accountability and proposes a timeline for addressing these issues.*

Staff is not in favor of the proposed change to remove the maximum time period of 10 years for recycling activities or the new proposed 5-year timeline for composting activities. Staff recommends the existing timelines remain for the overall use and that the composting use is included in the provision.

- Inclusion of a statement requiring compliance with all federal, state and local entities with jurisdiction, including, but not limited to IDEQ, CHD, Department of Agriculture, U. S. Environmental Protection Agency, U. S. Department of Agriculture, the Ada County Air Quality Board, and the Idaho Department of Water Resources (#6.2). The City may consider a finding by one of these named agencies of violations of their regulations to be a cause for a violation of this Agreement. If a violation is found, actions to be taken by Timber Creek are included.

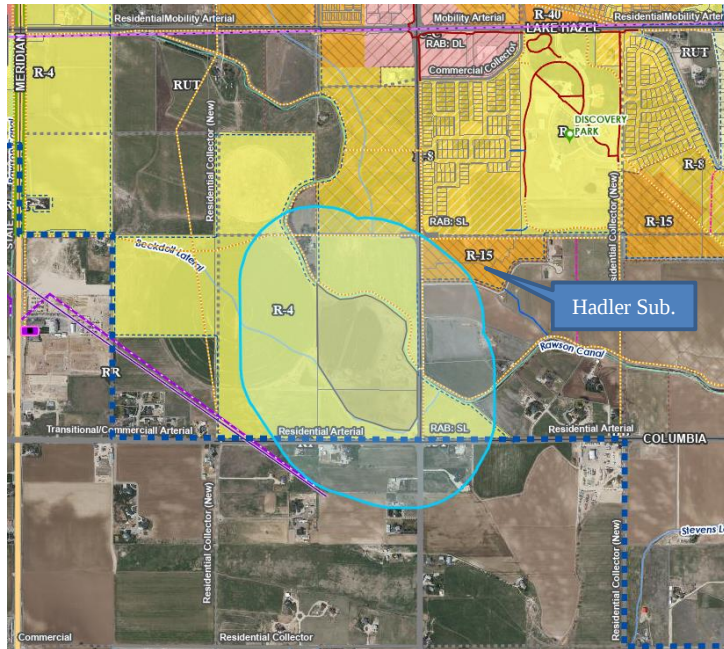
Staff is in support of this change.

- Removal of the truck limitation requirement (i.e. 56 truckloads per day). The Applicant states the change is due to the difficulty in keeping track of the number of vehicles and the burden it's placed on operation of the facility (i.e. #6.6.3).

Staff is not in support of removing the truck limitation as it could result in a much greater number of deliveries to the site, which could negatively impact traffic and neighbors in the area and leave Code Enforcement with no way to address issues if they arise.

- Removal of the requirement for operations to cease on the site within 30 days of the City granting a Certificate of Occupancy to any new residential or commercial development within 1,000 feet of the recycling property (i.e. #6.8.2).

Staff is not in favor of removing this requirement as the use will likely negatively impact future residents in this area as existing residents have complained about the negative impacts they've experienced from the facility. Land has been annexed into the City within 550-feet of the facility for the development of Hadler Subdivision northeast of the site; a final plat has been approved within 675-feet of the facility – the first Certificate of Occupancy will likely be issued within the next year, which will require recycling operations to cease on the site.



- An updated site plan is included in Section VI.C below; the existing site plan is included for reference in Section VI.B.
Staff is amenable to replacing the existing site plan with the updated site plan as it appears to be generally the same.
- Removal of Parcel 2 from the boundary of the property subject to the amended DA due to that property being redeveloped into residential lots; see legal description and exhibit map included below in Section VI.E for property subject to the amended DA.
Staff is in favor of updating the area subject to the amended DA.
- Inclusion of two (2) new sections: 9.3 Failure to Comply with Transition Plan and 9.5 Remedies against Timber Creek. These sections detail remedies the City will have if Timber Creek fails to comply with the obligations or deadlines set forth in the Transition Plan, which include monetary penalties to the City in the event Timber Creek is in default of the Transition Plan following notice and opportunity to cure.
Staff does not object to the addition of these provisions.

In summary, Staff recommends denial of all changes to the DA that expand, extend and/or intensify the existing approved use.

To date, ~~three (3)~~ many letters of public testimony against expansion and extension of the existing use have been received (see [public record](#) for more information).

IV. AGENCY COMMENTS

Agency comments may be accessed in the [project file](#), included in the public record.

V. ACTION

A. Staff:

Staff recommends denial of all proposed changes to the DA that expand, extend and/or intensify the existing approved use and approval of other changes as noted in Section III above.

A. City Council:

The Meridian City Council heard these items on August 20th and September 17th; at the hearing on September 17th, Council continued the MDA application to November 12, 2024.

1. Summary of the City Council public hearing:
 - a. In favor: Caleb Lakey, Applicant's Representative; Mike Murgoitio, Applicant; Becky McKay, Engineering Solutions (Applicant's Representative)
 - b. In opposition: Quinn Black; Joann Tima; Clancy O'Hara; Lou Murgoitio; Ken McAfee; Brenda Blitman; Troy Allen; Anna Canning, Centurion Engineers (on behalf of neighboring property owner); Tony Mayer; Marla Fund; Gena Russell; Todd Edgar; Ken Jantz; Billie Jean Black; Jim Cox; and Debbie Allen.
 - c. Commenting: None
 - d. Written testimony: Many letters have been submitted (see public record)
 - e. Staff presenting application: Sonya Allen
 - f. Other Staff commenting on application: Lacy Ooi, Code Enforcement
2. Key issue(s) of public testimony:
 - a. Negative air quality from grinding of concrete and odor generated from use;
 - b. Health concerns due to silica dust in the air generated from the site;
 - c. Water and air quality concerns for children and residents in the area;
 - d. In support of the recycling services provided by this business and reduction of waste in the landfill;
 - e. Odors from the facility smell like human waste and rotting flesh and fine white dust (concrete, rocks?) generated from the facility – would like to see the uses associated with these issues cease. The use doesn't belong in residential neighborhood. Lack of fairness involved – other industrial users have to have approval to operate and be in an industrial area;
 - f. The use doesn't comply with the UDC – purpose statement of the district, non-conforming use, not requiring a CUP for the use, etc. Code violations on the site, including the use being a public nuisance.
 - g. Concern due to cancer causing toxins in the air; request for a narrower timeline to off-load to other site in Nampa;
 - h. Request for concrete and rock crushing and sludge be immediately removed.
 - i. No public opportunity to comment on the use originally; use should have gone through a conditional use permit; limited accountability of the user; against extension of use;
 - j. Frustration that none of the agencies seem to be able to make a decision on whether or not the Applicant is operating in violation of the DA and/or applicable regulations.
3. Key issue(s) of discussion by City Council:
 - a. None
4. City Council change(s) to Staff recommendation:
 - a. None

VI. EXHIBITS

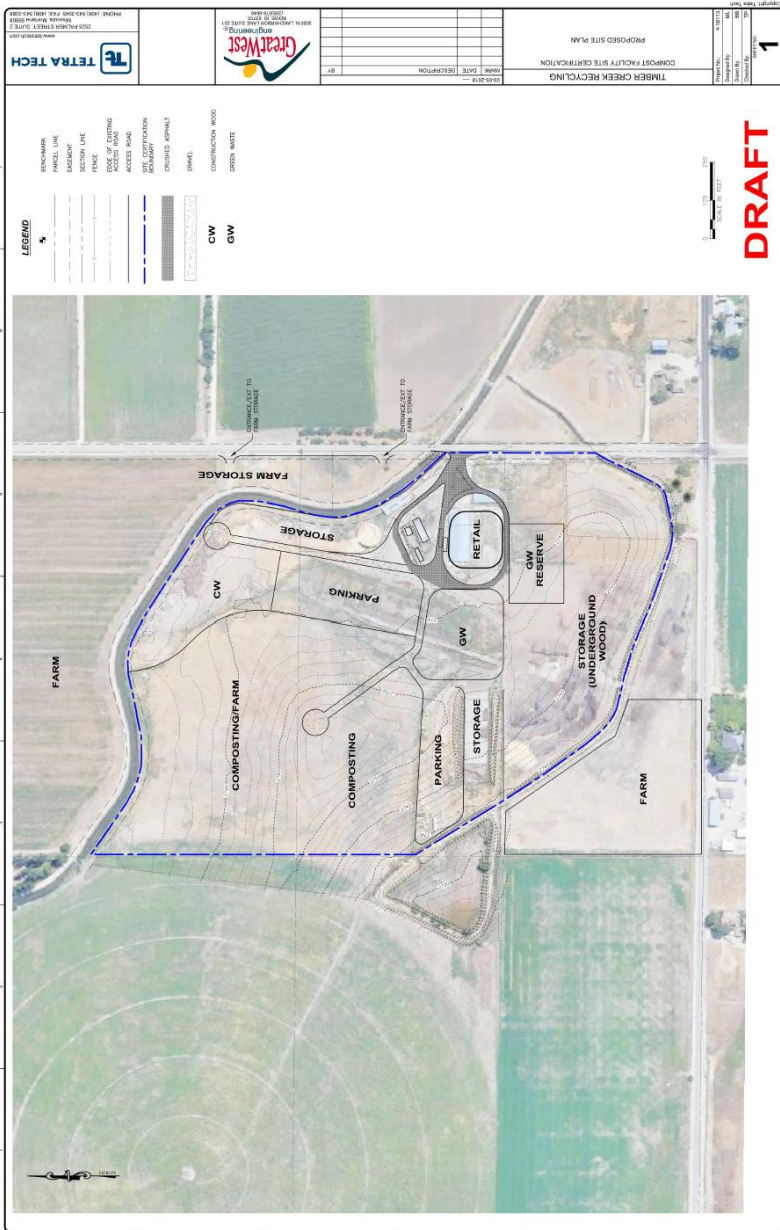
A. Aerial Photo



B. Existing Site Plan



C. Proposed Site Plan



D. Proposed Amended Development Agreement

Copy the following links for these documents, contained in the project file, into a separate browser:

Links:

Redline version of proposed DA:

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=373649&dbid=0&repo=MeridianCity>

Clean version of proposed DA:

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=373650&dbid=0&repo=MeridianCity>

E. Legal Description of Property Subject to the Amended Development Agreement

EXHIBIT A

ANNEXATION DESCRIPTION FOR THE CITY OF MERIDIAN, IDAHO

L & G MURGOITIO, LLC - PARCEL NO. 1

A parcel located in the E ½ of the SE ¼ of Section 6, Township 2 North, Range 1 East, Boise Meridian, Ada County, Idaho, more particularly described as follows:

BEGINNING at an aluminum cap monument marking the southeasterly corner of said SE ¼ of the SE ¼, from which an aluminum cap monument marking the northeasterly corner of the SE ¼ of said Section 6 bears N 0°04'44" W a distance of 2655.72 feet;

Thence N 89°21'59" W along the southerly boundary of said E ½ of the SE ¼ a distance of 1323.88 feet to the southwesterly corner of said E ½ of the SE ¼;

Thence N 0°02'17" W along the westerly boundary of said E ½ of the SE ¼ a distance of 2655.45 feet to the northwesterly corner of said E ½ of the SE ¼;

Thence S 89°22'37" E a distance of 1321.98 feet to an aluminum cap monument marking the northeasterly corner of said E ½ of the SE ¼;

Thence S 0°04'44" E along the easterly boundary of said E ½ of the SE ¼ a distance of 2655.72 feet to the POINT OF BEGINNING.

This parcel contains 80.64 acres.

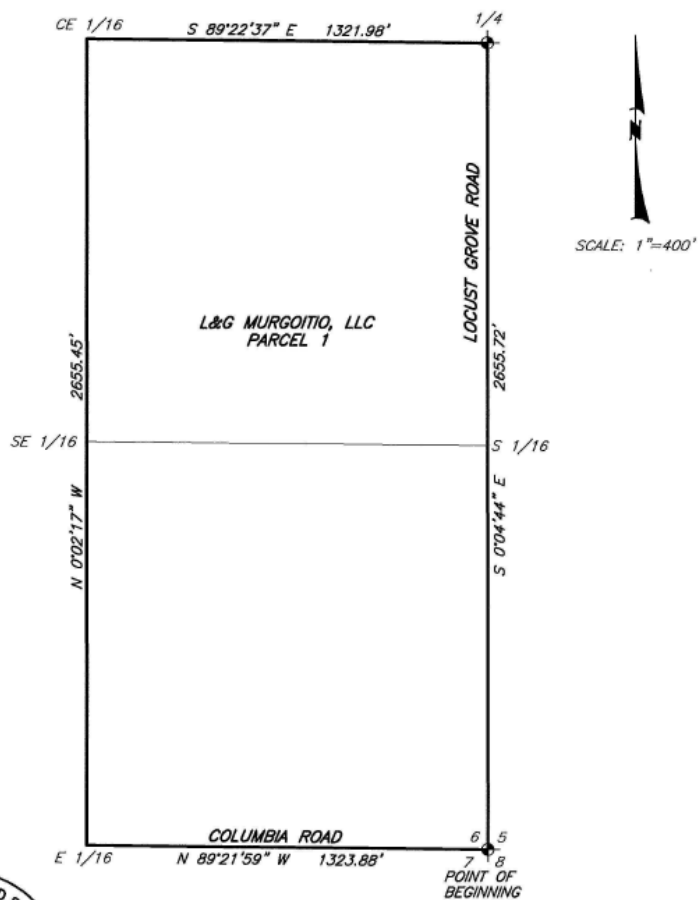
NOTE: This description was prepared using record information including Record of Surveys, subdivision plats and deeds acquired from the Ada County Recorder's office. No field survey has been performed.

Prepared by: Glenn K. Bennett, PLS
Civil Survey Consultants, Incorporated
October 13, 2015



EXHIBIT A

SKETCH TO ACCOMPANY ANNEXATION DESCRIPTION FOR THE
CITY OF MERIDIAN LOCATED IN THE E 1/2 OF THE SE 1/4
OF SECTION 6, TOWNSHIP 2 NORTH, RANGE 1 EAST,
BOISE MERIDIAN, ADA COUNTY, IDAHO



CIVIL SURVEY CONSULTANTS, INC.
2893 SOUTH MERIDIAN ROAD
MERIDIAN, IDAHO 83642
(208)888-4312

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F. Phased Transition Plan

Timber Creek Recycling

"Engineering waste to its highest and best use"

Date: October 28th, 2024

Phased Transition Plan for the Meridian Compost Site

7695 S. Locust Grove Rd

Meridian, ID 83642



Phase	Focus	2024 Timing	% of total Cheese WAS diverted
#1 (Complete by December 2024) 	Odor Stop regularly receiving Cheese WAS on weekends at the Meridian site	Q1 Q2 Q3 Q4	
	Dust Effective November 1st, no more Concrete/Asphalt/Tile/Porcelain/Brick accepted at the Meridian site - Continue regular dust control measures (i.e. water truck)	Q1 Q2 Q3 Q4	
	Volume At least 25% of the inbound Cheese WAS diverted from the Meridian site	Q1 Q2 Q3 Q4	25%
	Accountability Present final transition plan to Meridian City Council	Q1 Q2 Q3 Q4	

Phase	Focus	2025 Timing	% of total Cheese WAS diverted
#2 (Complete by December 2025) 	Odor - Pilot the addition of Calcium Hydroxide, "lime" (Ca(OH)₂), to inbound Cheese WAS (Q1) - Ongoing coordination with Sorrento Lactalis Cheese Plant - Fully implement additional successful odor control measures (Q2)	Q1 Q2 Q3 Q4	50%
	Dust - Final crushing of Concrete/Asphalt/Tile/Porcelain/Brick at the Meridian Site (Q1) - Continue regular dust control measures (i.e. water truck)	Q1 Q2 Q3 Q4	
	Volume - Complete engineering for new ASP pad (Q2) - Additional ASP pad (1 of 2) under construction at the Nampa site (Q3) - Additional 25% of inbound Cheese WAS diverted from the Meridian site (Q4)	Q1 Q2 Q3 Q4	
	Accountability Quarterly inspections with Meridian City Code Enforcement	Q1 Q2 Q3 Q4	

TCR Transition Plan

2

2024-2027

Phase	Focus	2026 Timing	% of total Cheese WAS diverted
#3 (Complete by December 2026) 	Odor Ongoing monitoring of Cheese WAS odor control measures	Q1 Q2 Q3 Q4	100%
	Dust Continue regular dust control measures (i.e. water truck)	Q1 Q2 Q3 Q4	
	Volume - Complete engineering for new ASP pad (Q2) - Additional ASP pad (2 of 2) under construction at the Nampa site (Q3) 100% of the Cheese WAS diverted from the Meridian site (Q4)	Q1 Q2 Q3 Q4	
	Accountability Quarterly inspections with Meridian City Code Enforcement	Q1 Q2 Q3 Q4	

TCR Transition Plan

3

2024-2027

Phase	Focus	2027 Timing	% of total Cheese WAS diverted
#4 (Complete by December 2027) 	Odor No cheese WAS received at the Meridian site	Q1 Q2 Q3 Q4	100%
	Dust Continue regular dust control measures (i.e. water truck)	Q1 Q2 Q3 Q4	
	Volume - Sale or transfer of remaining inventory - Movement of compost/recycling materials and infrastructure off of the site	Q1 Q2 Q3 Q4	
	Accountability - Quarterly inspections with Meridian City Code Enforcement - Final site walk through with Meridian Code Enforcement (Q4)	Q1 Q2 Q3 Q4	