

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF) RESOLUTION NO. 16-4692
OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM)
LICENSE TO COR TRANSFER, LLC. FOR TRANSPORT AND) Introduced by Chief Operating
DISPOSAL OF PUTRESCIBLE WASTE AT THE WASCO) Officer Martha Bennett in
COUNTY LANDFILL LOCATED IN WASCO COUNTY,) concurrence of Council President
OREGON, AND UNDER CERTAIN UNUSUAL) Tom Hughes
CIRCUMSTANCES TO COWLITZ COUNTY HEADQUARTERS
LANDFILL LOCATED IN CASTLE ROCK, WASHINGTON

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

WHEREAS, COR Transfer, LLC. filed a complete application seeking a non-system license to transport putrescible waste to the Wasco County Landfill and Cowlitz County Landfill for disposal under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, Metro Code Chapter 5.05 provides that the Chief Operating Officer will review an application for a non-system license for putrescible waste and recommend to the Metro Council whether to approve or deny the application; and

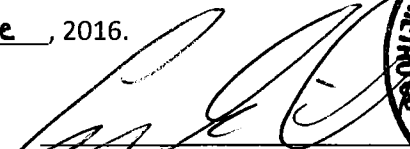
WHEREAS, the Chief Operating Officer has reviewed the application and considered the relevant factors under the Metro Code; and

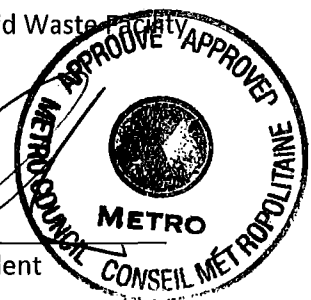
WHEREAS, the Chief Operating Officer recommends that the Metro Council issue the non-system license together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:


1. The non-system license application of COR Transfer, LLC 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 COR Transfer, LLC a Solid Waste Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 16th day of June, 2016.


Tom Hughes, Council President



Approved as to Form:


Alison R. Kean, Metro Attorney



METRO

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

No. N-134-16

LICENSEE:
COR Transfer LLC. 5726 NE 109 th Ave Portland, OR 97220
CONTACT PERSON:
Alando Simpson Phone: (503) 285-9940 E-mail: alando@cityofrosesdisposal.com
MAILING ADDRESS:
COR Transfer LLC. P.O. 301427 Portland, OR 97220

ISSUED BY METRO:

Paul Slyman,
Property and Environmental Services Director

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible waste and non-recoverable mixed non-putrescible waste generated by commercial customers within the Metro region and collected by City of Roses Disposal & Recycling.
2	CALENDAR YEAR TONNAGE LIMITATION
	<p>Licensee is authorized to deliver to the waste described in Section 1 to the non-system facilities described in Section 3 as follows:</p> <ul style="list-style-type: none">a) For the first year of the license, beginning July 1, 2016 and ending December 31, 2016, the Licensee is authorized to transport up to 140 tons;b) By no later than December 31, 2016, Metro's Chief Operating Officer ("COO") will establish a second year tonnage limitation, beginning January 1, 2017 and ending December 31, 2017, and amend Section 2 of this license to include a 2017 tonnage limitation as established by Metro Council and described in the staff report to resolution 16-4692;c) By no later than November 3, 2017, the COO may release additional reserve tonnage and amend Section 2 of this license to adjust the 2017 tonnage limitation as established by Metro Council and described in the staff report to Resolution 16-4692;d) By no later than December 31, 2017 the COO will establish a third year tonnage limitation, beginning January 1, 2018 and ending December 31, 2018, and amend Section 2 of this license to include a 2018 tonnage limitation as established by Metro Council and described in the staff report to resolution 16-4692; ande) By no later than November 2, 2018, the COO may release additional reserve tonnage and amend Section 2 of this license to adjust the 2018 tonnage limitation as established by Metro Council and described in the staff report to Resolution 16-4692.
3	NON-SYSTEM FACILITY
	<p>The Licensee is authorized to transport the waste described above in Section 1 only to the following non-system facility:</p> <p style="text-align: center;">Wasco County Landfill 2550 Steele Rd. The Dalles, OR 97058</p> <p>And, during certain unusual circumstances and emergency situations as described in Section 7, the Licensee is authorized to deliver the above referenced waste to the following non-system facility:</p>



	<p>Cowlitz County Landfill 3434 South Silver Lake Rd. Castle Rock, WA 98611</p> <p>This license is issued on condition that the non-system facilities named in this section are authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality, Wasco County, Washington Environmental Health Unit, or Cowlitz County that either of these non-system facilities are not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7.</p>
--	--

4	TERM OF LICENSE
	The license term is from July 1, 2016, to December 31, 2018, unless terminated sooner under Section 7.

5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee must report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of the solid waste on behalf of the Licensee.

6	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee must keep and maintain accurate records of the amount of all waste that the Licensee transports to the non-system facility described in Section 3. 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>. The Licensee must 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 transported to the non-system facility;iv. Time the load was transported to the non-system facility;v. Net weight of the load; andvi. Fee charged by the non-system facility <p>(b) No later than the 15th day of each month, beginning with the first month following the commencement date of this license, Licensee must:</p> <ul style="list-style-type: none">i. Transmit to Metro in the electronic format prescribed by Metro the records required under Section 6(a) above to Metro;ii. Submit to Metro a Regional System Fee and Excise Tax Report,



	<p>that applies to the preceding month; and</p> <ul style="list-style-type: none"> iii. Remit to Metro the requisite Regional System Fee and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) So long as Metro provides at least three business days' written notice, Licensee must make all records available to Metro (or Metro's designated agent) for inspection or copying or both. Licensee must also 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.</p> <p>(d) Metro may require the Licensee to report the information required by this Section on a weekly or daily basis.</p>
--	--

7	ADDITIONAL LICENSE CONDITIONS
	<p>This license is subject to the following conditions:</p> <ul style="list-style-type: none"> (a) Metro's authorization to allow the Licensee to transport the solid waste described in this license to the non-system facility named in Section 3, is subordinate to any subsequent requirement by Metro to direct that solid waste to any other facility. (b) In addition to the amendments authorized under Section 2, the COO may amend, suspend, or terminate if 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.; or 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 be transferred to, and disposed of at, a facility other than the facility listed in Section 3. (c) In addition to subsections (b)(i) through (b)(iii), Metro may amend, suspend or terminate this license pursuant to the Metro Code. (d) The Licensee may not transfer or assign any right or interest in this license without Metro's prior written approval. (e) This license will 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. (f) This license authorizes the transport of solid waste to the facilities listed in Section 3. Licensee is prohibited from transporting waste generated from within the Metro boundary to any non-system facility other than those specified in this license unless Metro authorizes such in writing.



	<p>(g) The COO may require the Licensee to redirect the solid waste covered by this non-system license to Metro Central Transfer Station or Metro South Transfer Station. Metro will provide the Licensee with at least 24 hours written notice of any redirection requirement. The notice will include the date and time that the redirection takes effect.</p> <p>(h) If the Licensee exceeds the calendar year limitation set forth in Section 2, 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> <p>(i) The Licensee is authorized to transport putrescible waste to the Cowlitz County Landfill only during certain unusual circumstances and emergency situations, such as the closure of Interstate 84, which would prevent the Licensee from delivering such waste to the Wasco County Landfill.</p> <p>(j) If the Licensee transports putrescible waste to the Cowlitz County Landfill as provided above in Section 7(i), the Licensee will:</p> <ul style="list-style-type: none"> i. Report the unusual circumstance or emergency situation to Metro within 12 hours of its discovery; and ii. Notify Metro in writing if such delivery of waste to the Cowlitz County Landfill continues for more than three consecutive business days. The written notification required by this section shall include a detailed description of the particular circumstance resulting in such deliveries and its expected duration.
--	--

8	COMPLIANCE WITH LAW
	<p>Licensee must 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>

9	INDEMNIFICATION
	<p>Licensee must 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 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. Expenses include, but are not limited to, all attorney's fees, whether incurred before any litigation is commenced, during any litigation or on appeal.</p>



HR
M:\rem\regaff\confidential\ritterh\Facilities\COR\COR_NSL_2016\COR_NSL.docx
Queue

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 16-4692 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM LICENSE TO COR TRANSFER, LLC. FOR TRANSPORT AND DISPOSAL OF PUTRESCIBLE WASTE AT THE WASCO COUNTY LANDFILL LOCATED IN WASCO COUNTY, OREGON, AND UNDER CERTAIN UNUSUAL CIRCUMSTANCES TO COWLITZ COUNTY HEADQUARTERS LANDFILL LOCATED IN CASTLE ROCK, WASHINGTON

May 20, 2016

Prepared by: Hila Ritter
503-797-1862

Approval of Resolution No. 16-4692 will authorize the Chief Operating Officer (COO) to issue a new 30 month non-system license (NSL), to COR Transfer, LLC (COR), to transport putrescible waste to the Wasco County Landfill located in Wasco County, Oregon, and during unusual circumstance and emergency situations to Cowlitz County Landfill in Castle Rock, Washington. The proposed NSL will authorize COR to transport up to 140 tons of putrescible waste collected within its service areas to Wasco County Landfill during calendar year 2016. The NSL will also authorize the COO to establish annual tonnage authorizations for the second and third year of the license (i.e. calendar years 2017 and 2018 respectively) using the methodology that is described in this report.

The applicant, COR, whose parent company is City of Roses Disposal and Recycling, is a locally owned and operated drop box hauling company that collects commercial non-putrescible (dry) waste within the City of Portland (Metro Council Districts 5 and 6). COR has applied for an NSL because it is interested in the prospect of becoming authorized by Metro as a transfer station and would therefore be permitted to accept putrescible (wet) waste for direct transport to a landfill disposal site. The proposed primary disposal site is Wasco County Landfill, and is owned and operated by Waste Connections, Inc., a waste management company headquartered in The Woodlands, Texas. The Wasco County landfill has been a Metro-designated facility since 2003. The proposed emergency back-up disposal site that is requested in the case of weather and other unusual events, is Cowlitz County Headquarters Landfill (CCHL) and is owned and operated by the Cowlitz County Department of Public Works in Castle Rock, Washington. The Cowlitz County Landfill has been a Metro-designated facility since 2005 and was once owned and operated by the Weyerhaeuser Company.

BACKGROUND

1. Overview

NSLs are the main vehicles by which Metro manages the flow of solid waste transported to facilities located outside the Metro regional boundary because they allow Metro to closely monitor and potentially guide waste flows to authorized facilities for a higher level of control and faster response to changing conditions. NSLs also help manage Metro's contractual obligation which require that Metro commit at least 90 percent of the region's putrescible waste destined for disposal at a landfill to a landfill owned and operated by Waste Management. This proposed NSL controls a portion of the 10 percent of uncommitted waste not guaranteed to Waste Management under the disposal contract. Metro's contract with Waste Management expires at the end of 2019. This proposed NSL is one of two similar applications that Metro has received mid-cycle along with three other NSLs already in place. Provisions in the NSL allow Metro to monitor compliance with its disposal contract.

Metro has a longstanding policy of allocating its uncommitted tonnage to applicants that request it. Since 2009, Metro has allocated its uncommitted tonnage to the same three companies: Waste Connections, Inc., Crown Point Refuse, Inc., and Willamette Resources Inc. Metro annually determines the specific allocation amount for each licensee based on Metro's tonnage forecast and the amount of waste that each licensee controlled (i.e., actually delivered to a solid waste facility) during the previous 12 months.

In 2015, two additional companies requested authorization for obtaining access to some of the uncommitted tonnage: COR Transfer LLC. and Gresham Sanitary. Metro received these requests after the Metro Council had already approved the current NSL group¹ and after Metro had established the tonnage allocation methodology for calendar years 2015 and 2016. That methodology was established for use with the current NSLs and the methodology did not include specific procedures for evaluating mid-cycle tonnage requests from new applicants. However, in consideration of Metro's desired public benefits in overseeing the region's solid waste system,² the COO reserved a small amount of the available uncommitted tonnage for potential allocation to new applicants in 2016. Specifically, the COO carried forward at least the same tonnage allocation that each of the current licensees held in 2015 and reserved the extra available tonnage that Metro forecasted for the year – 3,097 tons – for potential allocation to new applicants in 2016. In addition to this NSL for COR, the Council is scheduled to consider a similar resolution for Gresham Sanitary Service (Res. No. 16-4693) at its meeting on June 16, 2016. Council will again have an opportunity to consider the general tonnage allocation methodology near the end of 2016 when the current NSLs expire. This coordinated approach provides for a known, predictable and reasonable process for allocating the uncommitted tonnage to current applicants and licensees.

2. The Applicant

The applicant, COR, is locally owned and operated by City of Roses Disposal and Recycling which is a long-standing family owned solid waste hauler permitted by the city of Portland for commercial drop boxes, business, and multi-family waste collection. COR performs material recovery on mixed non-putrescible waste that is collected and hauled by its parent company, City of Roses Disposal and Recycling. COR's material recovery facility (MRF) is not open to the general public or non-affiliated haulers. COR primarily accepts waste from construction projects that seek to obtain LEED (Leadership in Energy and Environmental Design) certification. LEED projects require that the solid waste resulting from construction activities be recovered to a higher degree and be more extensively documented than from standard construction projects. In an effort to diversify its service offerings, COR would like to become authorized as a transfer station and accept mixed solid waste from construction sites. Establishing an NSL to transport this waste is a strategic step toward this goal. COR has expressed interest in submitting a transfer station application in the future.

3. Description of tonnage methodology for 2016

¹ Arrow Sanitary, owned by Waste Connections (License No. N-029-15B), Crown Point Refuse Inc. (License No. N-108-15B), and Willamette Resources Inc. (License No. N-005-15(3)B).

² Protect people's health, protect the environment, get good value for the public's money, keep the commitment to the highest and best use of materials, be adaptive and responsive in managing materials, ensure services are available to all types of customers.

In November 2014, the Metro Council granted two-year NSLs to Arrow Sanitary Service Inc., Crown Point Refuse Inc., and Willamette Resources, Inc. as it has done since 2009.³ The Council approved a general allocation process for solid waste delivered to disposal sites not part of Metro’s disposal contract known as the “10%” NSLs. Specifically, the process allocates a maximum tonnage amount that is established for the first calendar year of each license which, summed across all licenses, does not exceed 9.5 percent of the total forecasted tonnage subject to the disposal contract based on Metro’s tonnage forecast. At the beginning of the calendar year, each licensee immediately receives 85 percent of its portion of the tonnage allocation as an initial tonnage authorization. The remaining amount is held in reserve for the COO to potentially “release” by the beginning of November if the forecast plays out as predicted.

Earlier this year, the COO established tonnage allocations for each of the current licensees (with at least the same allocations that each held in the previous year) and reserved the remaining 3,097 tons - the forecasted overall regional increase in tonnage from 2015 – for potential allocation to new applicants during 2016. The current NSLs held by Arrow Sanitary Service Inc., Crown Point Refuse Inc., and Willamette Resources, Inc. (WRI) have two-year terms which expire on December 31, 2016, and Metro establishes the tonnage allocations on an annual basis as described in this report. Table 1 illustrates the tonnage allocations for the current licensees and the tonnage amount available for new applicants in calendar year 2016.

Table 1: 2016 Distribution of Available Tons as determined by Metro on December 17, 2015

Licensee	Total 2016 maximum allocation from available tons
New Applicants (Gresham Sanitary and COR Transfer)	3,097
Arrow	31,141
Crown Point	180
WRI	44,478
Total	78,896

As outlined above in Table 1, Metro forecasts an additional 3,097 tons available for allocation to new applicants in 2016. The COO recommends that this entire amount be proportionally allocated to Gresham Sanitary and COR Transfer, LLC. for use in 2016. The allocation proportions for COR and Gresham Sanitary are based on the amount of putrescible waste controlled by each company in the previous year, which for COR was zero because to date, putrescible waste has not been authorized for acceptance. However, COR is seeking to diversify its service offerings in the near future and has applied for this NSL in order to be a timely applicant for Metro to consider when allocating uncommitted tons. Under the proposed NSL, Metro would authorize a first year tonnage allocation of 140 tons to COR in 2016 (which is about five percent of the available tonnage based upon the amount of waste that the applicant controls). COR would then become eligible for a full proportional share in the tonnage allocation methodology in calendar years 2017 and 2018, the same as all other similar NSL holders.

Metro will continue to base the tonnage available for allocation on its preliminary tonnage forecast completed in October each year. This is the same forecast that Metro uses in the five-year financial outlook prepared for Council, as well as to inform the budget and solid waste rates.

³Arrow Sanitary (Res. No. 15-4603), Crown Point (Res. No. 14-4565), and WRI (Res. No. 15-4661)

4. Method for determining 2017-2018 allocations

This section describes the allocation method that Metro will use for these types of NSLs in 2017-2018. Metro will base the tonnage allocations on its preliminary forecast of future waste that is subject to the disposal contract and the share of that waste that each licensee had controlled in the most recent 12-month period. Under the proposed NSL, the Council is authorizing the COO to establish annual tonnage allocations for COR using the following methodology.

- *Total Tonnage.* The COO will forecast the tonnage subject to the disposal contract each calendar year. The tonnage amount will be derived from Metro's econometric forecasting model of the solid waste system. Metro uses this model for all major decisions involving solid waste tonnage including planning, budgeting, rate setting and revenue projections. Metro will base the allocation numbers on the projections completed as part of the five-year budget planning outlook for all of Metro.
- *Reservation Tonnage.* The COO will then reserve a portion of the total tonnage to meet Metro's contractual obligations under the disposal contract. The reservation tonnage is the *committed tonnage* under the disposal contract flow guarantee (90 percent) plus a management allowance of 0.5 percent for the tonnage that would flow during an approximate 2.5 week cycle should Metro need to implement the redirection of the waste. The approximate 2.5 week cycle represents an estimated 2-week reporting lag, plus about four days for notification and redirection logistics.
- *Allocable Tonnage.* The COO will then set a maximum tonnage amount of 9.5 percent of the total tonnage available for allocation under the disposal contract for each calendar year. In other words, the allocable tonnage is the *uncommitted tonnage*, the total tonnage minus the 90.5 percent reservation tonnage.
- *Licensee's Portion.* The COO will then allocate a share of the allocable tonnage to each licensee in the same proportion as the amount of waste that the licensee controlled during the previous 12-monthly period, (as measured by actual deliveries to all solid waste facilities).
- *Annual Reserve.* At the beginning of each calendar year, the COO will release 85 percent of the licensee's tonnage allocation for immediate use. Metro will initially withhold the remaining 15% tonnage amount in reserve for the COO to subsequently "release" as available by the beginning of November each year.

5. Special Provisions of the NSL for Managing Risk

The proposed license includes three conditions that are intended to further minimize Metro's risk of breach of its disposal contract by providing Metro with additional controls for monitoring and managing fluctuating waste tonnage in the system. Metro also includes these conditions in the other NSLs that cover similar waste.

(1) NSL Special Condition 1: Calendar Year Tonnage Authorization

The proposed NSL establishes an initial first-year tonnage authorization for 2016 and authorizes the COO to establish a second and third year tonnage authorization using the same allocation method previously

described in this staff report. In addition, the license authorizes the COO to release additional “reserved” tonnage to the licensee, if available, during the second and third year of the license.

Section 2 of the proposed NSL authorizes COR to initially transport up to 140 tons of putrescible waste to Wasco County Landfill, (and Cowlitz County Landfill in special cases), during calendar year 2016. Effective July 1, 2016, this tonnage limit is immediately available for use until December 31, 2016.

Additionally, Section 2 allows the COO to amend the proposed NSL, by no later than December 31, 2016, to establish an initial tonnage limit for calendar year 2017. This second-year tonnage limit would become effective January 1, 2017, and be available for use throughout 2017. Then, by no later than November 3, 2017, the COO may again release reserved tonnage and increase the licensee’s 2017 limit by up to an additional 15 percent as described above.

This condition allows the COO to adjust the annual tonnage authorization as necessary to meet Metro’s contractual obligations and allows the maximum use of the licensee’s available tonnage. If council adopts this resolution, it authorizes the COO to establish annual tonnage authorizations and release reserved tonnage for calendar years 2017 and 2018.

(2) NSL Special Condition 2: Redirection of Waste Flow

In the event of a decline in system-wide putrescible waste, the proposed NSL authorizes the COO to redirect the licensee’s waste to Metro Central or South Transfer Stations as necessary to prevent a breach of Metro’s disposal contract flow guarantee.

Section 7 of the proposed NSL stipulates that the COO may redirect the licensee’s waste flow with a minimum of 24 hours written notice. By adopting this resolution, the Metro Council authorizes the COO to redirect the licensee’s waste, as described above, if necessary to comply with the disposal contract flow guarantee.

(3) NSL Special Condition 3: Weekly and Daily Reporting Requirement

The proposed NSL allows the COO to require the licensee to report tonnage information to Metro on a weekly or daily basis if necessary (NSLs generally specify that the licensee must transmit the required information to Metro on a monthly basis).

Section 6 of the proposed NSL allows the COO to determine when more frequent reporting is necessary. By adopting this resolution, the Metro Council authorizes the COO to immediately implement more frequent reporting requirements as needed to ensure compliance with the disposal contract.

6. ANALYSIS/INFORMATION

A. Known Opposition

There is no known opposition to the proposed new license.

B. Legal Antecedents

Metro Code Section 5.05.025 prohibits any person from utilizing non-system facilities without an appropriate license from Metro. Additionally, Metro Code Section 5.05.043 provides that, when determining whether or not to approve an NSL application, the Metro Council must 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 applicant (COR) and the disposal sites (Wasco County Landfill and Cowlitz County Landfill) are well known to Metro staff. Metro has an established Designated Facility Agreement⁴ with Wasco County Landfill, as well as an established NSL⁵ for another disposal company, Crown Point Refuse Inc., to transport putrescible waste generated within the Metro region to Wasco County Landfill. The landfill is owned by a major, nationally integrated solid waste company. Cowlitz County is party to a Designated Facility Agreement⁶ with Metro to accept dry waste from the Metro region and has a history of compliance with Metro requirements. The environmental risks from the use of these disposal sites are minimal because the landfills are fully authorized and regulated 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;*

Waste Connections, Inc. owns and operates Wasco County Landfill. Metro staff's inspections of Wasco County Landfill have not found any recent compliance issues with regard to the Metro issued license and health, safety, and environmental regulations. Additionally, DEQ staff has indicated the facility is in compliance with its Solid Waste Disposal Site Permit Number 53, and therefore can be considered to be in compliance with all applicable State Laws regulating solid waste management in Oregon.

Cowlitz County landfill is owned and operated by Cowlitz County Health Department. The Environmental Health Unit of the Health and Human Services Department is responsible for regulating and permitting this site. Metro staff's inspections of Cowlitz County Landfill have found no recent compliance issues with regard to the Metro issued designated facility agreement and health, safety, and environmental regulations. Additionally, Environmental Health Unit staff has indicated the facility is in compliance with state of Washington Administrative Codes (WAC) 173-350, 173-351, 173-304, and Cowlitz County Code (CCC) 15.30, and therefore can be considered to be in compliance with all applicable state laws regulating solid waste management in Washington.

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

⁴ Metro Contract No. 932401

⁵ NSL No. 108-15B

⁶ Metro Contract No. 933507

Subtitle D landfill standards are established nationally under the Resource Conservation and Recovery Act (RCRA). Wasco County Landfill uses operational practices and management controls that are typical of other RCRA Subtitle D landfills. Staff at DEQ, the landfill's environmental regulator, considers the operational practices and management controls in place at the landfill to be appropriate for the protection of health and the environment. The Cowlitz Landfill's operational practices and management controls are judged by Metro staff and Cowlitz County staff to be adequate and consistent with the other similar facilities. The landfill uses operational practices and management controls that are typical of limited-purpose landfills and considered adequate for the protection of health, safety, and the environment.

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

The proposed NSL authorizes the transport of putrescible solid waste, which currently has limited recovery potential. The NSL puts no long-term constraint or commitment on the waste should recovery alternatives emerge for the region. Thus, approval of the proposed NSL is not expected to impact the region's recycling and waste reduction efforts.

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

As described earlier in this report, Metro's disposal contract with Waste Management requires Metro, during any given calendar year, to transport to a Waste Management-owned landfill a minimum of 90 percent of the region's putrescible waste destined for a general purpose landfill. NSLs are the main vehicles by which Metro manages this contractual obligation. This proposed NSL controls a portion of the 10 percent of uncommitted waste not guaranteed to Waste Management under the disposal contract. Metro's contract with Waste Management expires at the end of 2019. This proposed NSL is one of two similar applications that Metro has received mid-cycle along with three other NSLs already in place. Provisions in the NSL allow Metro to monitor compliance with its disposal contract.

(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;

Metro inspections of the Waste Connections, Inc. Wasco County Landfill, and Cowlitz County Landfill have found no recent compliance issues with regards to the Metro issued designated facility agreement.

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

In addition to the special conditions previously described in this staff report, the proposed license includes a 30-month term, commencing on July 1, 2016, and expiring on December 31, 2018. Although NSLs are typically issued for a two-year period, staff recommends that the Metro Council establish a 30-

month term in this instance to align its expiration date with other similar NSLs. The Metro Code authorizes the Council to issue new NSLs for up to a three-year period.⁷

Under this NSL, COR Transfer may transport putrescible waste directly from the point of generation (without consolidating loads) to Wasco County and Cowlitz County landfills for disposal. However, if COR wants to consolidate loads, it must first apply for and obtain a franchise from Metro to operate a transfer station.

C. Anticipated/Potential Effects

This proposed NSL is one of many action items currently under consideration by Metro which could be affected by potential declines in the amount of solid waste subject to the disposal contract. Some decisions could have the effect of shrinking the pool of waste available for allocation. The forecast of waste subject to the disposal contract, which is the basis for the tonnage information provided in this report, incorporates the best available information as of this writing.

D. Budget/Rate Impacts

The price that Metro pays for disposal at Columbia Ridge Landfill is a “declining block rate” — meaning that the more waste that is delivered to any landfill owned by Waste Management (i.e., Columbia Ridge Landfill and Riverbend Landfill), the lower the per-ton cost paid by Metro.

Based on projected tonnage and contract prices, allocating the uncommitted 140 tons (as proposed for July through December 2016) to non-Waste Management landfills increases the tip fee at Metro’s transfer stations by about \$0.002 per ton in FY2016-17. At the current projected throughput of tons in FY 2016-17, regional ratepayers will pay approximately \$850 in total more for disposal in FY 2016-17 than if all of the uncommitted waste were to flow to Waste Management landfills. This is based on the assumption that none of these tons would have been handled directly through Metro transfer stations. Council has authorized similar types of NSLs with similar fiscal impacts for the past 15 years.

The Metro Regional System Fee and Excise Tax will continue to be collected on all waste delivered under authority of the proposed NSL. These tonnage shifts will be factored into future budgets and rates.

RECOMMENDED ACTION

The COO recommends that the Metro Council adopt Resolution No. 16-4692. Approval of this resolution will authorize the COO to issue an NSL to COR subject to the requirements listed in Metro Code Chapter 5.05, and to the special conditions that are incorporated into the proposed NSL (attached as Exhibit A to the proposed resolution).

HR
M:\rem\regaff\confidential\ritterh\Facilities\COR\COR_NSL_2016\COR_NSL_2016_staffrpt
Queue

⁷ Metro Code Section 5.05.045(5)(B)