

BEFORE THE METRO COUNCIL

|   |   |                                    |
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| FOR THE PURPOSE OF AUTHORIZING THE CHIEF      | ) | RESOLUTION NO. 15-4628             |
| OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM   | ) |                                    |
| LICENSE TO THE SUTTLE ROAD RECOVERY FACILITY  | ) | Introduced by Martha J. Bennett,   |
| FOR DELIVERY OF RESIDENTIAL YARD DEBRIS MIXED | ) | Chief Operating Officer, with the  |
| WITH FOOD WASTE TO THE DIRT HUGGER            | ) | concurrence of Tom Hughes, Council |
| COMPOSTING FACILITY LOCATED IN DALLESFORT,    | ) | President                          |
| 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, Recology Portland, Inc. has filed a complete application seeking a non-system license to deliver residential yard debris mixed with food waste from its Suttle Road Recovery Facility 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 will be collected from the Metro area and delivered to the Suttle Road Recovery Facility for consolidation, reload and transport to the Dirt Hugger composting facility; 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 includes 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

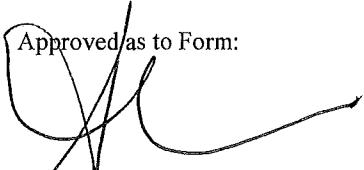
WHEREAS, the Chief Operating Officer recommends that the non-system license be issued together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

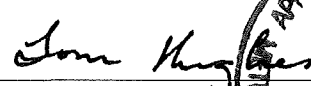
1. The non-system license application of the Suttle Road Recovery Facility is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to the Suttle Road Recovery Facility a non-system license substantially similar to the one attached as Exhibit A.

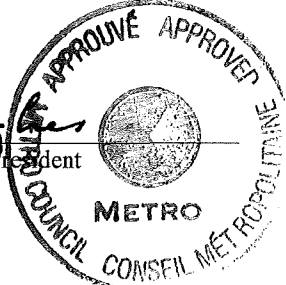
ADOPTED by the Metro Council this 11 day of June, 2015.

Approved as to Form:



Alison R. Kean, Metro Attorney

  
 Tom Hughes, Council President



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TEL 503 797 1650 | FAX 503 813 7544



**METRO**

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

**No. N-102-15(3)**

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| <b>LICENSEE:</b>   |
| Suttle Road Recovery Facility<br>Recology Portland, Inc.<br>4044 North Suttle Road<br>Portland, OR 97217 |
| <b>CONTACT PERSON:</b>   |
| Carl Peters, General Manager<br>Phone: 503-283-2015<br>Fax: 503-289-2191<br>E-mail: cpeters@recology.com |
| <b>MAILING ADDRESS:</b>  |
| Suttle Road Recovery Facility<br>4044 North Suttle Road<br>Portland, OR 97217                            |

**ISSUED BY METRO:**

\_\_\_\_\_  
Scott Robinson, Deputy Chief Operating Officer

\_\_\_\_\_  
Date



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| <b>1</b> | <b>NATURE OF WASTE COVERED BY LICENSE</b>  |
|          | Source-separated residential yard debris mixed with food waste that is generated by residential customers within the Metro region and delivered to the Suttle Road Recovery Facility.  |
| <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 each 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 composting</p> <p style="padding-left: 40px;">Dirt Hugger<br/>168 US 197<br/>Dallesport, Washington 98617</p> <p>This license is issued on condition that the non-system facility named in this section is 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 is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p> |
| <b>4</b> | <b>TERM OF LICENSE</b>   |
|          | The term of this license will commence on June 1, 2015 and expire at midnight on December 31, 2017, unless terminated sooner under Section 7 of this license.  |
| <b>5</b> | <b>REPORTING OF ACCIDENTS AND CITATIONS</b>  |
|          | Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.   |



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| <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> |

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| <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 residential yard debris mixed with 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.</li><li>(b) If the Licensee delivers source-separated residential yard debris mixed with 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.</li><li>(c) If the Licensee delivers source-separated residential yard debris mixed with 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.</li></ul> |



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| <b>8</b> | <b>RECORD KEEPING AND REPORTING</b>  |
|          | <p>(a) The Licensee shall keep and maintain accurate records of the amount of all source-separated residential yard debris mixed with 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"> <li>i. Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro;</li> <li>ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; and</li> <li>iii. 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.</li> </ul> <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> |

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| <b>9</b> | <b>ADDITIONAL LICENSE CONDITIONS</b>  |
|          | <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"> <li>i. There has been sufficient change in any circumstances under which Metro issued 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 Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.; or</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</li> </ul> |



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|  | <p>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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| <b>10</b> | <b>COMPLIANCE WITH LAW</b>   |
|           | <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> |

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| <b>11</b> | <b>INDEMNIFICATION</b>  |
|           | <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. 15-4628 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM LICENSE TO THE SUTTLE ROAD RECOVERY FACILITY FOR DELIVERY OF RESIDENTIAL YARD DEBRIS MIXED WITH FOOD WASTE TO THE DIRT HUGGER COMPOSTING FACILITY LOCATED IN DALLESFORT, WASHINGTON

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May 4, 2015

Prepared by: Bill Metzler  
(503) 797-1666

Approval of Resolution No. 15-4628 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 the Suttle Road Recovery Facility (SRRF). The proposed NSL will authorize SRRF to annually deliver up to 10,000 tons of residential yard debris mixed with food waste to the Dirt Hugger composting facility located in Dallesport, Washington. SRRF is licensed by Metro to conduct reloading or residential yard debris mixed with food waste and material recovery of dry waste at its facility located at 4044 North Suttle Road, Portland Oregon.

## **BACKGROUND**

### **1. Overview**

The applicant seeks authorization to transport residential yard debris mixed with food waste generated within the Metro region to a non-system facility, the Dirt Hugger facility for composting. 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).

SRRF is located at 4044 North Suttle Road, Portland Oregon (Metro District 5) and is owned and operated by Recology Portland, Inc. Recology, Inc., headquartered at 50 California Street, 24th Floor, in San Francisco California, is the parent company that owns Recology Portland, Inc. Recology, Inc. is also the contract operator for the Metro Central Transfer Station.

Recology owns and operates two material recovery facilities in the region that are licensed by Metro. They are: 1) SRRF (a material recovery and residential food waste reload facility), and 2) Foster Road Recovery Facility (a material recovery and yard debris reload facility). In addition, Recology, Inc. owns and operates three DEQ-approved composting facilities in Oregon: 1) NW Greenlands - Aumsville, 2) NW Greenlands -McMinnville, and 3) Nature's Needs composting facility located in North Plains.

On April 17, 2015, SRRF submitted a complete application to Metro requesting authorization to transport up to 10,000 tons of residential yard debris mixed with food waste 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, the Dirt Hugger composting facility, is authorized to accept for composting, source-separated pre-consumer and post-consumer food waste (including vegetables, fruits, grains, meats, dairy, eggs and fats), manure from herbivorous animals, crop residue, wood waste and yard debris. Although Dirt Hugger is a relatively new facility in Dallesport, receiving approval in late 2014, the facility operated successfully in The Dalles, since 2010 with no significant compliance issues. 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;*

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;*

Dirt Hugger uses operational practices and management controls that are typical of a food waste composting facility and that Metro considers adequate for the protection of health and the environment. In 2014, Dirt Hugger 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. The food waste is generated within the city of Portland's residential program.

- (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*

SRRF 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 yard debris mixed with food waste at SRRF for delivery to the Dirt Hugger facility for composting will maintain 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.

The proposed license includes a 31-month term, commencing on June 1, 2015, and expiring on December 31, 2017. Although new NSLs are typically issued for up to a three-year period (up to 36 months) to align with other similar NSLs or renewal cycles, staff recommends that the Metro Council establish a 31-month term in this instance in order to align the license with a calendar year renewal cycle. The Metro Code stipulates that new NSLs may be issued for up to a three-year period.<sup>1</sup>

### **3. Anticipated Effects**

The effect of Resolution No. 15-4628 will be to issue an NSL to SRRF authorizing the delivery of up to 10,000 tons of residential yard debris mixed with food waste each calendar year to the Dirt Hugger composting facility located in Dallesport, Washington.

### **4. Budget Impacts**

The source-separated residential yard debris mixed with food waste proposed to be transported under authority of this NSL is exempt from the Metro Regional System Fee and Excise Tax and is already going to other compost facilities. Under this NSL, the food waste that will be delivered to the Dirt Hugger composting facility from SRRF will be tonnage that has previously been delivered from SRRF to the Nature's Needs composting facility in North Plains. The impact of the diverted tons has already been fully factored into the budget and rates for FY 2015-16.

## **RECOMMENDED ACTION**

The COO recommends approval of Resolution No. 15-4628 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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<sup>1</sup> Metro Code Section 5.05.045(5)(B)