

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE )  
CHIEF OPERATING OFFICER TO ISSUE A NON- ) RESOLUTION NO. 10-4137  
SYSTEM LICENSE JOINTLY TO WASTE )  
MANAGEMENT OF OREGON, INC. AND ) Introduced by Michael Jordan,  
TROUTDALE TRANSFER STATION FOR ) Chief Operating Officer, with the concurrence  
DELIVERY OF FOOD WASTE TO THE ) of David Bragdon, Council President  
PROCESSING AND RECOVERY CENTER )  
FACILITY FOR COMPOSTING )

WHEREAS, the Metro Code requires a non-system license of any person that delivers putrescible solid waste generated from within the Metro boundary to a non-system disposal facility; and

WHEREAS, Waste Management of Oregon, Inc. and the Troutdale Transfer Station have applied jointly for a non-system license to deliver pre-and post-consumer food waste (including meat and dairy products) to the Processing and Recovery Center composting facility under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control"; and

WHEREAS, such food waste will include residential source-separated food waste mixed with yard debris collected during the City of Portland residential curbside food waste collection pilot program and reloaded at the Troutdale Transfer Station; and

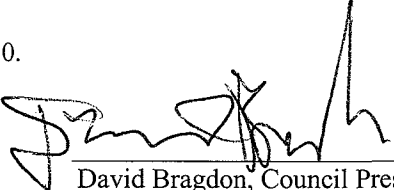
WHEREAS, such food waste will also include source-separated pre-and post-consumer food waste generated by commercial customers of Waste Management of Oregon, Inc.; and

WHEREAS, the non-system license application conforms with the requirements of Chapter 5.05 of the Code; and,

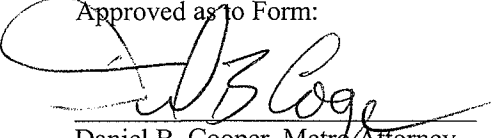
WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; now therefore,

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to issue a non-system license jointly to Waste Management of Oregon, Inc. and Troutdale Transfer Station in a form substantially similar to the license attached as Exhibit A.

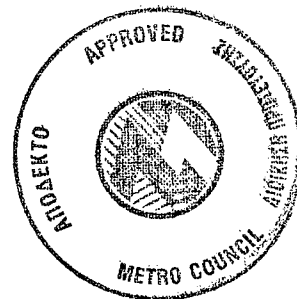
ADOPTED by the Metro Council this 1 day of APRIL, 2010.

  
David Bragdon, Council President

Approved as to Form:

  
Daniel B. Cooper, Metro Attorney

BM:bjl  
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# Exhibit A to Resolution No. 10-4137

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736  
TEL 503 797 1835 | FAX 503 813 7544



**METRO**

## **METRO SOLID WASTE FACILITY NON-SYSTEM LICENSE**

**No. N-113-10(2)**

<b>LICENSEE:</b>	
Waste Management of Oregon, Inc. 7227 NE 55 <sup>th</sup> Avenue Portland, OR 97218	Troutdale Transfer Station 869 NW Eastwind Drive Troutdale, OR 97060
<b>CONTACT PERSON:</b>	
Dean Kampfer Phone: 503-493-7831 Fax: 503-493-7824 e-mail: dkampfer@wm.com	Douglas Vermillion 503-667-5264 x410 503-667-6237 dvermill@wm.com
<b>MAILING ADDRESS:</b>	
7227 NE 55 <sup>th</sup> Avenue Portland, OR 97218	869 NW Eastwind Drive Troutdale, OR 97060

### **ISSUED BY METRO**

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Margo Norton  
Finance and Regulatory Services Director

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Date

<b>1</b>	<b>NATURE OF WASTE COVERED BY LICENSE</b>
	<p>a) Source-separated pre-and post-consumer food waste (including meat and dairy products) mixed with yard debris generated by residential customers for the City of Portland’s food waste collection pilot program; and</p> <p>b) Source-separated pre-and post-consumer food waste (including meat and dairy products) generated by commercial customers of Waste Management of Oregon, Inc. within the Metro region.</p>
<b>2</b>	<b>CALENDAR YEAR TONNAGE LIMITATION</b>
	Licensee is authorized to deliver to the non-system facility listed in Section 3 of this license up to 10,000 tons per calendar year of the waste described in Section 1 of this license.
<b>3</b>	<b>NON-SYSTEM FACILITY</b>
	<p>The licensee hereunder may deliver the waste described in section 1, above, only to the following non-system facility for the purpose of processing and composting:</p> <p style="text-align: center;">Processing and Recovery Center                  29969 Camp Adair Road                  Monmouth, OR 97361</p>
<b>4</b>	<b>TERM OF LICENSE</b>
	The term of this license will commence on April 10, 2010 and expire at midnight on December 31, 2011, unless terminated sooner under Section 10 of this license.
<b>5</b>	<b>COVERED LOADS</b>
	Licensee shall suitably contain and cover, on all sides, all loads of source-separated pre-and post-consumer food that is delivered under authority of this license to prevent spillage of waste while in transit to the non-system facility in Section 3 of this license.

<b>6</b>	<b>MATERIAL MANAGEMENT</b>
	<p>The Licensee is authorized to deliver the waste described in Section 1 of this license to the non-system facility listed in Section 3 under the following conditions:</p> <ul style="list-style-type: none"><li>a) The non-system facility shall accept all solid waste that is delivered under authority of this license for the sole purpose of processing and composting on-site. The Licensee shall not dispose of any source-separated recyclable material, except as provided in Section 7;</li><li>b) The non-system facility shall receive, manage, process and compost all solid waste that is delivered under authority of this license in accordance with all applicable local, state and federal laws, rules, regulations, ordinances, orders, and permits.</li></ul>

<b>7</b>	<b>REGIONAL SYSTEM FEE AND EXCISE TAX</b>
	<p>The Licensee shall be subject to the following conditions:</p> <ul style="list-style-type: none"><li>a) Source-separated, pre-and post-consumer food waste that is delivered under authority of this license and is accepted and composted, in accordance with all applicable regulations, at the non-system facility listed in Section 3 is exempt from Regional System Fees and Excise Tax.</li><li>b) If the Licensee delivers waste under this license to the non-system facility but the material does not meet the facility's acceptance criteria (e.g., too contaminated for processing or composting) or the non-system facility fails to process and compost the material as required as a condition of this license, the Licensee shall pay to Metro an amount equal to the Regional System Fee, as provided in Metro Code Section 5.02.045, for each ton of waste delivered to the non-system facility that is ultimately disposed of at a solid waste disposal facility.</li><li>c) If the Licensee delivers waste under this license to the non-system facility but the material does not meet the facility's acceptance criteria (e.g., too contaminated for processing or composting) or the non-system facility fails to process and compost the material as required as a condition of this license, the Licensee shall pay to Metro an amount equal to the Excise Tax, as provided in Metro Code Section 7.01.020, for each ton of waste delivered to the non-system facility that is ultimately disposed of at a solid waste disposal facility.</li></ul>

<b>8</b>	<b>REPORTING OF ACCIDENTS AND CITATIONS</b>
	Licensee shall report to Metro any significant incidents (such as fires, off-site odor complaints), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the licensee.

<b>9</b>	<b>RECORD KEEPING AND REPORTING</b>
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all solid wastes that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none"><li>(i) Ticket or weight slip number from the non-system facility,</li><li>(ii) Material category designating the type of material transferred to the non-system facility;</li><li>(iii) Date the load was transferred to the non-system facility;</li><li>(iv) Time the load was transferred to the non-system facility;</li><li>(v) Net weight of the load; and</li><li>(vi) Fee charged by the non-system facility.</li></ul> <p>(b) No later than the fifteenth (15<sup>th</sup>) day of each month, beginning with the first month following the commencement date of this license, Licensee shall transmit the records required under Section 9(a) above, that covers the preceding month, to Metro's Finance and Regulatory Services in an electronic format prescribed by Metro.</p> <p>(c) Licensee shall make all records from which Section 9(a) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) calendar days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in Section 3, above.</p>

<b>10</b>	<b>ADDITIONAL LICENSE CONDITIONS</b>
	<p>This non-system license shall be subject to the following conditions:</p> <ul style="list-style-type: none"><li>(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.</li><li>(b) This license shall be subject to amendment, modification or termination by Metro's Finance and Regulatory Services Director (the "Director") in the event that the Director determines that:<ul style="list-style-type: none"><li>(i) There has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license;</li><li>(ii) The provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Oregon Waste Systems;</li><li>(iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facility described in Section 3; or</li><li>(iv) The non-system facility listed in Section 3 fails to manage the waste subject to this license in accordance with the material management requirements described in Section 6.</li></ul></li><li>(c) This license shall, in addition to subsections (b)(i) through (iv), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.</li><li>(d) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</li><li>(e) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3.</li><li>(f) This license authorizes delivery of solid waste only to the facility listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro.</li></ul>

<b>11</b>	<b>COMPLIANCE WITH LAW</b>
	Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the licensee shall be deemed part of this license as if specifically set forth herein.

<b>12</b>	<b>INDEMNIFICATION</b>
	Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

## **STAFF REPORT**

IN CONSIDERATION OF RESOLUTION NO. 10-4137 FOR THE PURPOSE OF  
AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE  
JOINTLY TO WASTE MANAGEMENT OF OREGON, INC. AND TROUTDALE TRANSFER  
STATION FOR DELIVERY OF FOOD WASTE TO THE PROCESSING AND RECOVERY  
CENTER FACILITY FOR COMPOSTING

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March 18, 2010

Prepared by: Bill Metzler

## **BACKGROUND**

### **Description of the Resolution**

Approval of Resolution No. 10-4137 will authorize the Chief Operating Officer to issue a new non-system license ("NSL") jointly to Waste Management of Oregon, Inc. ( a solid waste hauling company) and Troutdale Transfer Station to annually deliver a maximum of 10,000 tons of source-separated, pre- and post-consumer food waste that will include meat and dairy products ("mixed food waste") that may be mixed with residential curbside yard debris to the Processing and Recovery Center ("PRC") facility located at 29969 Camp Adair Road in Monmouth, Oregon.

Waste Management of Oregon, Inc. intends to collect and deliver mixed food waste with yard debris from residential curbside sources that will be participating in the City of Portland food waste collection pilot program to the Troutdale Transfer Station for consolidation and reload to the PRC facility. The City of Portland food waste pilot program is scheduled to start this spring and will continue for about a year. Waste Management of Oregon, Inc. may also collect mixed food waste from certain commercial food retail outlets and transport this mixed food waste directly to the PRC facility.

PRC is an established yard debris composting facility and the mixed food waste will be accepted and composted as part of a pilot study project, approved by the Oregon Department of Environmental Quality (DEQ) that could last until August 11, 2010. In addition, PRC has applied for the required DEQ composting permit that would authorize acceptance and composting of the mixed food waste on a regular basis. PRC intends to apply for a Metro designated facility agreement that would authorize its acceptance of mixed food waste from the region. The term of the proposed NSL is through December 31, 2011, which would provide PRC with sufficient time to apply to Metro for designated facility status - without an interruption in mixed food waste deliveries from the Metro region.

Because PRC is a composting facility, the waste covered under this proposed NSL will not impact Metro's obligations under its disposal contract and the waste is exempt from Metro fees and taxes.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

There is no known opposition to the proposed non-system license.

### **2. Legal Antecedents**

Metro Code Section 5.05.035 provides that a waste hauler may transport solid waste generated within Metro to any non-system facility only by obtaining an NSL. Metro Code further provides that



applications for NSL's for putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council. Under Metro Code Subsection 5.05.035(c), the Council shall consider the following factors when determining whether to approve an NSL application:

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The non-system facility identified in this proposed license is an established yard debris composting facility rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. Since the facility has accepted only wood waste, yard debris, and limited amounts of food waste for composting, staff is not aware of any other wastes accepted at PRC that could pose a risk of environmental contamination.

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including, but not limited to, public health, safety and environmental rules and regulations;*

PRC is the non-system facility and is owned and operated by Valley Landfills, Inc. located at 28972 Coffin Butte Road in Corvallis Oregon. Valley Landfills, Inc. is owned by Allied Waste Industries, Inc. which is a wholly-owned subsidiary of Republic Services, Inc. headquartered at 18500 N. Allied Way in Phoenix Arizona. Allied Waste Industries, Inc. also owns and operates Willamette Resources, Inc. ("WRI") a Metro franchised transfer station located at 10295 SW Ridder Road in Wilsonville Oregon, Allied Waste of Clackamas & Washington Counties (a solid waste hauling company), and the Coffin Butte Landfill a Metro Designated Facility located at 28972 Coffin Butte Road in Corvallis Oregon.

Based on communication with the DEQ, PRC operates in compliance with all federal, state, and local requirements, rules and regulations and has had no violations related to public health, safety or environmental regulations in the past three years.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

PRC will accept and compost the mixed food waste as part of a pilot study under authority of a Solid Waste Letter of Authorization issued by the Oregon DEQ. The DEQ pilot study authorization is valid until August 11, 2010. In addition, PRC has applied for the required DEQ composting permit that would authorize acceptance and composting of the mixed food waste on a regular basis.

The main goal of the PRC composting pilot study is to demonstrate that the PRC facility can receive and compost mixed food waste from a variety of sources without creating off-site odor nuisances, without attracting vectors, and will result in a pathogen-free product. The area designated for the mixed food waste compost pilot study is located near the middle of the property and includes an area approximately 500' x 200' (2.3 acres).

PRC is an existing yard debris composting facility - operating since the early 1990's - that encompasses approximately 39 acres. More detailed information on the PRC composting pilot study is contained in the *Compost Facility Pilot Study Design and Operations Manual* prepared by Vector Engineering, Inc. that is on file with Finance and Regulatory Services.

PRC will receive mixed food waste at the existing PRC scale house. All weights will be recorded. Loads will be inspected for contaminants at the scale house and again as they are unloaded. An existing paved

tipping area will be dedicated to the mixed food waste. The mixed food waste is then mixed with processed yard trimmings to get an optimal carbon-nitrogen ratio. This mixture of materials is then used to construct compost piles in approximate dimensions of 8' high by 15' wide by 80' long. Each pile will contain about 200 cubic yards of compost with about 50 tons of that consisting of mixed food waste.

PRC is using an aerated static pile ("ASP") technology for the pilot project. As soon as the compost piles are constructed they are put on negative air suction to prevent the piles from going anaerobic. The piles will also be covered with perforated plastic tarps to help maintain moisture levels and shed stormwater. During composting, air is drawn through the piles which sit atop perforated pipes attached to blowers that provide the aeration. After approximately 25-35 days the piles will be turned once, put back on negative air, covered and composted for an additional 20-30 days.

Temperature in the piles is monitored to assure compliance with the DEQ pathogen reduction standards. The piles will achieve temperatures in excess of 131 degrees Fahrenheit for a minimum of three consecutive days. Compost samples will be sent to a lab for verification of pathogen reduction. This will test for fecal coliform and/or Salmonella. Materials that do not meet the pathogen standards must be composted again or disposed.

The primary stormwater management technique in the rainy season (October through May) will be the covered ASP process. This will ensure that only incidental stormwater comes into contact with materials containing mixed food waste. Stormwater will be monitored by the site's existing DEQ stormwater permit. DEQ staff has deemed the operational practices and management controls to be adequate. When the pilot study is complete, PRC intends to apply for a Metro designated facility agreement once the DEQ issues PRC a permanent permit to compost mixed food waste. Metro staff will monitor the progress and results of the food waste pilot study throughout completion.

If the mixed food waste delivered to the non-system facility does not meet the facility's acceptance criteria or the non-system facility fails to process and compost the material, then the provisions in the proposed non-system license will require the licensee to pay Metro the Regional System Fee and Excise Tax on each ton of waste delivered to the non-system facility that is ultimately disposed.

(4) *The expected impact on the region's recycling and waste reduction efforts;*

Approval of the proposed NSL is likely to have a positive impact on the region's recycling and waste reduction efforts. If the food waste pilot project is successful, and PRC obtains a Metro designated facility agreement to accept mixed food waste from the region for composting, it would result in additional organics processing capacity for the region, providing a benefit to the regional organics recovery program.

(5) *The consistency of the designation with Metro's existing contractual arrangements;*

The waste subject to the proposed license will be delivered to a composting facility rather than disposed at a general-purpose landfill. Thus, approval of the requested license does not implicate Metro's disposal contract or any other of its existing contractual arrangements.

(6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including, but not limited to, public health, safety and environmental rules and regulations; and*

Waste Management of Oregon, Inc. is a solid waste hauler and has not received any written warnings or citations from Metro. The Troutdale Transfer Station, also owned by Waste Management of Oregon, Inc. has had no violations related to public health, safety or environmental regulations and is in compliance with Metro ordinances and it very cooperative with Metro regarding ordinance enforcement.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

The Benton County Solid Waste Advisory Council (“SWAC”) met on August 25, 2009 to discuss the PRC food waste composting pilot study. According to Benton County staff, the SWAC members are very enthusiastic about the food waste composting pilot and are looking forward to a more permanent program pending outcome of the study in 2010.

If the PRC food waste pilot study is successful, it would result in additional organics transfer and processing capacity for the region, providing a benefit to the regional organics recovery program. In addition, mixed food waste collected for composting from the Metro region is currently transported 167 miles to the Cedar Grove composting facility in Maple Valley, Washington. In contrast, the PRC composting facility is located only 55 miles from the Metro region near Corvallis, Oregon.

### Conclusion

The Chief Operating Officer finds that the NSL application satisfies the requirements of Metro Code Section 5.05.035, License to Use Non-System Facility.

### **3. Anticipated Effects**

The effect of Resolution No. 10-4137 will be to issue an NSL for delivery of up to 10,000 tons per calendar year of: 1) residential curbside food waste that is co-collected with yard debris during the City of Portland’s pilot program and reloaded at the Troutdale Transfer Station for delivery to the PRC facility; and 2) mixed food waste from certain commercial food retail outlets delivered directly to the PRC facility by Waste Management of Oregon, Inc.

### **4. Budget Impacts**

The waste delivered under authority of the proposed NSL is exempt from regional system fee and excise tax. Therefore, the budget impact, to the extent that it is discernable for 10,000 tons annually, has already been factored into the budget.

### **RECOMMENDED ACTION**

The Chief Operating Officer recommends approval of Resolution No. 10-4137, and issuance of an NSL substantially similar to the NSL attached to the Resolution as Exhibit A.

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