

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE) RESOLUTION NO. 10-4205
A NON-SYSTEM LICENSE TO AGG RECOLOGY, INC. FOR)
DELIVERY OF FOOD WASTE TO THE NATURE'S NEEDS)
FACILITY FOR COMPOSTING DURING THE WASHINGTON) Introduced by Michael Jordan,
COUNTY NON-GREEN FEEDSTOCK DEMONSTRATION) Chief Operating Officer, with the concurrence
PROJECT) of Carlotta Collette, Council President

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

WHEREAS, AGG Recology, Inc. has filed a completed application seeking a non-system license to deliver pre-and post-consumer food waste including meat and dairy products to the Nature's Needs composting facility under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, such food waste will include source-separated pre-and post-consumer food waste generated by commercial customers of AGG Recology, Inc.; and

WHEREAS, the Nature's Needs composting facility is participating in a demonstration project with Washington County to assess the feasibility of accepting and composting non-green feedstock i.e., source-separated post-consumer food waste that includes meat and dairy; and

WHEREAS, the Metro Code Chapter provides that applications for non-system licenses for putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

WHEREAS, the Chief Operating Officer recommends that the non-system license be issued together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The non-system license application of AGG Recology, Inc. is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to AGG Recology, Inc. a Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 4 day of Nov, 2010.


Carlotta Collette, Council President

Approved as to Form:


Daniel B. Cooper, Metro Attorney

BM/WJ:bjl
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METRO

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

No. N-131-10

LICENSEE:

AGG Recology, Inc.
9345 North Harbortate
Portland, OR 97203

CONTACT PERSON:

Blaine Polendy
Phone: (503) 283-2015
Fax : (503) 226-4902
E-mail: bpolendey@recology.com

MAILING ADDRESS:

9345 North Harbortate
Portland, OR 97203

ISSUED BY METRO:

Margo Norton,
Finance and Regulatory Services Director

Date

1	NATURE OF WASTE COVERED BY LICENSE
	Source-separated, pre-and post-consumer food waste (including meat and dairy products) generated by commercial customers of AGG Recology, Inc. within the Metro region.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility listed in Section 3 of this license up to 3,400 tons per calendar year of the waste described in Section 1 of this license.
3	NON-SYSTEM FACILITY
	<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;">Nature's Needs 9570 NW 307th Avenue North Plains, Oregon 97133</p> <p>This license is issued on the condition that the non-system facility listed in this section is authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality or from Washington County that this non-system facility is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 10 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on November 15, 2010 and expire at midnight on December 31, 2011, unless terminated sooner under Section 10 of this license.

5	COVERED LOADS
	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.

6	MATERIAL MANAGEMENT
	<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">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; andb) 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.

7	REGIONAL SYSTEM FEE AND EXCISE TAX
	<p>The Licensee shall be subject to the following conditions:</p> <ul style="list-style-type: none">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.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.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

	<p>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.</p>
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8	REPORTING OF ACCIDENTS AND CITATIONS
	<p>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.</p>

9	RECORD KEEPING AND REPORTING
	<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"> (i) Ticket or weight slip number from the non-system facility, (ii) Material category designating the type of material transferred to the non-system facility; (iii) Date the load was transferred to the non-system facility; (iv) Time the load was transferred to the non-system facility; (v) Net weight of the load; and (vi) Fee charged by the non-system facility. <p>(b) No later than the fifteenth (15th) 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 Department 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) business days written notice of an intent to inspect or copy documents. Licensee</p>

	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.
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10	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(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.(b) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer (the "COO") in the event that the COO determines that:<ul style="list-style-type: none">(i) There has been sufficient change in any circumstances under which Metro issued this license;(ii) The provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Oregon Waste Systems, Inc.;(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(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.(v) The non-system facility listed in Section 3 generates malodors that are detectable off-site.(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.(d) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.(e) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license.

	<p>(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.</p>
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11	COMPLIANCE WITH LAW
	<p>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.</p>

12	INDEMNIFICATION
	<p>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.</p>

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4205 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO AGG RECOLOGY, INC. FOR DELIVERY OF FOOD WASTE TO THE NATURE'S NEEDS FACILITY FOR COMPOSTING DURING THE WASHINGTON COUNTY NON-GREEN FEEDSTOCK DEMONSTRATION PROJECT

October 13, 2010

Prepared by: Bill Metzler
503-797-1666

BACKGROUND

Description of the Resolution

Approval of Resolution No. 10-4205 will authorize the Chief Operating Officer to issue a new non-system license ("NSL") to AGG Recology, Inc. ("AGG"), a solid waste hauling company, to annually deliver a maximum of 3,400 tons of source-separated, pre-and post-consumer food waste that will include meat and dairy products ("mixed food waste") to the Nature's Needs composting facility located at 9570 NW 307th Avenue in North Plains, Oregon. Nature's Needs is located outside the Metro boundary, in unincorporated Washington County and is an established yard debris and vegetative food waste composting facility. Recology, Inc. owns and operates the Nature's Needs composting facility (Recology Oregon Compost, Inc.) and AGG.

Nature's Needs will accept and compost the mixed food waste as part of a Washington County Non-Green Feedstock Demonstration Project authorized by Washington County and approved by the Oregon Department of Environmental Quality (DEQ). The non-green feedstock refers to source-separated food waste that includes post-consumer meat and dairy products (mixed food waste). The demonstration project with Washington County could last until December 31, 2011. If the demonstration project is successful, Nature's Needs intends to continue its mixed food waste operations on a regular basis pending approval by Washington County and the DEQ. AGG will collect and deliver mixed food waste from its commercial customer accounts that generate source-separated food waste and transport this mixed food waste directly to the Nature's Needs composting facility for processing.

The term of the proposed NSL is through December 31, 2011, which will coincide with the completion of the Washington County demonstration project with Nature's Needs. In the longer term, Nature's Needs intends to apply to Metro to become a designated facility of the system and operate under a Metro Designated Facility Agreement.

During the demonstration project, Nature's Needs will be making improvements to its compost facility site in anticipation of receiving up to 80,000 tons per year of yard debris and mixed food waste. Recology indicated that the site redevelopment work is scheduled in three phases:

- Phase 1 includes re-grading and winterizing sections of the site. It is scheduled to be completed in October 2010.
- Phase 2 consists of constructing a permanent aeration system in the central portion of the facility. The system will have seven asphalt composting pads encompassing about five acres.

Each pad will have its own blower, aeration piping, biofilter, leachate and condensate collection system. Phase 2 will also include construction of five storm water treatment ponds. Phase 2 is scheduled for completion in the next 6 to 9 months, pending local permitting. Permits for this phase will be submitted to Washington County in October 2010.

- Phase 3 of the site redevelopment consists of constructing a 10,000 square foot, three-sided receiving building. The building will be used to contain and control odors from the receipt of the mixed food waste. Odor control features will include a negative aeration system in the floor and an air exhaust system in the roof that captures odors and discharges to a biofilter for treatment. Phase 3 will be completed in the next 9 to 12 months, pending local permitting. Permits for this phase will be submitted to Washington County in October 2010.

Because Nature's Needs 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 currently exempt from Metro fees and taxes.

ANALYSIS/INFORMATION

1. Known Opposition

There has been some local opposition to the Nature's Needs facility in the past due to malodors. Should malodors continue, the NSL provides that the Director may amend, modify or terminate the NSL if the non-system generates malodors detectable off-site. In addition, Washington County can take enforcement action at the Nature's Needs composting facility under the provisions of the demonstration project.

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 (such as food 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 and vegetative food waste 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 vegetative food waste for composting, staff is not aware of any other wastes accepted at Nature's Needs 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;*

Nature's Needs is the non-system facility and is owned and operated by Recology, Inc., headquartered at 50 California Street, 24th Floor, in San Francisco California. Recology, Inc. is the contract operator for the Metro Central Transfer Station.

Recology, Inc. is also the parent company that owns Recology Oregon Material Recovery, Inc. which owns and operates three non-putrescible waste recovery facilities in the region that are licensed by Metro: 1) Suttle Road Recovery Facility, 2) Foster Road Recovery Facility, and 3) Oregon City Recovery Facility. On June 24, 2010, Metro issued a Notice of Violation ("NOV") to Oregon City Recovery Facility for failure to properly maintain required documents and this NOV has been resolved. On June 28, 2010 Metro issued a NOV to the Suttle Road Recovery Facility for failure to inspect loads in accordance with the operating plan. This NOV is in the process of being resolved.

Based on communication with the DEQ and Washington County, the Nature's Needs composting facility 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. However, based on communication from the DEQ and Washington County, neighboring businesses and local residents have identified odors at the Nature's Needs facility, under previous owners, as a concern.

Accordingly, Nature's Needs is required by Washington County and DEQ to implement reasonable and practical measures to control and minimize odors through site design and operations. The odor control measures during the demonstration project include processing incoming mixed food waste feedstock in a timely manner (i.e., within 30-minutes of receipt) blending of feedstocks, good housekeeping, and monitoring moisture and temperatures of composting feedstock. The use of a forced aeration system and a biofilter system will help control and minimize odors. The system will pull air through the composting piles and direct the air to a biofilter consisting of organic material such as wood chips or compost covers. Biofilters are commonly used at composting facilities due to their success in effectively treating odors associated with composting. The phased facility improvements will address these issues on a permanent basis.

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

Nature's Needs will accept and compost the mixed food waste under the auspices of the Washington County Non-Green Feedstock Demonstration Project that includes a franchise agreement, and under authority of a Solid Waste Letter of Authorization ("SWLA") issued by the Oregon DEQ. The DEQ SWLA is valid until October 22, 2010 and is being renewed for an additional six months (until about April 22, 2011). Further, Nature's Needs has applied for a standard DEQ composting permit that would authorize acceptance and composting of the mixed food waste on a regular basis.

Demonstration project overview

Washington County has issued Nature's Needs a franchise for accepting and processing the mixed food waste as part of its Non-Green Feedstock Demonstration Project. The demonstration project is authorized through December 31, 2011 and will evaluate the feasibility of composting the mixed food waste. If Washington County revokes or does not renew the franchise for Nature's Needs, the Metro NSL issued to AGG to haul mixed food waste to Nature's Needs may be immediately terminated. More detailed information on the Nature's Needs composting pilot study, the DEQ Letter of Authorization,

and the Washington County franchise for Nature's Needs is on file with Metro's Finance and Regulatory Services Department.

During the demonstration project, Nature's Needs intends to receive about 200 tons per week of mixed food waste (an equivalent of about 10,000 tons per year). This NSL will authorize AGG to deliver up to 3,400 tons of food waste per year. Other non-affiliated haulers may participate in the demonstration project by obtaining an NSL from Metro for delivery of source-separated mixed food waste within the tonnage limits established by the County. All weights will be recorded at the existing scale house. Loads will be inspected for contaminants at the scale house and again as they are unloaded. A 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 which will be covered and aerated within 30 minutes of delivery.

Nature's Needs is using an aerated static pile technology for the pilot project. The mixed material is placed in a windrow approximately 20-feet wide, 80-feet long and 10 to 12-feet tall. Two 8-inch diameter perforated pipes are embedded in the windrow to act as conduits for the purpose of drawing air through the compost windrows. Each of the conduit pipes is connected to a 1-horse power blower that pulls air through the compost windrow. Exhaust air is distributed through a biofilter for odor treatment.

The composting material resides in the aerated windrows for 28 to 30 days, and then is removed for curing. The aerated windrows will also be covered with plastic tarps to help maintain moisture levels and shed stormwater. Temperature monitoring for meeting pathogen reduction requirements will be performed during the third or fourth week of the active aeration stage. Finished screened compost will be sampled for laboratory testing to document compliance with pathogen reduction criteria. Materials that do not meet the pathogen reduction standards must be composted again or disposed.

Metro staff will monitor the progress and results of the food waste demonstration 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 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 demonstration project is successful, and Nature's Needs 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. This NSL is important to the Washington County demonstration project, as it will permit deliveries of food waste in sufficient quantity and quality to the facility for assessment of the composting odor controls and feedstock management practices.

(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 impact Metro's disposal contract or any other of its existing contractual arrangements. Recology, as the contract operator for

Metro Central Transfer Station, has assumed a contract with Metro for delivery of food waste to the Cedar Grove Composting Facility in Washington. This NSL does not authorize delivery of food waste from Metro Central to Nature's Needs.

- (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*

AGG is a solid waste hauler and has not received any written warnings or citations from Metro under the new Recology ownership. As a solid waste hauling company, AGG does not have a history regarding Metro ordinance or agreement compliance.

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

If the Nature's Needs food waste demonstration project with Washington County is successful, it would result in additional organics processing capacity for the region, providing a benefit to the regional organics recovery program. Further, when all the site improvements are completed and all approvals are obtained, Nature's Needs will provide a closer alternative for food waste composting to the region. For example, 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 Nature's Needs composting facility is located at the edge of North Plains (unincorporated Washington County), about seven miles outside the Metro boundary.

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. 10-4205 will be to issue an NSL for delivery of up to 3,400 tons per calendar year of mixed food waste from certain commercial food retail or wholesale outlets delivered directly to the Nature's Needs facility by AGG.

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 3,400 tons annually, has already been factored into the budget.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 10-4205, and issuance of an NSL substantially similar to the NSL attached to the Resolution as Exhibit A.

BM:bjl
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