

**CITY OF MERIDIAN  
FINDINGS OF FACT, CONCLUSIONS OF LAW,  
FINAL DECISION, AND ORDER**



**Date of Order:** January 7, 2024  
**Case No.:** H-2024-0032 (TCR – MDA)  
**Applicant:** Engineering Solutions, LLP  
**In the Matter of:** Request for modification of existing development agreement  
(H-2018-0042, Inst. #2019-053058)

Pursuant to testimony and evidence received regarding this matter at the public hearings before the Meridian City Council on August 20, 2024, September 17, 2024, November 12, 2024, and December 17, 2024, as to this matter, the City Council enters the following findings of fact, conclusions of law, final decision, and order.

**A. Findings of Fact.** The City Council finds that:

1. The facts pertaining to the property at issue, located on the northwest corner of S. Locust Grove Rd. and E. Columbia Rd. (“Property”), the request made by Engineering Solutions, LLP on behalf of property owner L&G Murgoitio, LLC (“Applicant”), and the notices and hearings are set forth in section III(A) of the December 17, 2024 staff report for Case No. H-2024-0032, which is attached hereto as *Exhibit 1* (“Staff Report”). Section III(A) of the Staff Report is incorporated in these findings of fact as though set forth fully herein.
2. The Property was initially annexed into the City of Meridian by ordinance adopted by City Council on January 26, 2016, and the initial development agreement was recorded on January 27, 2016. Currently, the Property is subject to a first modified development agreement (H-2018-0042), recorded in Ada County as instrument no. 2019-053058 (“June 11, 2019 MDA”).
3. The modifications to the June 11, 2019 MDA requested by Applicant and approved by City Council on December 17, 2024 reflect the culmination of multiple iterations of proposed modifications of the June 11, 2019 MDA over the course of the public hearings. (The August 20, 2024 hearing was continued due to a noticing error.) Such iterations are attached hereto and may be summarized, in relevant part, as follows:
  - a. At the September 17, 2024 public hearing, among other modifications to the June 11, 2019 MDA, Applicant proposed to:
    - 1) Eliminate the list of materials that Timber Creek Recycling (“TCR”) may use for the Recycling Activities, and instead agree to use only materials not prohibited by the Idaho Department of Environmental Quality (“IDEQ”) or Central District Health (“CDH”).

- 2) Eliminate the list of allowed Recycling Activities, and instead agree to undertake only activities not prohibited by IDEQ or CDH.
  - 3) Remove the daily limitation on the number of trucks delivering materials to the Property.
  - 4) Add a commitment to keep the Property free of public nuisance conditions.
  - 5) Amend the deadline for TCR to cease the Recycling Activities on the Property to five (5) years from the date of execution of the modified development agreement, with an option for Applicant to request an additional extension following City Council review.
  - 6) Provide that if the Property were sold to a developer, TCR would be permitted to continue operating, at the purchasing developer's discretion.
  - 7) Toll all deadlines in the event the modified development agreement is challenged or appealed.
- b. At the November 12, 2024 public hearing, among other modifications to the June 11, 2019 MDA, Applicant proposed to:
- 1) Keep the list of materials that TCR may use for the Recycling Activities, but clarify that "cheese whey WAS" is categorized as food waste, and is therefore permissible for use for Recycling Activities.
  - 2) Keep the list of allowed Recycling Activities, with no material changes to the list in the June 11, 2019 MDA.
  - 3) Keep the daily limitation on the number of trucks delivering materials to the Property, with no material changes in that regard to the June 11, 2019 MDA.
  - 4) Add a commitment to keep the Property free of public nuisance conditions.
  - 5) Amend the deadline for TCR to cease the Recycling Activities on the Property, from June 11, 2029 (under the June 11, 2019 MDA) to December 31, 2027, and require that TCR follow a transition plan with milestones for progressively lessened use of the Property for Recycling Activities over time, until the December 31, 2027 Termination Date.
  - 6) Provide a schedule of graduated administrative fines to be applied in the event of TCR's failure to comply with the transition plan.

This version did not provide that if the Property were sold to a developer, TCR would be permitted to continue operating, at the developer's discretion; nor did this version

propose to toll all deadlines in the event the modified development agreement is challenged or appealed.

- c. At the December 17, 2024 public hearing, among other modifications to the June 11, 2019 MDA, Applicant proposed to:
  - 1) Add, as an exhibit, a more specific list of permitted materials; and eliminate as materials permitted for use for the Recycling Activities the miscellaneous category of “other materials . . . which are of the same category as the materials identified . . . or are intended for agricultural uses.”
  - 2) Keep the list of allowed Recycling Activities, with no material changes to the list in the June 11, 2019 MDA.
  - 3) Keep the daily limitation on the number of trucks delivering materials to the Property.
  - 4) Add a commitment to keep the Property free of public nuisance conditions.
  - 5) Amend the deadline for TCR to cease the Recycling Activities on the Property, from June 11, 2029 (under the June 11, 2019 MDA) to June 30, 2027, and require that TCR follow a transition plan with milestones for progressively lessened use of the Property for Recycling Activities over time, until the June 30, 2027 Termination Date.
  - 6) Commit to posting signs on the Property, facing S. Locust Grove Road, and Columbia Road, stating that the facility will close on June 30, 2027.

This version did not provide a schedule of graduated administrative fines to be applied in the event of the TCR’s failure to comply with the transition plan.

4. City Council’s action on Applicant’s request is subject to Idaho Code section 67-6511A, which states that a development agreement “may be modified only by the permission of the governing board after complying with the notice and hearing provisions of section 67-6509, Idaho Code.”
5. City Council’s action on Applicant’s request is further subject to Meridian Unified Development Code section 11-5B-3(F)(2), which reads, in relevant part: “A development agreement may be modified by the city or an affected party of the development agreement. Decision on the development agreement modification is made by the City Council in accord with this Chapter.”
6. City Council’s action on Applicant’s request is further subject to Table 11-5A-2 of the Meridian Unified Development Code, which provides that the Director of the Community Development Department (or staff designee) is to make a recommendation regarding the request for a development agreement modification, and City Council is to make the final

decision, following a public hearing process set forth in 11-5A-6. Staff, City Council, and Applicant did follow this process, as detailed in Table 2, section II of the Staff Report attached hereto as *Exhibit 1*, which table is incorporated as though set forth fully herein. Compliance with this process does meet the notice and hearing requirements of Idaho Code section 67-6509.

7. Testimony and evidence in opposition to Applicant's request was received prior to and on September 17, 2024, November 12, 2024, and December 17, 2024. Such testimony and evidence may be summarized as follows:
  - a. At the September 17, 2024 public hearing, citizens testified about their concerns regarding TCR's current operations, including processing of waste-activated sludge ("WAS"), creating conditions of foul odors, blowing dust, Cair pollution, unsightly materials, noise from the grinder, truck traffic, and potential health impacts. Citizens testified that the City should honor the June 11, 2019 MDA's commitment that the use would cease when residential development was within 1,000 feet of the property, and that the current and proposed ongoing use is incompatible with the residential and other uses in the area.
  - b. At the November 12, 2024 public hearing, citizens testified about their concerns regarding TCR's accountability for compliance with the terms of the current development agreement and operating plan, TCR's compliance with the proposed transition plan, air and water pollution, processing of WAS, truck traffic, and foul odors. A representative of the developer of a nearby subdivision requested denial of the extended operational period, or, alternatively, a requirement that Applicant post a sign on the Property announcing when TCR operations would cease. Citizens testified that a two-year closure deadline would be preferable, and that the modified agreement should include liquidated damages.
  - c. At the December 17, 2024 public hearing, citizens asked City Council to deny the request for the proposed modifications and hold Applicant to the terms of the June 11, 2019 DA.
8. Testimony and evidence in support of the Applicant's request was received on September 17, 2024, on November 12, 2024, and on December 17, 2024. Such testimony and evidence may be summarized as follows:
  - a. At the September 17, 2024 public hearing, citizens testified that TCR's activities divert discarded materials from landfills, that they emit little dust, and that TCR should be allowed to continue the activities until its other location in Nampa is operational. Citizen testimony also suggested that dust may be attributed to unrelated truck traffic or construction in the area. The Applicant testified that TCR is part of the waste management system in Ada and Canyon Counties, repurposes and uses material that would otherwise be left in the landfill, and needs the additional time to transfer its current operations from the Property to TCR's Nampa location due to unforeseen conditions and delays.

- b. At the November 12, 2024 public hearing, a citizen testified that he had testified against the request at the September hearing, but had changed his mind to support the request after touring the Property and learning about benefits of the Recycling Activities. Meridian Code Enforcement Supervisor Lacy Ooi testified that having a plan in place contemplating TCR's measured closing of operations and departure from the Property would facilitate cleanup of the Property as well as public safety. The Applicant testified that since the September hearing, TCR had undertaken efforts to treat the WAS to mitigate odors and to cease crushing concrete and asphalt, and prepared a plan for ceasing operations, with specific milestones.
    - c. At the December 17, 2024 public hearing, the Applicant reported that TCR passed its annual inspection by CDH on November 19, 2024, diverted a significant portion of WAS to its plant in Nampa, and has started applying lime on incoming materials in an effort to mitigate odors.
  9. At the November 12, 2024 public hearing, representatives of CDH testified that:
    - a. While CDH did issue warnings of operation plan violations related to odor complaints, no formal notice of violation had been issued to TCR for violation of the operating plan approved by the Idaho Department of Environmental Quality.
    - b. No public health threat is associated with the Recycling Activities at Timber Creek.
  10. Based on the testimony and evidence received, the City Council finds that it is in the best interest of the City of Meridian to amend the June 11, 2019 MDA to incorporate the modifications proposed at the December 17, 2024 public hearing. Such modifications will serve the public interest by:
    - a. Clarifying which materials may be used for the Recycling Activities;
    - b. Providing an enforcement mechanism to the Code Enforcement Division of the Meridian Police Department, in the event of a nuisance condition on the Property;
    - c. Providing a date certain for the cessation of Recycling Activities on the Property, *i.e.*, June 30, 2027, which date does allow TCR's operations after the potential earliest deadline for cessation under the terms of the June 11, 2019 MDA, but also requires cessation of operations earlier than the potential latest date allowed under the terms of the June 11, 2019 MDA, and further provides certainty and clarity regarding the date TCR will cease operations at the Property;
    - d. Following the transition plan and facilitating the cessation of the Recycling Activities while also allowing TCR to continue providing the benefits to the community offered by the operation; and

- e. Notifying the public of the timeline for cessation of the Recycling Activities by the provision requiring Applicant to post signs to that effect on the Property.

**B. Conclusions of law.** The City Council concludes that:

1. The modification of a development agreement is governed by the Local Land Use Planning Act (“LLUPA”), codified at Chapter 65, Title 67, Idaho Code, specifically Idaho Code section 67-6511A, and City Council takes judicial notice of same.
2. Meridian Unified Development Code (“UDC”) section 11-5B-3(F)(2) governs the modification of a development agreement, and City Council takes judicial notice of same, as well as of all current zoning maps and the City of Meridian Comprehensive Plan.
3. Though City Council received conflicting testimony, City Council’s findings of fact are supported by substantial competent evidence in the record, as contemplated by *Price v. Payette County Board of County Commissioners*, 131 Idaho 426, 429 (1998) and *Davisco Foods International, Inc. v. Gooding County*, 141 Idaho 784, 789 (2005).
4. Pursuant to Idaho Code section 67-6503, the City of Meridian has properly exercised the powers conferred by LLUPA.

**C. Order.** Pursuant to the above findings of fact and conclusions of law, the City Council hereby grants Applicant’s request for modification of the June 11, 2019 MDA as proposed at the December 17, 2024 public hearing.

**D. Final decision.** Upon approval by majority vote of the City Council, this is a final decision of the governing body of the City of Meridian.

**E. Judicial review.** Pursuant to Idaho Code section 67-6521(1)(d), if this final decision had concerned a matter enumerated in Idaho Code section 67-6521(1)(a), within twenty-eight (28) days after all remedies have been exhausted, including requesting reconsideration of this final decision as provided by Meridian City Code section 1-7-10, an affected person aggrieved by this final decision would have had the opportunity to seek judicial review of this final decision as provided by Chapter 52, Title 67, Idaho Code. This notice is provided as a courtesy; the City of Meridian does not admit by this notice that this decision is subject to judicial review under LLUPA.

In the Decision entered on November 24, 2021, in *Brown et al. v. City of Meridian* (Ada County Fourth Judicial District Case no. CV01-19-06894), District Judge Derrick J. O’Neill held that City Council’s decision to modify a development agreement is not a matter enumerated in Idaho Code section 67-6521(1)(a), and is therefore not subject to judicial review.

**F. Notice of right to regulatory takings analysis.** Pursuant to Idaho Code sections 67-6521(1)(d) and 67-8003, an owner of private property that is the subject of a final decision

may submit a written request with the Meridian City Clerk for a regulatory takings analysis.

**IT IS SO ORDERED** by the City Council of the City of Meridian, Idaho, on this \_\_\_\_ day of January, 2025.

COUNCIL PRESIDENT LUKE CAVENER	VOTED _____
COUNCIL VICE PRESIDENT LIZ STRADER	VOTED _____
COUNCIL MEMBER DOUG TAYLOR	VOTED _____
COUNCIL MEMBER JOHN OVERTON	VOTED _____
COUNCIL MEMBER ANNE LITTLE ROBERTS	VOTED _____
COUNCIL MEMBER BRIAN WHITLOCK	VOTED _____
MAYOR ROBERT SIMISON (TIE BREAKER)	VOTED _____

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Robert E. Simison  
Mayor

Attest:

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Chris Johnson  
City Clerk

# Exhibit 1

## COMMUNITY DEVELOPMENT DEPARTMENT REPORT



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

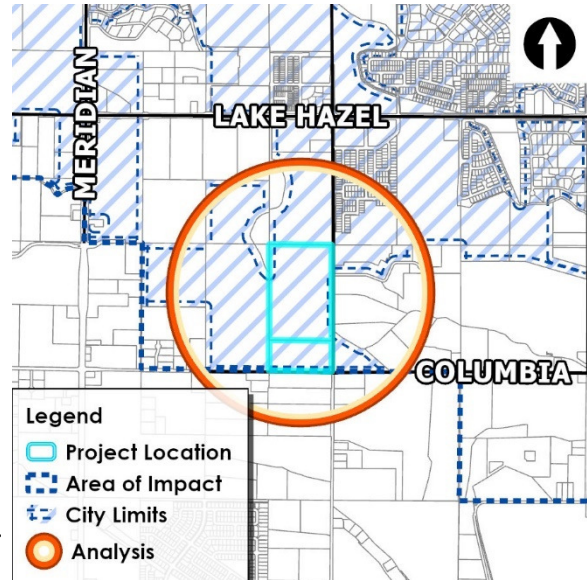
TO: Mayor & City Council

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. # <a href="#">2016-007075</a> ); H-2018-0042 (L & G Murgoitio, LLC – MDA Inst. # <a href="#">2019-053058</a> )
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.

Another updated version was submitted after the Council hearing on November 12<sup>th</sup> as directed by City Council. 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 and included an updated list of materials in Exhibit F of the proposed amended DA, which includes new materials in addition to those previously included. ~~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. An amended DA was submitted since the last hearing on November 12<sup>th</sup> that retains the description of each recycling activity (i.e. #5.2).*
- 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 on Sept. 17<sup>th</sup>, 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. **After the hearing on Nov. 12<sup>th</sup>, the Applicant submitted an updated transition plan as directed by Council with a six (6) month shorter termination date of June 30, 2027, at which point all recycling activities on the property shall cease. A 3<sup>rd</sup> amendment to the Plan was submitted that's included in Section VI.F; changes are included in a red box.**

*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.

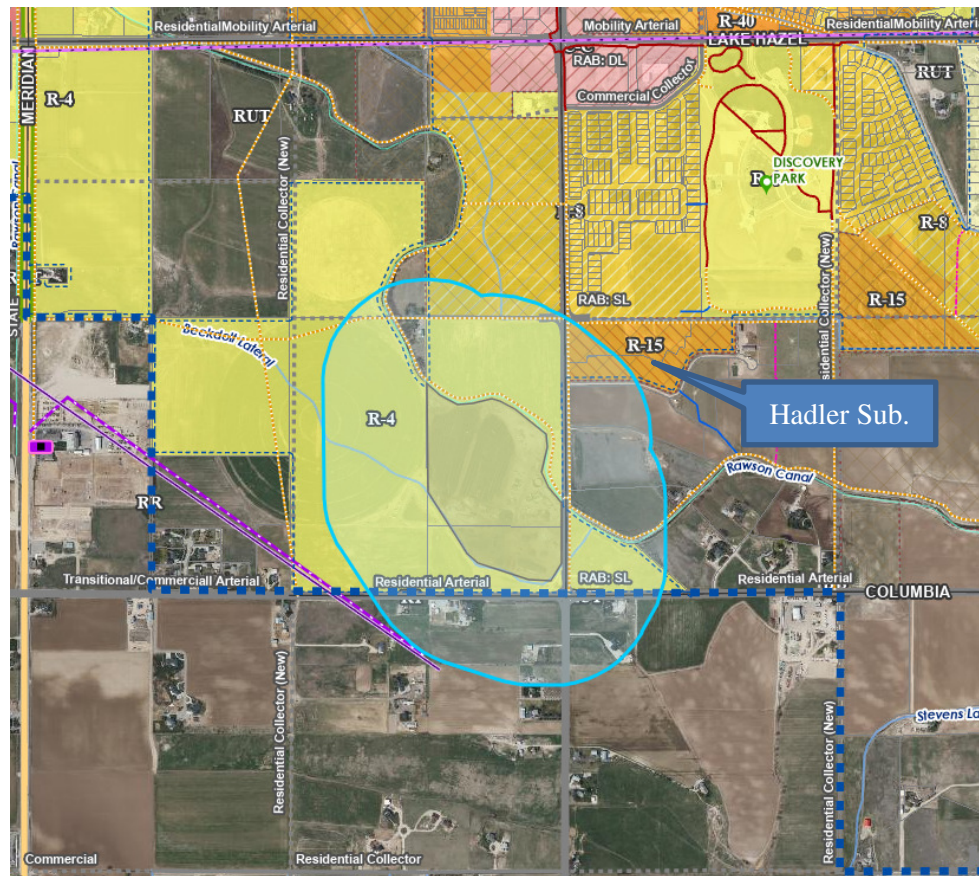
*Staff is in support of this change.*

- 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. Since the last hearing on Nov. 12<sup>th</sup>, the Applicant submitted an amended DA that retains the truck limitation requirement.*

- 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. In lieu of removing this requirement, a transition plan was submitted, included in Section VI.F below.*



- 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. These sections were removed in the amended version of the DA at the request of the City Attorney.*

**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 20<sup>th</sup>, September 17<sup>th</sup>, November 12<sup>th</sup> and December 17, 2024. At the hearing on December 17<sup>th</sup>, Council voted to approve the proposed MDA application with modifications as discussed during the hearing.

##### 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; Debbie Allen; Laren Bailey
- c. Commenting: Lori Badigian & Michael Reno, Central District Health Dept.; Lacy Iooi; Joanne Tima, Jonathan Fewkes, Brenda Blitman, Elizabeth Koeckeritz on behalf of Black Rock Homes; Justin Cranney, Vicky Reynolds
- 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

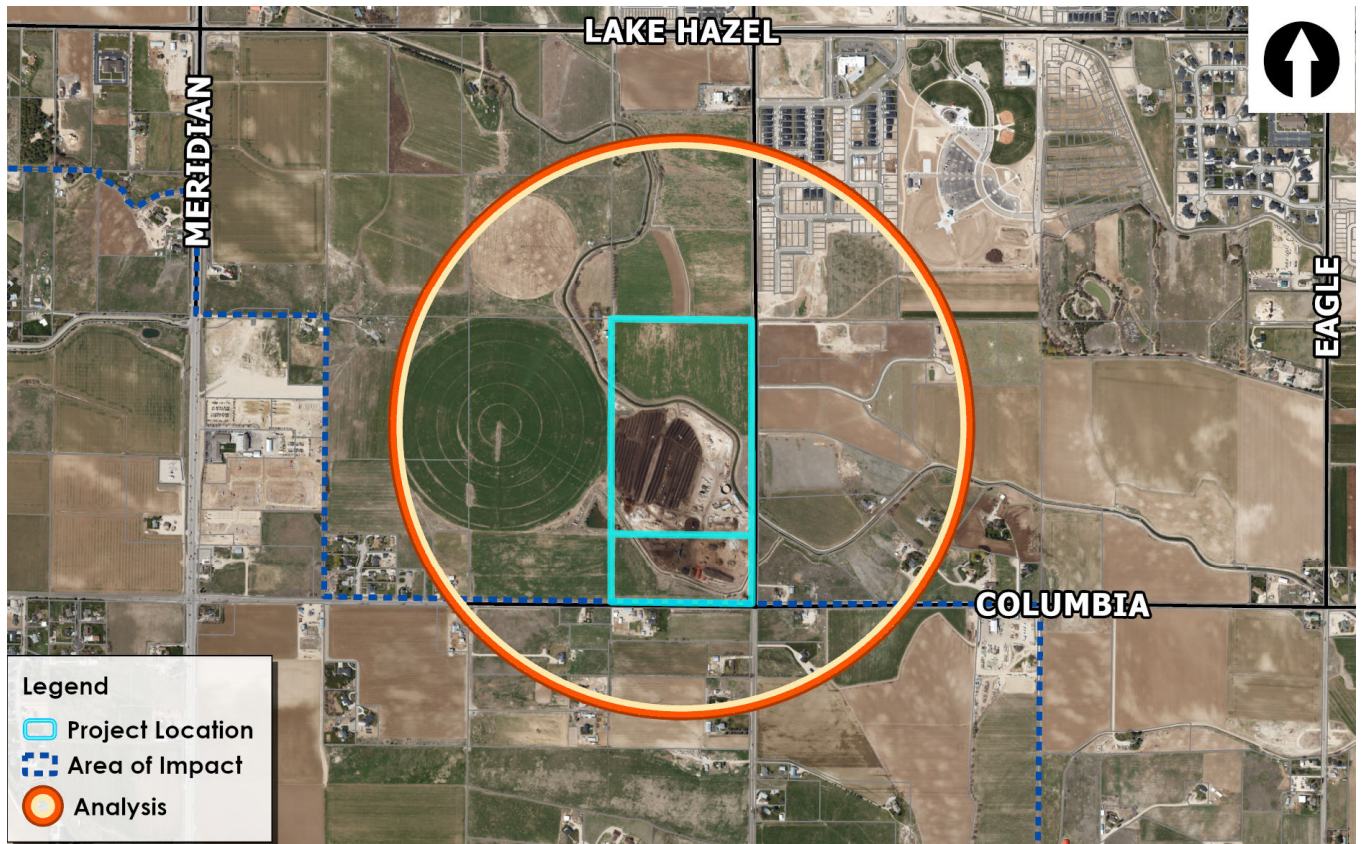
##### 2. Key issue(s) of public testimony:

- 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.
- k. Update from Central District Health on notice of violations on the site.
- l. Update from City code enforcement on process for handling complaints and concern pertaining to the proposed 30 day notice to vacate.
- m. Request for a shorter operating time than 3 years.

- n. Request for Council to enforce the existing DA and hold the applicant to the existing time requirements for operation of the use in the DA.
- 3. Key issue(s) of discussion by City Council:
  - a. Work with Staff and the Legal Dept. to work on a plan that would fully decommission the site within two (2) years.
  - b. Cease all operations on the site by April 1, 2027.
  - c. Continue this application until April 1<sup>st</sup> and keep public hearing open – is there any additional info or timeline that we’re seeking from the Applicant to give greater clarification.
  - d. The Applicant’s proposal to shut down all operations by June 30, 2027.
  - e. Continue to December 17<sup>th</sup> in order for the Applicant to come back with a revised DA with a six-month shorter timeline, revise the Phased Transition Plan accordingly to cease all operations by June 30, 2027. Draft Findings for approval would also be prepared for review by Council. The Applicant should include a list of all materials to be accepted for recycling. The Applicant should include signage on the property for when operations on the site will cease.
  - f. The Council generally supported the revised changes proposed to the DA.
- 4. City Council change(s) to Staff recommendation:
  - a. City Council approved the Applicant’s (revised) request for a modification to the DA.

## VI. EXHIBITS

### A. Aerial Photo





## B. Existing 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=377748&dbid=0&repo=MeridianCity>

*Clean version of proposed DA:*

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=377747&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.

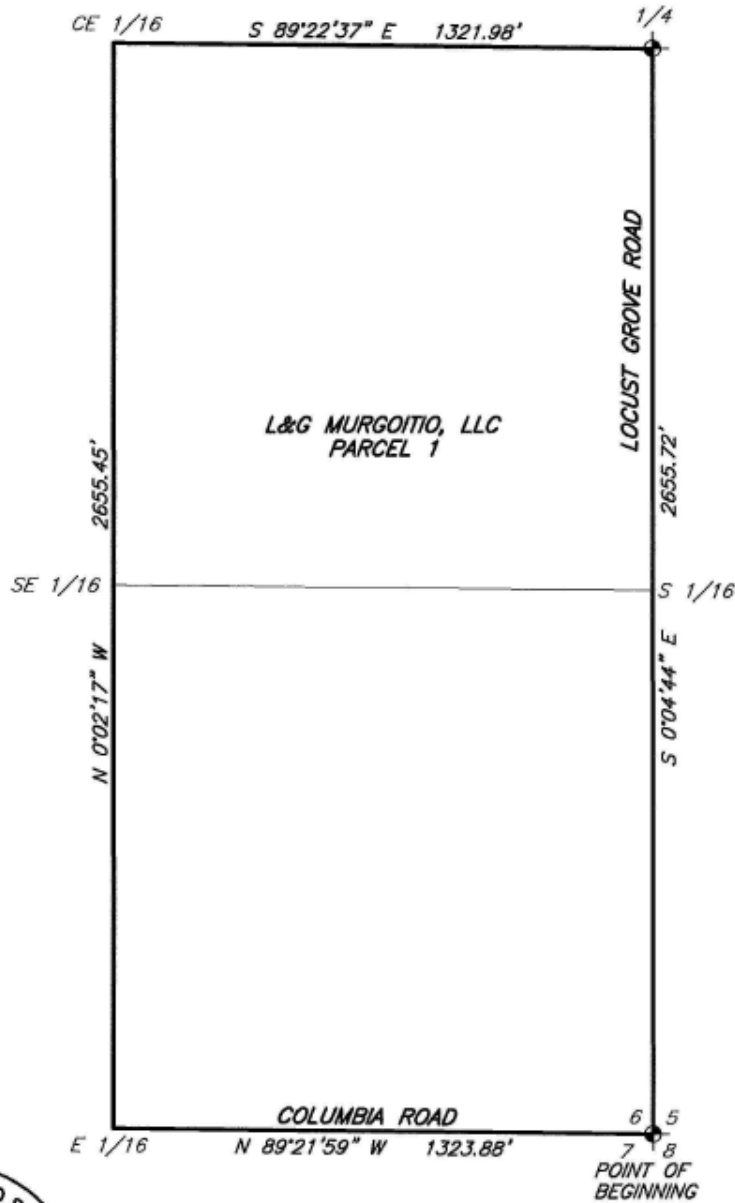
This parcel contains 80.64 acres.

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

F. Phased Transition Plan – REVISED

Revisions shown in red box

EXHIBIT “E”  
TRANSITION PLAN

# Timber Creek Recycling

*“Engineering waste to its highest and best use”*



Date: December 3, 2024







## Phased Transition Plan for the Meridian Compost Site

7695 S. Locust Grove Rd


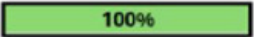
Meridian, ID 83642





Phase	Focus	2024 Timing	% of total Cheese WAS diverted
<p><b>#1</b></p> <p>(Complete by December 2024)</p> 	<p><b>Odor</b></p> <ul style="list-style-type: none"> <li>○ <b>Stop regularly</b> receiving Cheese WAS on weekends at the Meridian site</li> <li>○ <b>Conduct</b> experiments of Calcium Hydroxide, "lime" (Ca(OH)<sub>2</sub>), addition to Cheese WAS at Meridian site.</li> <li>○ <b>Coordinate</b> with Sorrento Lactalis on procurement of equipment for addition of "lime" to Cheese WAS at Sorrento plant</li> </ul>	<p>Q1   Q2   Q3   <b>Q4</b></p>	
	<p><b>Dust</b></p> <ul style="list-style-type: none"> <li>○ <b>Effective November 1<sup>st</sup></b>, no more Concrete/Asphalt/Tile/Porcelain/ Brick accepted at the Meridian site</li> <li>○ Continue regular dust control measures (i.e. water truck)</li> </ul>	<p>Q1   Q2   Q3   <b>Q4</b></p>	
	<p><b>Volume</b></p> <ul style="list-style-type: none"> <li>○ <b>At least 25%</b> of the inbound Cheese WAS diverted from the Meridian site</li> </ul>	<p>Q1   Q2   Q3   <b>Q4</b></p>	
	<p><b>Accountability</b></p> <ul style="list-style-type: none"> <li>○ Present final <b>Transition Plan</b> to Meridian City Council</li> <li>○ <b>Begin</b> drafting a Tier II Composting Facility "closure plan" for DEQ and CDH approval</li> </ul>	<p>Q1   Q2   Q3   <b>Q4</b></p>	

Phase	Focus	2025 Timing	% of total Cheese WAS diverted
<p><b>#2</b></p> <p>(Complete by December 2025)</p> 	<p><b>Odor</b></p> <ul style="list-style-type: none"> <li>○ <b>Pilot, full scale</b> addition of “lime” to inbound Cheese WAS at the Sorrento Cheese Plant (Q1)</li> <li>○ <b>Incorporate</b> treated Cheese WAS into compost process at Meridian Site and monitor for effectiveness (Q1)</li> <li>○ Ongoing coordination with Sorrento Lactalis for addition of “lime”</li> <li>○ <b>Fully implement</b> “lime” addition to Cheese WAS as an odor control measure, so long as testing was successful (Q2)</li> </ul>		
	<p><b>Dust</b></p> <ul style="list-style-type: none"> <li>○ <b>Final crushing</b> of Concrete/Asphalt/Tile/Porcelain/Brick at the Meridian Site (Q1)</li> <li>○ Continue regular dust control measures (i.e., water truck)</li> </ul>		
	<p><b>Volume</b></p> <ul style="list-style-type: none"> <li>○ <b>Complete</b> engineering for additional ASP pad (1 of 2) at the Nampa site (Q2)</li> <li>○ <b>Additional ASP pad</b> (1 of 2) under construction at the Nampa site (Q3)</li> <li>○ <b>Additional 25%</b> of inbound Cheese WAS diverted from the Meridian site (Q4)</li> </ul>		
	<p><b>Accountability</b></p> <ul style="list-style-type: none"> <li>○ <b>Quarterly</b> inspections with Meridian City Code Enforcement</li> <li>○ Closure signage <b>posted</b> (Q2)</li> <li>○ <b>Complete</b> a draft closure plan in coordination with CDH and DEQ</li> </ul>		



Phase	Focus	2026 Timing	% of total Cheese WAS diverted
<b>#3</b>  (Complete by December 2026)  	<b>Odor</b> <ul style="list-style-type: none"> <li>Ongoing monitoring of Cheese WAS odor control measures</li> </ul>	Q1 Q2 Q3 Q4	
	<b>Dust</b> <ul style="list-style-type: none"> <li>Continue regular dust control measures (i.e., water truck)</li> </ul>	Q1 Q2 Q3 Q4	
	<b>Volume</b> <ul style="list-style-type: none"> <li>Complete engineering for additional ASP pad (2 of 2) (Q2)</li> <li>Additional ASP pad (2 of 2) under construction at the Nampa site (Q3)</li> <li>100% of the Cheese WAS diverted from the Meridian site (Q4)</li> </ul>	Q1 Q2 Q3 Q4	
	<b>Accountability</b> <ul style="list-style-type: none"> <li>Quarterly inspections with Meridian City Code Enforcement</li> <li>Finalize Tier II Composting Facility Closure Plan with IDEQ and CDH (Q4)</li> </ul>	Q1 Q2 Q3 Q4	

Phase	Focus	2027 Timing	% of total Cheese WAS diverted
<b>#4</b>  (Complete by 30 June 2027)  	<b>Odor</b> <ul style="list-style-type: none"> <li>No cheese WAS received at the Meridian site</li> </ul>	Q1 Q2	
	<b>Dust</b> <ul style="list-style-type: none"> <li>Continue regular dust control measures (i.e., water truck)</li> </ul>	Q1 Q2	
	<b>Volume</b> <ul style="list-style-type: none"> <li>Sale or transfer of remaining inventory</li> <li>Movement of compost/recycling materials and infrastructure off of the Meridian site</li> </ul>	Q1 Q2	
	<b>Accountability</b> <ul style="list-style-type: none"> <li>Quarterly inspection with Meridian City Code Enforcement (Q1)</li> <li>Final site walk through with Meridian Code Enforcement (Q2)</li> <li>Final Tier II site close out with CDH and DEQ (Q2)</li> </ul>	Q1 Q2	