

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF)	RESOLUTION NO. 16-4731
OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM)	
LICENSE TO ARROW SANITARY SERVICE, INC. FOR)	Introduced by Chief Operating
TRANSPORT OF PUTRESCIBLE WASTE TO THE WEST VAN)	Officer Martha Bennett in
MATERIALS RECOVERY CENTER AND THE CENTRAL)	concurrence of Council President
TRANSFER AND RECYCLING CENTER LOCATED IN CLARK)	Tom Hughes
COUNTY, 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, Arrow Sanitary Service, Inc. ("Arrow") holds Metro Solid Waste Facility Non-System License No. N-029-15C, which expires on December 31, 2016; and

WHEREAS, Arrow has filed a complete application seeking renewal of the non-system license to transport putrescible waste to the West Van Materials Recovery Center and the Central Transfer and Recycling Center 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

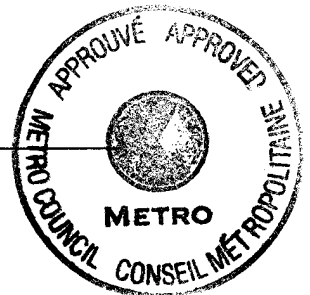
WHEREAS, the Chief Operating Officer recommends that the Metro Council renew the non-system license together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

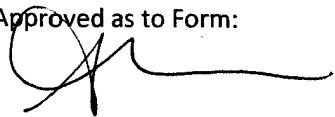
1. The non-system license renewal application of Arrow is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to Arrow a renewed Solid Waste Facility Non-System License substantially similar to the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

ADOPTED by the Metro Council this 10 day of November, 2016.


 Tom Hughes, Council President



Approved as to Form:



 Alison R. Kean, Metro Attorney

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



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

No. N-029-17

LICENSEE:	
	Arrow Sanitary Service, Inc. 12820 NE Marx Street Portland, OR 97230
CONTACT PERSON:	
Phone:	Aaron Bradley (503) 251-1308
Fax:	(503) 257-8699
E-mail:	aaronb@wasteconnections.com
MAILING ADDRESS:	
	Arrow Sanitary Service, Inc. 12820 NE Marx Street Portland, OR 97230

ISSUED BY METRO:

Paul Slyman,
Property and Environmental Services Director

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste that is generated by residential and commercial customers within the Metro region and collected by Arrow Sanitary Service, Inc.

2	CALENDAR YEAR TONNAGE ALLOCATION
	<p>The licensee is authorized to transport 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 calendar year 2017, beginning January 1, 2017, and ending December 31, 2017, the licensee is authorized to transport up to 25,601 tons;(b) In November 2017, Metro’s Chief Operating Officer (“COO”) may release additional reserve tonnage and amend this section to adjust the 2017 tonnage allocation as described in the staff report to Resolution No. 16-4731;(c) In December 2017, the COO will allocate tonnage for calendar year 2018, and amend this section as described in the staff report to Resolution No. 16-4731; and(d) In November 2018, the COO may release additional reserve tonnage and amend this section to adjust the 2018 tonnage allocation as described in the staff report to Resolution No. 16-4731.

3	NON-SYSTEM FACILITIES
	<p>The licensee is authorized to transport the waste described above in Section 1 to the following non-system facilities:</p> <ul style="list-style-type: none">West Van Materials Recovery Center 6601 NW Old Lower River Road Vancouver, WA 98660Central Transfer and Recycling Center 11034 NE 117th Avenue Vancouver, WA 98661 <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 Clark County or other appropriate regulatory authority that 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 term of this license commences on January 1, 2017 and expires at midnight on December 31, 2018, unless terminated sooner under Section 7.

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

6	RECORD KEEPING AND REPORTING
	<p>(a) The licensee must keep and maintain accurate records of the amount of all solid waste that the licensee transports to the non-system facilities described in Section 3. These records must include the information specified in the Metro document titled, <u>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements</u>.</p> <p>(b) The licensee must perform the following no later than fifteen days following the end of each month:</p> <ul style="list-style-type: none">i. Transmit to Metro the records required under Section 6(a) above 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 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) The licensee must make available to Metro (or Metro's designated agent) all records from which Sections 6(a) and 6(b) above are derived for its inspection or copying, as long as Metro provides at least three business days written notice of an intent to inspect or copy documents. The licensee must, 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 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> <p>(e) At least once during the first half of each calendar year and once during the second half of each year, the licensee must review its collection routes to</p>



	<p>determine which of its accounts are within the Metro region. Any adjustments are to be implemented in the next month's Regional System Fee and Excise Tax Report. Reports confirming the reviews and summarizing changes must be submitted to Metro by May 31 and November 30 of each calendar year.</p>
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7	ADDITIONAL LICENSE CONDITIONS
	<p>This license is subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to the non-system facilities, listed in Section 3, authorized by this license is subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.(b) In addition to the amendments authorized by Section 2, this license is subject to amendment or termination by the COO in the event that 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 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 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 facilities listed in Section 3.(c) This license is, in addition to subsections (b)(i) through (b)(iii), above, subject to amendment, suspension, or termination pursuant to the Metro Code.(d) The licensee must not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.(e) This license will terminate upon the execution of a designated facility agreement with either of the facilities listed in Section 3 that authorizes the acceptance of the waste described in Section 1.(f) This license authorizes the transport of solid waste to the facilities listed in Section 3. The transport 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.(g) The COO may direct the licensee's waste flow under this non-system license to Metro Central Transfer Station or Metro South Transfer Station with a minimum of 24 hours written notice. Any redirection of the waste flow by the COO is effective immediately.



	(h) If the licensee exceeds the calendar year authorization 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.
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8	COMPLIANCE WITH LAW
	The 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 is deemed part of this license as if specifically set forth herein.

9	INDEMNIFICATION
	The 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, or including all attorneys’ fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 16-4731 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO ARROW SANITARY SERVICE, INC. FOR TRANSPORT OF PUTRESCIBLE WASTE TO THE WEST VAN MATERIALS RECOVERY CENTER AND THE CENTRAL TRANSFER AND RECYCLING CENTER LOCATED IN CLARK COUNTY, WASHINGTON

October 26, 2016

Prepared by: Warren Johnson
503-797-1836

Approval of Resolution No. 16-4731 will authorize the Chief Operating Officer (COO) to issue a two-year non-system license (NSL), similar to the proposed license attached to this resolution as Exhibit A, to Arrow Sanitary Service, Inc. (Arrow). The NSL will authorize Arrow to transport up to 25,601 tons of putrescible waste to either the West Van Materials Recovery Center (West Van) or the Central Transfer and Recycling Center (Central Transfer), located in Clark County, Washington, during calendar year 2017. The NSL will also authorize the COO to annually release reserved tonnage and establish a second year tonnage authorization for 2018 using the same methodology that is described in this report.

The applicant (Arrow), the transfer facilities (West Van and Central Transfer), and the final disposal site (Finley Buttes Landfill) are all owned by Waste Connections, Inc., a waste management company headquartered in The Woodlands, Texas.

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 to send 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 covers 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.

Metro has a longstanding policy of allocating its uncommitted putrescible waste tonnage to applicants that request it. Until 2015, Metro had allocated its uncommitted tonnage to the same three companies: Waste Connections, Inc., Crown Point Refuse, Inc., and Willamette Resources Inc. However, in 2016, the Metro Council also authorized COR Transfer LLC and Gresham Sanitary Service to obtain access to some of the uncommitted tonnage.¹ There are currently five companies that hold NSLs for the uncommitted tonnage. Metro annually determines the specific allocation amount for each licensee based on Metro's solid waste 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. The solid waste tonnage forecast is prepared annually and is used for a variety of Metro's responsibilities such as rate-setting, cost and revenue

¹ COR Transfer LLC (Res. No. 16-4692) and Gresham Sanitary Service (Res. No. 16-4693)

estimation, tonnage allocations, and policy evaluation. Metro's current solid waste forecast for fiscal year 2017-18 was prepared in October 2016 and is available on Metro's website.

Adoption of Resolution No. 16-4731 would grant an NSL to Arrow renewing its authorization to transport Metro-area putrescible waste to facilities owned by Waste Connections located in Clark County, Washington. In addition to this action for Arrow, the Metro Council is scheduled to consider similar resolutions for Crown Point Refuse, Inc. (Res. No. 16-4732) and Willamette Resources, Inc. (Res. No. 16-4733) at its meeting on November 10, 2016. This coordinated approach provides for a known and predictable tonnage allocation process for these NSL applicants.

2. Applicant

Arrow is a solid waste hauler that is franchised to collect solid waste within the cities of Portland and Gresham, and in unincorporated Clackamas County. Arrow has been an NSL holder since 2000.

Arrow currently holds an NSL² that authorizes the transport of waste to Clack County facilities that commenced on January 1, 2015 and is set to expire on December 31, 2016. Under its current NSL, Arrow received a final tonnage allocation of 30,674 tons for 2015 and 31,141 tons for 2016. On August 31, 2016, Arrow submitted an application to Metro requesting the renewal of its NSL for 2017.

3. Tonnage allocation methodology for 2016

In November 2014, the Metro Council granted two-year NSLs to Arrow, 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 percent" 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" in November if the forecast plays out as predicted.

In 2016, the Metro Council also authorized COR Transfer LLC and Gresham Sanitary Service to obtain access to some of the uncommitted tonnage. These two authorizations were granted after the Metro Council had already approved the initial NSL group⁴ in 2014 and after Metro had established the tonnage allocation methodology for calendar years 2015 and 2016. That methodology was established for use with the initial NSL group and the methodology did not include specific procedures for evaluating mid-year tonnage requests from new applicants. However, in consideration of Metro's desired public benefits⁵ for the solid waste system and its

² NSL No. N-029-15C

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

⁴ Arrow (License No. N-029-15), Crown Point Refuse Inc. (License No. N-108-15), and Willamette Resources Inc. (License No. N-005-15(3)).

⁵ 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, and ensure services are available to all types of customers.

transfer system configuration policy⁶ which supports having local businesses participate in the system, 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 initial NSL group held in 2015 and proportionally allocated the extra available tonnage that Metro forecasted for the year – about 3,100 tons – to COR Transfer, LLC and Gresham Sanitary Service for use in 2016. However, all of the above-mentioned licensees become eligible for a full proportional share in the proposed tonnage allocation methodology in calendar years 2017 and 2018. Table 1 illustrates the final tonnage allocations for all of the current licensees in calendar year 2016.

Table 1: Final NSL Tonnage Allocation for 2016

Licensee	Final NSL Tonnage Allocation 2016
Arrow	31,141
COR Transfer LLC	140
Crown Point Refuse	180
Gresham Sanitary Service	2,957
Willamette Resources, Inc.	44,478
Total	78,896

4. Tonnage allocation methodology for 2017-2018

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 Metro Council is authorizing the COO to establish annual tonnage allocations for Arrow 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.
- *Committed Tonnage.* The COO will then reserve a portion of the total tonnage to meet Metro’s contractual obligations under the disposal contract. This includes 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.

⁶ The Transfer System Configuration Policy was adopted by Metro Council on July 21, 2016 via Res. No. 16-4716

- *Uncommitted 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 *uncommitted tonnage* is the “allocable” tonnage – which is the total tonnage minus the 90.5 percent committed tonnage.
- *Licensee’s Portion.* The COO will then allocate a share of the uncommitted tonnage to each licensee in the same proportion as the amount of waste that the licensee controlled during the previous 12-month 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 percent tonnage amount in reserve for the COO to subsequently “release” as available in November each year.

Table 2 illustrates the proportional amount of waste that each licensee controlled from August 2015 through July 2016. In particular, Arrow controlled about 35.5 percent of the waste in relation to the other licensees. This percentage was used to calculate the licensee’s portion of the tonnage available for allocation in 2017.

Table 2: Amount of Waste that the Licensees Delivered to Solid Waste Facilities (August 2015 through July 2016)

Licensee	Tons	Share of Total ⁷
Arrow	54,171	35.5%
COR Transfer LLC ⁸	1,000	0.7%
Crown Point Refuse, Inc. ⁹	324	0.2%
Gresham Sanitary	22,062	14.5%
Willamette Resources, Inc. ¹⁰	75,000	49.2%
TOTAL	152,557	100%

Table 3 illustrates the proposed 2017 authorizations for each licensee based upon its proportional share of the allocable tonnage. For Arrow, the share was about 35.5 percent, leading to the initial recommended license authorization of 25,601 tons in 2017.

⁷ Rounded to the nearest tenth

⁸ COR does not currently operate a transfer station and the tonnage amount shown in Table 3 was taken from its NSL application. The COO reserved a tonnage allocation for COR this year as a placeholder as the company prepares to expand its role in our solid waste system.

⁹ The tonnage amount for Crown Point Refuse, Inc. is the same that has been used since 2014.

¹⁰ Metro Solid Waste Facility Franchise No. F-005-08F authorizes Willamette Resources, Inc. to accept up to 75,000 tons of putrescible waste generated inside the Metro region per calendar year. The franchise tonnage allocation (75,000 tons) is the maximum delivery amount that is used to determine the facility’s allocation percentage.

Table 3: Proposed 2017 Allocations by NSL Applicant

Licensee	Initial Tonnage Authorization for 2017 (85%)	Tonnage Reserve for 2017 (15%)	Total Tonnage Allocation for 2017
Arrow	25,601	4,518	30,119
COR Transfer, LLC	472	84	556
Crown Point Refuse, Inc.	153	27	180
Gresham Sanitary Service	10,426	1,840	12,266
Willamette Resources, Inc.	35,444	6,255	41,699
TOTAL	72,096	12,724	84,820

Using Metro’s standard tonnage allocation method for the proposed NSL renewal, Arrow would receive an initial tonnage authorization of 25,601 tons for use in 2017 (with an additional 4,518 tons held in reserve for potential release later in the year if available). The COO will subsequently release reserved tonnage and establish the licensee’s 2018 tonnage allocation as explained in this report.

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.

A. Calendar Year Tonnage Authorization

The proposed NSL establishes an initial first-year tonnage authorization for 2017 and authorizes the COO to establish a second-year tonnage authorization for 2018 using the same allocation method described in this report. In addition, the license authorizes the COO to release additional “reserved” tonnage to the licensee if available during the term of the license.

Section 2 of the proposed NSL authorizes Arrow to initially transport up to 25,601 tons of putrescible waste to West Van and Central Transfer during calendar year 2017. Effective January 1, 2017, this tonnage allocation is immediately available for use until December 31, 2017. The license also states that in November 2017 the COO may release reserved tonnage and increase the licensee’s authorization by up to an additional 15 percent (4,518 tons) as available. If the COO were to release the full reserve amount at that time, then Arrow’s tonnage authorization would be a total of 30,119 tons in 2017.

Additionally, Section 2 allows the COO to amend the proposed NSL, by no later than December 31, 2017, to establish an initial tonnage limit for calendar year 2018. This second-year tonnage limit would become effective January 1, 2018, and be available for use throughout 2018. Then, in November 2018, the COO may again release reserved tonnage and increase the licensee’s 2018 tonnage allocation 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 Metro Council adopts this resolution, it authorizes the COO to establish annual tonnage authorizations and release reserved tonnage for calendar years 2017 and 2018.

B. Redirection of Waste Flow

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

Section 7 of the proposed NSL allows the COO to 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.

C. 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 required information must be transmitted to Metro on a monthly basis).

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

6. Special Provision of the NSL Unique to Arrow

The proposed NSL also carries forward a condition that allows the licensee to perform a semi-annual collection route audit to implement reporting adjustments (NSLs generally include scale-based reporting requirements for all transactions). Arrow has hauling accounts that lie outside the Metro region and its collection routes cross the Metro jurisdictional boundary. On some of Arrow's routes, Metro area waste is mixed with waste from outside the region. In order to determine the appropriate fees and taxes owed to Metro, Arrow and Metro have mutually agreed to a procedure whereby Arrow performs a semi-annual review of its collection routes to determine which accounts are located within the Metro region.

Metro Code¹¹ currently provides an option for haulers to use alternative measurement methods to document the total weight of Metro-area waste in a mixed load in lieu of scale weights (such as periodic sampling, customer averages, and other tonnage estimations). However, as part of a package of proposed amendments to Metro Code Chapters 5.02 and 5.05 that are scheduled to be considered by the Metro Council at its meeting on November 10, 2016,¹² the COO recommended removing the alternative measurement option from Metro Code and requiring the use of scale weights for determining the payment of fees and taxes.

¹¹ Metro Code Sections 5.02.045(f) and 5.05.046(4)

¹² Metro Code Chapter s 5.02 (Ord. No. 16-1388) and 5.05 (Ord. No. 16-1389)

Until such time that the Metro Council adopts any changes to reporting requirements in Metro Code, staff recommends carrying forward the current license provision in Section 6 and allowing the licensee to perform an audit of its collection routes at least twice a year and implement tonnage adjustments for reporting and remitting fees and taxes. If Metro Council adopts the above-mentioned changes, the COO will subsequently amend the NSL to implement the new reporting requirements.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license renewal.

2. 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 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 applicant (Arrow), transfer facilities (West Van and Central Transfer), and disposal site (Finley Buttes Landfill) are well known to Metro regulatory staff. All of the above are owned and operated by a major, nationally integrated solid waste company. The environmental risks from the use of these non-system facilities are minimal as both the transfer stations and landfill 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;*

Metro staff's investigation of Waste Connections revealed a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations.

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

West Van and Central Transfer use 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, the Finley Buttes Landfill uses operational practices and management controls that are typical of other RCRA Subtitle D landfills.¹³ Staff at DEQ, the landfill's regulator, considers the operational practices and management controls in place at the landfill to be appropriate for the protection of health and the environment.

¹³ Subtitle D landfill standards are established nationally under the Resource Conservation and Recovery Act.

Clark County, the jurisdictional authority that oversees operations at West Van and Central Transfer, is agreeable to allowing Arrow to continue transporting Metro-area waste to the above-mentioned facilities during the two-year term of this license. The County has reported that the facilities currently have adequate capacity to accept and manage the tonnage under the proposed NSL. However, the County intends to evaluate its solid waste system over the next two years to determine if there is adequate capacity to continue accepting out-of-county waste in the future. The County will continue to monitor West Van and Central Transfer and will notify Metro if it has any issues or concerns with the Metro-area waste covered under the proposed NSL.

(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;

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. 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;

Arrow is currently in compliance with its Metro-issued NSL and has not had any significant compliance issues with regard to Metro regulations within the last two years. Additionally, Arrow has had no violations related to public health, safety or environmental regulations during the term of the existing license.

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

This criterion was examined above in special conditions section of this report.

3. 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 flow guarantee. Some decisions could have the effect of shrinking the pool of waste available for allocation. The forecast of waste subject to the flow guarantee, which is the basis for the NSL tonnage authorizations in this report, incorporates the best available information as of this writing.

4. Budget/Rate Impacts

The Metro Regional System Fee and Excise Tax will be collected on all waste delivered under authority of the proposed NSL. As previously mentioned in this report, the application under consideration is the renewal of a current authorization. Therefore, the financial impact has already been factored into the budget.

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. In general, Metro’s longstanding practice of allocating the uncommitted tonnage to non-Waste Management landfills increases the tip fee at Metro’s transfer stations more than if all of the uncommitted waste were to flow to landfills owned by Waste Management. Metro Council has authorized this practice for the past 15 years.

RECOMMENDED ACTION

The COO recommends that the Metro Council adopt Resolution No. 16-4731. Approval of this resolution will authorize the COO to issue an NSL to Arrow subject to the requirements listed in Metro Code Chapter 5.05, as well as the special conditions that are incorporated into the proposed NSL (attached as Exhibit A to the proposed resolution).

W:bjl