

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF)
OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM) RESOLUTION NO. 15-4603
LICENSE TO ARROW SANITARY SERVICE FOR)
DELIVERY OF RESIDENTIAL YARD DEBRIS MIXED) Introduced by Martha J. Bennett,
WITH FOOD WASTE AND COMMERCIAL FOOD WASTE) Chief Operating Officer, with the
TO THE WEST VAN MATERIALS RECOVERY CENTER) concurrence of Tom Hughes, Council
LOCATED IN VANCOUVER, WASHINGTON FOR) President
TRANSFER TO THE DIRT HUGGER COMPOSTING)
FACILITY LOCATED IN DALLESPORT, WASHINGTON)

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, Waste Connections of Oregon, Inc. dba Arrow Sanitary Service has filed a complete application seeking a non-system license to deliver residential yard debris mixed with food waste and commercial food waste to the West Van Material Recovery Center located in Vancouver, Washington for transfer to the Dirt Hugger composting facility located in Dallesport, Washington, under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, such residential yard debris mixed with food waste and commercial food waste will be collected from the Metro area and delivered to the West Van Material Recovery Center for consolidation, reload and transport to the Dirt Hugger composting facility; and

WHEREAS, the West Van Materials Recovery Center is a transfer station and material recovery facility that is owned and operated by Columbia Resource Company, L.P. which is a wholly owned subsidiary of Waste Connections, Inc., and is regulated by the Clark County Public Health Department and the State of Washington Department of Ecology; and

WHEREAS, the Dirt Hugger composting facility is authorized by the Klickitat County Health Department and the State of Washington Department of Ecology to accept and compost food wastes that include post-consumer meat and dairy products; 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,

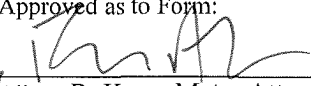
THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The non-system license application of Arrow Sanitary Service 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 Arrow Sanitary Service a non-system license substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 19th day of February 2015.


Tom Hughes, Council President

Approved as to Form:


For Alison R. Kean, Metro Attorney

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METRO

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

No. N-029-15(3)

LICENSEE:
Arrow Sanitary Service 12820 NE Marx Street Portland, OR 97230
CONTACT PERSON:
Derek Ranta Phone: (503) 542-3425 Fax: (360) 230-3979 E-mail: derekr@wcnx.org
MAILING ADDRESS:
Arrow Sanitary Service 12820 NE Marx Street Portland, OR 97230

ISSUED BY METRO:

Scott Robinson, Deputy Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	(a) Source-separated yard debris mixed with food waste that is generated by residential customers within the Metro region and collected by Arrow Sanitary Service, and (b) Source-separated food waste generated by commercial customers within the Metro region and collected by Arrow Sanitary Service.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility listed in Section 3 of this license up to 13,000 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 transfer to the Dirt Hugger facility located at 168 US 197 in Dallesport, Washington for composting:</p> <p style="text-align: center;">West Van Material Recovery Center 6601 NW Old Lower River Road Vancouver, WA 98666</p> <p>This license is issued on condition that the non-system facility and composting site named in this section are authorized to accept the type of waste described in Section 1. If Metro receives notice from the Washington Department of Ecology or local regulatory authority that the non-system facility or composting site are not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on March 1, 2015 and expire at midnight on December 31, 2017, unless terminated sooner under Section 7 of this license.
5	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.



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 consolidation, reload and transfer to the Dirt Hugger facility for composting. The Licensee shall not dispose of any source-separated food waste except as provided in Section 7; and(b) The Dirt Hugger composting facility shall receive, manage, process and compost all source-separated food 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 food waste described in Section 1 that is delivered under authority of this license and is accepted and composted in accordance with all applicable regulations at the Dirt Hugger composting facility listed in Section 3 is exempt from Regional System Fees and Excise Tax.(b) If the Licensee delivers source-separated food 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 source-separated food 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 facility that is ultimately delivered to a disposal site.



8	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all source-separated food waste that the Licensee delivers to the non-system facility described in Section 3 of this license. These records include the information specified in <u>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements</u>.</p> <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:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro;ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; andiii. Remit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall make all records from which Sections 6(a) and 6(b) 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 facility named in Section 3, above.</p>

9	ADDITIONAL LICENSE CONDITIONS
	<p>This 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 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.; oriii. Metro's solid waste system or the public will benefit from, and will



	<p>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.</p> <p>(c) This license shall, in addition to subsections (b)(i) through (iii), 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 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> <p>(f) This license authorizes delivery of solid waste 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> <p>(g) If the Licensee exceeds the calendar year limitation set forth in Section 2 of this license, each ton or portion thereof by which the Licensee exceeds the limitation constitutes a separate violation subject to a penalty of up to \$500.</p>
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10	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>

11	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. 15-4603 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM LICENSE TO ARROW SANITARY SERVICE FOR DELIVERY OF RESIDENTIAL YARD DEBRIS MIXED WITH FOOD WASTE AND COMMERCIAL FOOD WASTE TO THE WEST VAN MATERIALS RECOVERY CENTER LOCATED IN VANCOUVER, WASHINGTON FOR TRANSFER TO THE DIRT HUGGER COMPOSTING FACILITY LOCATED IN DALLESPORT, WASHINGTON

January 21, 2015

Prepared by: Bill Metzler
(503) 797-1666

Approval of Resolution No. 15-4603 will authorize the Chief Operating Officer (COO) to issue a non-system license (NSL), similar to the proposed license attached to this resolution as Exhibit A, to Arrow Sanitary Service (Arrow). The proposed NSL will authorize Arrow to annually deliver a combined total of up to 13,000 tons per calendar year of residential yard debris mixed with food waste and commercial food waste from the Metro region to the West Van Material Recovery Center (West Van) located in Vancouver, Washington for transfer to the Dirt Hugger composting facility located at 168 US 197 in Dallesport, Washington.

The applicant (Arrow) and West Van are both affiliated with Waste Connections, Inc. headquartered in The Woodlands, Texas.

BACKGROUND

1. Overview

The applicant seeks authorization to transport residential food waste mixed with yard debris and commercial food waste generated within the Metro region to a non-system facility, West Van, for transfer to the Dirt Hugger facility for composting. Both facilities are located outside the region. Metro Code Section 5.05.025 prohibits any person from transporting solid waste to non-system facilities without an appropriate license from Metro. The proposed NSL is subject to Metro Council approval because it involves putrescible waste (food waste).



Site location for West Van located in Vancouver, and Dirt Huggers located in Dallesport, Washington

2. The Applicant

Waste Connections, Inc., headquartered at 3 Waterway Square Place, in The Woodlands, Texas, is the parent company that owns both Arrow and West Van.

On December 3, 2014, Arrow submitted a complete application to Metro requesting authorization to transport a combined total of up to 13,000 tons of food waste (10,000 tons residential yard debris mixed with food waste and 3,000 tons commercial food waste) to West Van for transfer to the Dirt Hugger facility for composting.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition.

2. Legal Antecedents

Metro Code Section 5.05.040 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 requires applications for NSLs for putrescible waste (such as food waste) to be reviewed by the COO and are subject to approval or denial by the Metro Council. Under Metro Code Subsection 5.05.043, the Council shall consider the following factors to the extent relevant to determine whether or not to issue an NSL:

- (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 (West Van) identified in this proposed license is a fully permitted transfer station rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. West Van is a fully permitted transfer station for garbage, recyclables and organic material. West Van is regulated by Clark County Public Health and the Washington State Department of Ecology. Staff is not aware of any wastes collected by Arrow and accepted by West Van that could pose a risk of environmental contamination.

The Dirt Hugger composting facility is authorized to accept for composting crop residue, source-separated pre-consumer and post-consumer food waste (including vegetables, fruits, grains, meats, dairy, eggs and fats), manure from herbivorous animals, wood waste and yard debris. Staff is not aware of any wastes accepted at the Dirt Hugger composting facility 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;*

West Van is regulated by the Clark County Public Health Department and the Washington State Department of Ecology. Based on information in the application, West Van is fully compliant with respect to all environmental rules and regulations. West Van operates in accordance with its Clark County approved Operations Plan, which specifies the procedures for handling and reloading food waste at the facility.

Based on information included in the application, according to the Klickitat County Health Department and Washington State Department of Ecology, the Dirt Hugger 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.

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

West Van is a fully permitted as a transfer station by the Clark County Public Health Department and the Washington State Department of Ecology. West Van uses operational practices and management controls that are typical of transfer stations and that Metro considers adequate for the protection of health and the environment.

In addition, Dirt Hugger uses operational practices and management controls that are typical of a food waste composting facility. Dirt Hugger has obtained all necessary composting and air quality permits from the Klickitat County Health Department and Washington State Department of Ecology.

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

The proposed license covers source-separated food waste from the Metro region that is delivered to other composting facilities. Therefore, approval of the proposed NSL will maintain a positive to neutral 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*

As a solid waste hauling company, Arrow has a good record of compliance with local and state agencies responsible for public health, safety, and environmental rules and regulations.

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

Reloading source separated food waste at West Van for delivery to the Dirt Hugger facility for composting will provide additional recovery capacity which benefits the region's organics recovery program. Further, the Dirt Hugger composting facility provides an additional option for food waste composting to the region.

3. Anticipated Effects

The effect of Resolution No. 15-4603 will be to issue an NSL to Arrow authorizing the delivery of up to 13,000 tons per calendar year of residential and commercial food waste from the Metro region to West Van for consolidation, reloading and transport to the Dirt Hugger facility for composting.

4. Budget Impacts

The source-separated residential yard debris mixed with food waste and commercial food waste proposed to be transported under authority of this NSL is exempt from the Metro Regional System Fee and Excise Tax (RSF and ET). The RSF and ET rates depend on the amount of waste that is disposed. Any waste that is diverted from the disposal stream, such as the composting of food waste, will in general increase those RSF and ET rates. Waste diversion will also affect other disposal prices (tip fees) at Metro transfer stations and other solid waste facilities due to fixed and capital costs, etc. being spread over less tonnage. The effects of these individual price changes will depend on facility-specific factors. However, the effect on the RSF and ET is universal across all ratepayers and waste disposed.

The food waste that will be delivered to West Van in the remainder of FY 2014-15 will mostly be tonnage diverted away from the Metro Central Transfer Station. This tonnage shift will cause a small increase in the per-ton cost of disposal for Metro's customers mainly because Metro's fixed operating costs will be spread over fewer tons. The impact of the tonnage shift away from Metro's transfer station to West Van would decrease the Parks and Environmental Services budget in the future because Metro would no longer incur the cost of transferring, transporting, and composting the residential compostable materials diverted to West Van. The impact of the diverted tons will be fully factored into the budget and rates for FY 2015-16.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 15-4603 finding that the license application 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.

BM:bjl
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