

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING ) RESOLUTION NO. 15-4660  
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 THE SUTTLE ) Chief Operating Officer, with the  
ROAD RECOVERY FACILITY TO RECOLOGY OREGON ) concurrence of Tom Hughes, Council  
COMPOST, INC.-NATURE'S NEEDS COMPOST FACILITY ) President  
LOCATED IN NORTH PLAINS, OREGON

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. holds Metro Solid Waste Facility Non-System License No. N-102-13(2)A which expires on December 31, 2015; and

WHEREAS, Recology Portland, Inc. has filed a completed application seeking a renewed non-system license to deliver residential yard debris mixed with food waste to Recology Oregon Compost, Inc.-Nature's Needs Compost Facility in North Plains 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 Metro issue a renewed non-system license to Recology Portland, Inc. with specific conditions as provided in Exhibit A to this Resolution; now therefore,

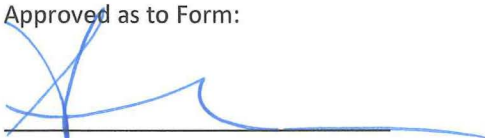
THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The non-system license renewal application of Recology Portland, 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 Portland, Inc. a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 3rd day of December, 2015.

  
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Tom Hughes, Council President

Approved as to Form:

  
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Alison R. Kean, Metro Attorney

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



METRO

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

**No. N-102-16(2)**

<b>LICENSEE:</b>
Recology Portland, Inc. 4044 N. Suttle Road Portland, OR 97217
<b>CONTACT PERSON:</b>
Carl Peters Phone: (503) 283-2015 E-Mail: <a href="mailto:cpeters@recology.com">cpeters@recology.com</a>
<b>MAILING ADDRESS:</b>
4044 N. Suttle Road Portland, OR 97217

**ISSUED BY METRO:**

\_\_\_\_\_  
Paul Slyman,  
Property and Environmental Services Director

\_\_\_\_\_  
Date

<b>1</b>	<b>NATURE OF WASTE COVERED BY LICENSE</b>
	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 its Metro Solid Waste Facility License.

<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 30,000 tons per calendar year of the waste described in Section 1 of this license.

<b>3</b>	<b>NON-SYSTEM FACILITY</b>
	<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 Oregon Compost, Inc.- Nature's Needs Compost Facility        9570 NW 307<sup>th</sup> Avenue        North Plains, OR 97113</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 Washington County 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>

<b>4</b>	<b>TERM OF LICENSE</b>
	The term of this license will commence on January 1, 2016 and expire at midnight on December 31, 2017 unless terminated sooner under Section 10 of this license.

<b>5</b>	<b>COVERED LOADS</b>
	Licensee shall suitably contain and cover, on all sides, all loads of source-separated 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.

<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; and</li><li>(b) The non-system facility shall receive, manage, process, and compost all solid waste that is delivered under authority of this license in accordance with all applicable local, state and federal laws, rules, regulations, ordinances, orders, and permits.</li></ul>

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

<b>8</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.

<b>9</b>	<b>RECORD KEEPING AND REPORTING</b>
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all 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 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>

<b>10</b>	<b>ADDITIONAL LICENSE CONDITIONS</b>
	<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 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</li> </ul>

	<p>Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc;</p> <ul style="list-style-type: none"> <li>iii. Metro’s solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facility listed in Section 3;</li> <li>iv. The non-system facility listed in Section 3 fails to manage the waste subject to this license in accordance with the material management requirements described in Section 6; or</li> <li>v. The non-system facility listed in Section 3 generates malodors that are detectable off-site.</li> </ul> <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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<b>11</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 Metro Code 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>

<b>12</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,</p>

	<p>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>
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## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 15-4660 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 FROM THE SUTTLE ROAD RECOVERY FACILITY TO RECOLOGY OREGON COMPOST, INC. - NATURE'S NEEDS COMPOST FACILITY LOCATED IN NORTH PLAINS, OREGON

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November 20, 2015

Prepared by: Will Ennis  
(503) 797-1667

Approval of Resolution No. 15-4660 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 30,000 tons of source-separated residential yard debris mixed with food waste from Suttle Road Recovery Facility (SRRF) located at 4044 North Suttle Road in Portland (Metro Council District 5) to Recology Oregon Compost, Inc.-Nature's Needs (NN) located at 9570 NW 307<sup>th</sup> Avenue in North Plains, Washington County, Oregon. The proposed NSL is a renewal of an existing license that is set to expire on December 31, 2015.

## BACKGROUND

### 1. Overview

The applicant seeks to renew its NSL to transport source-separated residential yard debris mixed with food waste generated within the Metro region to NN. NN is a non-system composting facility located outside of 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 issuance of this renewed NSL is subject to approval or denial by Metro Council because it authorizes the delivery of putrescible waste (food waste).<sup>1</sup>

### 2. The Applicant

Recology, Inc., headquartered at 50 California Street, 24<sup>th</sup> Floor, in San Francisco, California, is the parent company that owns RPI and NN. Recology, Inc. is also the contract operator for the Metro Central Transfer Station (MCTS).

In July 2013 RPI was granted an NSL<sup>2</sup> to annually deliver a maximum of 15,000 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 NN. In January 2015 the licensee requested a change of authorization to increase its annual tonnage limitation up to 25,000 tons (a 10,000-ton increase). Metro subsequently approved the increase and amended the NSL<sup>3</sup> in March 2015. The amended NSL, which authorizes a 25,000-ton limit, will expire on December 31, 2015. Under the current NSL, the licensee delivered approximately 18,000 tons of food waste to NN in calendar year 2014 and approximately 18,600 tons through September of calendar year 2015.

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<sup>1</sup> Metro Code Section 5.05.040

<sup>2</sup> Metro Solid Waste Facility Non-System License No. N-102-13(2)

<sup>3</sup> Metro Solid Waste Facility Non-System License No. N-102-13(2)A



On October 14, 2015, RPI submitted an application to Metro seeking the renewal of its current NSL and requested a 5,000-ton increase in tonnage authorization (for a total of 30,000 tons per calendar year). The requested increase will allow the applicant more internal flexibility to direct residential organics to its own composting facilities.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

There is no known opposition to the proposed renewed NSL.

### **2. Legal Antecedents**

Metro Code Section 5.05.043 provides that, when determining whether or not to approve an NSL application, the Metro 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 that is well known to Metro staff.

NN is a 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 NN 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 as described below.

- (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;*

NN is permitted by the Oregon Department of Environmental Quality (DEQ). DEQ staff report that the facility is currently in compliance with the terms of its solid waste permit. Washington County is responsible for local regulatory matters at NN. Washington County staff has reported to Metro that the facility is currently in compliance with its franchise agreement which authorizes an annual tonnage cap of 80,000 tons of compost feedstocks. The facility's franchise was renewed by Washington County on June 19, 2015. Should circumstances change or new conditions be imposed on the facility by Washington County, Metro can modify or terminate the NSL as appropriate.

Metro staff's investigation of the applicant, destination facility, and parent company revealed a good

record of compliance with local and state agencies responsible for health, safety, and environmental regulations during the term of the current NSL.

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

NN operates under the authority of a Washington County-issued franchise and a Solid Waste Disposal Site Permit: Composting Facility issued by DEQ. The facility manages all of the waste it receives in accordance with the requirements of these authorizations.

The facility has implemented odor control measures which 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;*

The waste subject to the proposed NSL will be delivered to NN for the purpose of composting rather than disposal. Based on the waste management hierarchy, composting is considered to be a higher and better management option than land disposal. As such, renewal of the proposed NSL is likely to continue having 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. The waste subject to the proposed license will not be disposed at a general-purpose landfill. Approval of the proposed license will not conflict with Metro's disposal contract; however, increased diversion of organic material from disposal shrinks the amount of waste committed under the flow guarantee and the amount available for allocation to NSLs that control the remaining 10 percent.

(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*

In October 2014, Metro issued a Notice of Violation<sup>4</sup> with civil penalty to RPI for exceeding the tonnage authorization of the NSL. RPI subsequently ceased shipments of residential yard debris mixed with food waste to NN and applied for, and Metro granted, an amended NSL with an increased tonnage authorization. The violation has since been resolved and the applicant is currently in compliance with Metro's Code and license requirements.

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<sup>4</sup> Notice of Violation No. NOV-373-14

Notwithstanding the above-referenced notice of violation, Metro staff's investigation of the applicant revealed a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations.

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

The proposed NSL will renew the applicant's current authorization and grant a 5,000-ton increase in the tonnage limit to account for greater amounts of food waste. NN provides important processing and composting capacity for the region that supports Metro's goal of diverting organics away from disposal and into recovery outlets.

### **3. Anticipated Effects**

The effect of Resolution No. 15-4660 will be to issue a renewed NSL to RPI to deliver up to 30,000 tons per calendar year of source-separated residential yard debris mixed with food waste from SRRF to NN for composting. This proposed NSL is one of three organics-related action items currently under consideration by Metro Council which contributes to reducing the amount of solid waste disposed in landfills.

### **4. Budget Impacts**

The residential yard debris mixed with food waste that will be delivered to NN under authority of this proposed NSL is exempt from the Metro Regional System Fee and Excise Tax (RSF and ET). Metro's 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 recovery of food waste, will in general increase those RSF and ET rates. Waste diversion will also affect other disposal prices (i.e., 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.

In general, approval of any new license or change of authority in an existing license during a fiscal year will have an actual impact on Metro's revenues, but would be factored into the fee and tax rates during the next budget-and-rates cycle. In this case, the financial impact of the food waste component of the authorized waste (typically less than 10%) in the previously-authorized 25,000 tons has already been factored into the budget. The effect of the food waste component of the additional 5,000 tons will be factored into the FY 2016-17 budget and rates next spring.

### **RECOMMENDED ACTION**

The COO recommends approval of Resolution No. 15-4660, 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.