

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING) RESOLUTION NO. 16-4737
OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO)
RECOLOGY PORTLAND, INC. FOR TRANSPORT OF) Introduced by Martha Bennett
RESIDENTIAL YARD DEBRIS MIXED WITH FOOD WASTE FROM) Chief Operating Officer, with the
THE SUTTLE ROAD RECOVERY FACILITY TO RECOLOGY NW) concurrence of Tom Hughes, Council
GREENLANDS LOCATED IN AUMSVILLE, OREGON) President

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 facility; and

WHEREAS, Recology Portland, Inc. holds Metro Solid Waste Facility Non-System License No. N-102-15A which expires on December 31, 2016; and

WHEREAS, Recology Portland, Inc. has filed a completed application seeking renewal of the non-system license to transport residential yard debris mixed with food waste to Recology NW Greenlands in Aumsville 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 the non-system license be issued together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

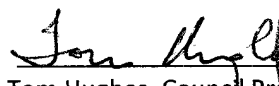
1. The non-system license renewal application of Recology Portland, Inc. is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to Recology Portland, Inc. a Non-System License substantially similar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

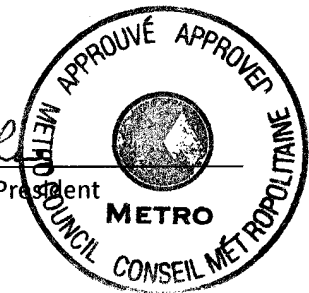
ADOPTED by the Metro Council this 1 day of December, 2016.

Approved as to Form:



for Alison R. Kean, Metro Attorney


Tom Hughes, Council President



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TEL 503 797 1835 | FAX 503 813 7544



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

No. N-102-17

LICENSEE:
Recology Portland, Inc. 4044 N. Suttle Road Portland, OR 97217
CONTACT PERSON:
Carl Peters Phone: (503) 283-2015 E-Mail: cpeters@recology.com
MAILING ADDRESS:
4044 N. Suttle Road Portland, OR 97217

ISSUED BY METRO:

Paul Slyman
Property & Environmental Services Director

Date



1	NATURE OF WASTE COVERED BY LICENSE
	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.
2	CALENDAR YEAR TONNAGE LIMITATION
	The licensee is authorized to transport to the non-system facility listed in Section 3 up to 25,000 tons per calendar year of the waste described in Section 1.
3	NON-SYSTEM FACILITY
	<p>The licensee is authorized to transport 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 NW Greenlands - Aumsville 8712 Aumsville Highway SE Salem, OR 97317</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 the city of Aumsville that this non-system facility is not authorized to accept such waste, Metro may immediately amend, suspend, or terminate this license pursuant to Section 10.</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 10.
5	COVERED LOADS
	The licensee must suitably contain and cover, on all sides, all loads of source-separated residential yard debris mixed with food waste that are transported under authority of this license to prevent spillage of waste while in transport to the non-system facility listed in Section 3.



6	MATERIAL MANAGEMENT
	<p>The licensee is authorized to transport the waste described in Section 1 to the non-system facility listed in Section 3 under the following conditions:</p> <ul style="list-style-type: none">(a) The non-system facility must accept all solid waste that is transported under authority of this license for the sole purpose of processing and composting on-site. The licensee must not dispose of any source-separated recyclable material, except as provided in Section 7; and(b) The non-system facility must receive, manage, process, and compost all solid waste that is transported under authority of this license in accordance with all applicable local, state and federal laws, rules, regulations, ordinances, orders, and permits.

7	REGIONAL SYSTEM FEE AND EXCISE TAX
	<p>The licensee is subject to the following conditions:</p> <ul style="list-style-type: none">(a) Source-separated residential yard debris mixed with food waste that is transported 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.(b) If the licensee transports waste under this license to the non-system facility listed in Section 3 but the material does not meet the non-system 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 must 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 transported to the non-system facility that is ultimately transported to a disposal site.(c) If the licensee transports waste under this license to the non-system facility listed in Section 3 but the material does not meet the non-system 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 must 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 transported to the non-system facility that is ultimately transported to a disposal site.



8	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.

9	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 facility listed in Section 3. 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 transported 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) The licensee must transmit to Metro the records required under Section 9(a) above in an electronic format prescribed by Metro no later than fifteen days following the end of each month.</p> <p>(c) The licensee must make available to Metro (or Metro's designated agent) all records from which Section 9(a) 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>

10	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license is subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transport of solid waste to the non-system facility, listed in Section 3, authorized by this license is subordinate to any subsequent decision



	<p>by Metro to direct the solid waste described in this license to any other facility.</p> <p>(b) This license is subject to amendment or termination by Metro’s Chief Operating Officer (the “COO”) in the event that the COO determines that:</p> <ul style="list-style-type: none"> i. There has been sufficient change in any circumstances under which Metro issued this license; ii. The provisions of this license are actually or potentially in conflict with any provision in Metro’s disposal contract with Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc; 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; 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 v. The non-system facility listed in Section 3 generates malodors that are detectable off-site. <p>(c) This license, in addition to subsections (b)(i) through (b)(v), above, is subject to amendment, suspension, or termination pursuant to the Metro Code.</p> <p>(d) The licensee must 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 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.</p> <p>(f) This license authorizes the transport of solid waste to the facility 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.</p>
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11	COMPLIANCE WITH LAW
	<p>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</p>



	governments or agencies having jurisdiction over solid waste generated by the licensee is deemed part of this license as if specifically set forth herein.
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12	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.

WE:bjl

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 16-4737 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO RECOLOGY PORTLAND, INC. FOR TRANSPORT OF RESIDENTIAL YARD DEBRIS MIXED WITH FOOD WASTE FROM THE SUTTLE ROAD RECOVERY FACILITY TO RECOLOGY NW GREENLANDS LOCATED IN AUMSVILLE, OREGON

November 10, 2016

Prepared by: Will Ennis
(503) 797-1667

Approval of Resolution No. 16-4737 will authorize the Chief Operating Officer (COO) to issue a renewed non-system license (NSL) to Recology Portland, Inc. (RPI), to annually transport up to 25,000 tons of source-separated residential yard debris mixed with residential food waste from Suttle Road Recovery Facility (SRRF) to Recology NW Greenlands – Aumsville (NWGA) located at 8715 NE Aumsville Highway SE in Aumsville, Marion County, Oregon. The proposed NSL is the renewal of an existing NSL that is set to expire on December 31, 2016.

BACKGROUND

SRRF is a Metro-licensed material recovery facility located at 4044 North Suttle Road in Portland (Metro Council District 5).¹ Recology, Inc., headquartered at 50 California Street, 24th Floor, in San Francisco California, is the parent company that owns RPI and NWGA. Recology, Inc. is also the contract operator for the Metro Central Transfer Station (MCTS). NWGA receives a limited amount of commercial food waste from MCTS.

In November 2014 RPI was granted a renewed NSL² to annually transport a maximum of 16,000 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 NWGA. The term of this NSL commenced on January 1, 2015 and is set to expire on December 31, 2016. In January 2015, RPI submitted a change of authorization request to Metro to increase the maximum annual tonnage authorized by the NSL to 25,000 tons, an increase of 9000 tons annually. The change of authorization was approved and Metro issued an amended NSL to RPI in March 2015.³ In 2015, the applicant delivered approximately 5,000 tons of authorized waste to NWGA and approximately 3,700 tons between January 1 and September 30, 2016.

On August 30, 2016, RPI submitted a completed application requesting that Metro renew this NSL with a tonnage authorization of 25,000 tons per calendar year. This is the same annual tonnage limit that the applicant is currently authorized to transport under its existing NSL.

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.⁴

¹ Metro Solid Waste Facility License No. L-102-15

² Metro Solid Waste Facility Non-System License No. N-102-15

³ Metro Solid Waste Facility Non-System License No. N-102-15A

⁴ Metro Code Section 5.05.040

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed renewed NSL.

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 of the Metro Code provides that when determining whether or not to approve an NSL application, the 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 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 food waste for composting, staff is not aware of any other wastes accepted at NWGA that could pose a risk of environmental contamination. The environmental risk from the use of this non-system facility is presumed to be minimal because the facility is fully regulated and monitored by the appropriate local and state authorities.

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including, but not limited to, public health, safety and environmental rules and regulations;*

NWGA is permitted by the Oregon Department of Environmental Quality (DEQ). Metro staff received verbal confirmation from DEQ and the Aumsville city administrator that NWGA is in compliance with federal, state and local requirements. Staff has also received confirmation that NWGA has a good compliance record with respect to public health, safety and environmental rules and regulations.

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

NWGA accepts and composts yard debris, residential food waste, and commercial food waste under authority of a solid waste disposal site permit issued by DEQ. The DEQ permit expires on December 30, 2018. The facility also holds a conditional use permit issued by the city of Aumsville.

NWGA is required by the city of Aumsville and DEQ to implement measures to control and minimize odors through site design and operations. The odor control measures 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;*

Approval of the proposed NSL is likely to have 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 has a contractual obligation 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 Waste Management. The waste subject to the proposed license will be delivered to a composting facility rather than disposed at a general-purpose landfill. Thus, approval of the requested license does not conflict with Metro's disposal contract or any other of its existing contractual arrangements.

(6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including, but not limited to, public health, safety and environmental rules and regulations; and*

All RPI operated facilities regulated by Metro are currently in compliance with Metro's Code and license requirements.

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

Transporting yard debris mixed with food waste to NWGA for composting will provide additional recovery capacity which benefits the region's organics recovery program. Further, NWGA provides another alternative for food waste composting to the region.

3. Anticipated Effects

The effect of Resolution No. 16-4737 will be to issue a renewed NSL authorizing RPI to transport up to 25,000 tons per calendar year of residential food waste from SRRF to NWGA for composting. The NSL will commence on January 1, 2017 and expire on December 31, 2018.

4. Budget Impacts

The residential food waste mixed with yard debris that will be transported under authority of this renewed NSL is exempt from the Metro Regional System Fee and Excise Tax. The overall impact of the city of Portland's food waste composting program has already been factored into Metro's budget.

RECOMMENDED ACTION

The COO recommends that the Metro Council adopt Resolution No. 16-4737. Approval of this resolution will authorize the COO to issue an NSL to RPI 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).

WE:bjl