

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING) RESOLUTION NO. 14-4561
OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO)
RECOLOGY PORTLAND, INC. FOR DELIVERY OF RESIDENTIAL) Introduced by Martha Bennett
YARD DEBRIS MIXED WITH FOOD WASTE FROM SUTTLE) Chief Operating Officer, with the
ROAD RECOVERY FACILITY TO RECOLOGY NW GREENLANDS) concurrence of Tom Hughes, Council
IN AUMSVILLE, OREGON) 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 facility; and

WHEREAS, Recology Oregon Material Recovery, Inc. holds Metro Solid Waste Facility Non-System License No. N-102-12 which expires on December 31, 2014; and

WHEREAS, Recology Oregon Material Recovery, Inc. has filed a completed application seeking renewal of the non-system license to deliver residential yard debris mixed with food waste to Recology NW Greenlands in Aumsville under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, Metro Code Chapter 5.05 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

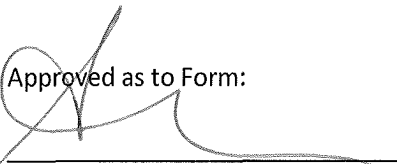
WHEREAS, the Chief Operating Officer recommends that the non-system license be issued together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

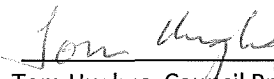
THE METRO COUNCIL RESOLVES AS FOLLOWS:

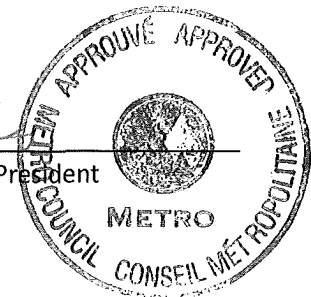
1. The non-system license renewal application of Recology Oregon Material Recovery, Inc. is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to Recology Oregon Material Recovery, Inc. a Non-System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

ADOPTED by the Metro Council this 13th day of November 2014.

Approved as to Form:


Alison R. Kean, Metro Attorney


Tom Hughes, Council President



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METRO

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

No. N-102-15

LICENSEE:
Recology Portland, Inc. 4044 N. Suttle Road Portland, OR 97217
CONTACT PERSON:
Carl Peters Phone: (503) 283-2015 E-Mail: cpeters@recology.com
MAILING ADDRESS:
4044 N. Suttle Road Portland, OR 97217

ISSUED BY METRO:

Scott Robinson, Deputy Chief Operating Officer

Date

1	NATURE OF WASTE COVERED BY LICENSE
	Source-separated residential yard debris mixed with food waste from municipal curbside collection programs generated within the Metro boundary and received at Suttle Road Recovery Facility in accordance with Metro Solid Waste Facility License No. L-102-11B.

2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility listed in Section 3 of this license up to 16,000 tons per calendar year of the waste described in Section 1 of this license.

3	NON-SYSTEM FACILITY
	<p>Licensee is authorized to deliver the waste described above in Section 1 to the following non-system facility for the purpose of processing and composting:</p> <p style="text-align: center;">Recology NW Greenlands - Aumsville 8712 Aumsville Highway SE Salem, OR 97317</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 the city of Aumsville that this non-system facility is not authorized to accept such waste, Metro may immediately modify or terminate this license pursuant to Section 10 of this license.</p>

4	TERM OF LICENSE
	The term of this license will commence on January 1, 2015 and expire at midnight on December 31, 2016 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 residential yard debris mixed with food waste that are delivered under authority of this license to prevent spillage of waste while in transit to the non-system facility listed in Section 3.

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; and(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.

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 residential yard debris mixed with 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 listed in Section 3 but the material does not meet the facility's acceptance criteria (for example, the material is 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 Title V, for each ton or portion thereof of waste delivered to the non-system facility that is ultimately delivered to a disposal site.(c) If the Licensee delivers waste under this license to the non-system facility listed in Section 3 but the material does not meet the facility's acceptance criteria (for example, the material is 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 Title VII, for each ton or portion thereof of waste delivered to the non-system facilities that is ultimately delivered to a disposal site.

8	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.

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 listed 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 facilities:</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 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 facilities listed above in Section 3.</p>

10	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license shall be subject to the following conditions:</p> <p>(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</p>

	<p>decision by Metro to direct the solid waste described in this license to any other facility.</p> <p>(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:</p> <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 Waste Management Disposal Services of Oregon, Inc., dba 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 listed in Section 3; 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; or v. The non-system facility listed in Section 3 generates malodors that are detectable off-site. <p>(c) This license shall, in addition to subsections (b)(i) through (b)(v), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.</p> <p>(d) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(e) This license shall be subject to modification or termination by the COO upon the execution of a designated facility agreement with a facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license.</p> <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 Metro Code Chapter 5.05 whether or not those provisions have been specifically mentioned or cited</p>

	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.
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12	INDEMNIFICATION
	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. 14-4561 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO RECOLOGY PORTLAND, INC. FOR DELIVERY OF RESIDENTIAL YARD DEBRIS MIXED WITH FOOD WASTE TO RECOLOGY NW GREENLANDS IN AUMSVILLE, OREGON

October 31, 2014

Prepared by: Will Ennis
(503) 797-1667

Approval of Resolution No. 14-4561 will authorize the Chief Operating Officer (COO) to issue a renewed non-system license (NSL) to Recology Portland, Inc. (RPI), to annually deliver a maximum of 16,000 tons of source-separated residential yard debris mixed with residential food waste from Suttle Road Recovery Facility (SRRF) located at 4044 North Suttle Road in Portland (Metro Council District 5) to Recology NW Greenlands – Aumsville (NWGA) located at 8715 NE Aumsville Highway SE in Aumsville, Marion County, Oregon. Recology, Inc., headquartered at 50 California Street, 24th Floor, in San Francisco California, is the parent company that owns RPI and NWGA. Recology, Inc. is also the contract operator for the Metro Central Transfer Station (MCTS). NWGA receives a limited amount of commercial food waste from MCTS.

BACKGROUND

In October 2012 RPI was granted an NSL¹ to annually deliver a maximum of 16,000 tons of source-separated residential yard debris mixed with food waste from municipal curbside collection programs generated within the Metro boundary and received at SRRF to NWGA. The term of this NSL commenced on October 15, 2012 and is set to expire on December 31, 2014. The applicant delivered approximately 6,546 tons of authorized waste to NWGA during calendar year 2013 and approximately 3,318 tons between January 1 and July 31, 2014.

On July 31, 2014, RPI submitted a completed application requesting that Metro renew this NSL with a tonnage authorization of 16,000 tons per calendar year. This is the same annual tonnage limit that the applicant is currently authorized to transport under its existing NSL.

Metro Code Section 5.05.025 prohibits any person from transporting solid waste to non-system facilities without an appropriate license from Metro. The issuance of this renewed NSL is subject to approval or denial by Metro Council because it authorizes the delivery of putrescible waste.²

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed renewed NSL.

2. Legal Antecedents

¹ Metro Solid Waste Facility Non-System License No. N-102-12

² Metro Code Section 5.05.040

Metro Code Section 5.05.043 of the Metro Code provides that when determining whether or not to approve an NSL application, the Council shall consider the following factors to the extent relevant to such determination.

- (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 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 food waste for composting, staff is not aware of any other wastes accepted at NWGA that could pose a risk of environmental contamination. The environmental risk from the use of this non-system facility is presumed to be minimal because the facility is fully regulated and monitored by the appropriate local and state authorities.

- (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;*

NWGA is permitted by the Oregon Department of Environmental Quality (DEQ). Metro staff received verbal confirmation from DEQ and the Aumsville city administrator that NWGA is in compliance with federal, state and local requirements. Staff has also received confirmation that NWGA has a good compliance record with respect to public health, safety and environmental rules and regulations.

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

NWGA accepts and composts yard debris, residential food waste and commercial food waste under the authority of the city of Aumsville Conditional Use Permit, and under authority of a Solid Waste Disposal Site Permit: Composting Facility issued by DEQ. The DEQ permit expires on December 30, 2018.

NWGA is required by the city of Aumsville and DEQ to implement measures to control and minimize odors through site design and operations. The odor control measures include processing incoming mixed food waste feedstock in a timely manner, blending of feedstocks, good housekeeping, and monitoring moisture and temperatures of composting feedstock. More importantly, the use of a forced aeration system and a bio-filter system help control and minimize odors. The system pulls air through the composting piles and directs the air to a bio-filter consisting of organic material such as wood chips or compost overs. Bio-filters are commonly used at composting facilities due to their success in effectively treating odors associated with composting.

- (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.

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

Metro is contractually obligated to deliver a minimum of 90 percent of the region's putrescible waste that is delivered to general purpose landfills during the calendar year, to landfills owned by Metro's disposal contractor, Waste Management of Oregon. 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 conflict with 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*

All RPI operated facilities regulated by Metro are currently in compliance with Metro's Code and license requirements.

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

Reloading residential food waste to NWGA for composting will provide additional recovery capacity which benefits the region's organics recovery program. Further, NWGA provides another alternative for food waste composting to the region.

3. Anticipated Effects

The effect of Resolution No. 14-4561 will be to issue a renewed NSL to Recology Portland, Inc. for delivery of up to 16,000 tons per calendar year of residential food waste from Suttle Road Recovery Facility to NW Greenlands in Aumsville for composting. The NSL will commence on January 1, 2015 and expire on December 31, 2016.

4. Budget Impacts

The residential food waste mixed with yard debris that will be transported under authority of this renewed NSL is exempt from paying the Metro Regional System Fee and Excise Tax. The overall impact of the city of Portland's food waste composting program has already been factored into Metro's budget.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 14-4561, finding that the license renewal satisfies the requirements of Metro Code Section 5.05.043, and issuance of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.