

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF)	RESOLUTION NO. 17-4795
OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM)	
LICENSE TO GRESHAM SANITARY SERVICE FOR)	Introduced by Chief Operating
TRANSPORT AND DISPOSAL OF PUTRESCIBLE WASTE AT)	Officer Martha Bennett with the
THE COLUMBIA RIDGE LANDFILL LOCATED IN GILLIAM)	concurrence of Council President
COUNTY, OREGON, AND UNDER CERTAIN UNUSUAL)	Tom Hughes
CIRCUMSTANCES TO COFFIN BUTTE LANDFILL LOCATED IN)	
BENTON COUNTY, OREGON)	

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, Gresham Sanitary Service, Inc. filed a complete application seeking a non-system license to transport putrescible waste to the Columbia Ridge Landfill and Coffin Butte 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, Metro's contractor for solid waste disposal, Waste Management Disposal Services of Oregon, will charge Gresham Sanitary Service's deliveries to Metro's disposal account, and then Gresham Sanitary Services will reimburse Metro directly for those costs as set forth in Metro Code 5.02.090; and

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

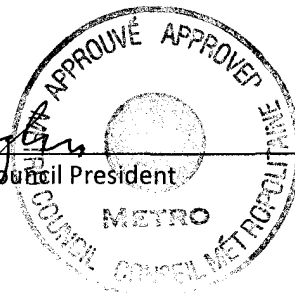
WHEREAS, the Chief Operating Officer recommends that the Metro Council issue the non-system license together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The non-system license application of Gresham Sanitary Service, 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 Gresham Sanitary Service, Inc. a Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 18 day of May, 2017.

Tom Hughes
Tom Hughes, Council President



Approved as to Form:

Alison R. Kean
Alison R. Kean, Metro Attorney



600 NE Grand Ave.
Portland, OR 97232-2736
oregonmetro.gov

METRO SOLID WASTE FACILITY NON-SYSTEM LICENSE

No. N-019-17

LICENSEE:
Gresham Sanitary Service 2131 NW Birdsedale Ave Gresham, OR 97030
CONTACT PERSON:
Matt Miller Phone: (503) 665-2424 E-mail: matt@gss-nw.com
MAILING ADDRESS:
Gresham Sanitary Service P.O. Box 1560 Gresham, OR 97030

ISSUED BY METRO:

Paul Slyman,
Property and Environmental Services Director

Date

1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste that is generated within the Metro region and received at GSS Transfer, LLC in accordance with its Metro solid waste facility franchise.
2	CALENDAR YEAR TONNAGE ALLOCATION
	The licensee is authorized to deliver to the non-system facility listed in Section 3 up to 23,000 tons per calendar year of the waste described in Section 1.
3	NON-SYSTEM FACILITIES
	<p>The licensee is authorized to transport the waste described above in Section 1 to the following non-system facility:</p> <p style="text-align: center;">Columbia Ridge Landfill 18177 Cedar Springs Lane Arlington, OR 97812</p> <p>And, during certain unusual circumstances and emergency situations as described in Section 8, the licensee is authorized to transport the above referenced waste to the following non-system facility:</p> <p style="text-align: center;">Coffin Butte Landfill 29175 Coffin Butte Road Corvallis, OR 97330</p> <p>This license is issued on condition that the non-system facility named in this section is authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality that these non-system facilities are not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 8.</p>
4	TERM OF LICENSE
	The term of this license will commence on June 1, 2017, and expire 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 facility described in Section 3. These records must include the information specified in the Metro document titled, <i>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements</i>.</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; and iii. Remit to Metro the requisite Regional System Fees and Excise Taxes 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>

7	DISPOSAL CHARGES FOR USE OF COLUMBIA RIDGE LANDFILL
	<p>(a) The licensee must remit to Metro a per ton disposal charge for all solid waste that the licensee transports to Columbia Ridge Landfill in accordance with Metro Code Chapter 5.02 and as otherwise prescribed by Metro.</p> <p>(b) The disposal charge required by this section will be equal to the sum of the total amount that Metro paid to its contract operator for disposal of solid waste during the previous calendar quarter divided by the sum of the number of tons of solid waste disposed by Metro at the Columbia Ridge Landfill during the</p>

	<p>previous calendar quarter and the number of tons of solid waste disposed under direct-haul authorization during the previous calendar quarter.</p> <p>(c) Metro will invoice licensee for these disposal charges which must be paid by the invoice date.</p>
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8	ADDITIONAL LICENSE CONDITIONS
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	<p>This license is subject to the following conditions:</p> <p>(a) The licensee is authorized to transfer putrescible waste to Coffin Butte Landfill only during certain unusual circumstances and emergency situations, such as the closure of Interstate 84, which would prevent the licensee from transporting such waste to the Columbia Ridge Landfill.</p> <p>(b) If the licensee transports putrescible waste to Coffin Butte Landfill as provided above in Section 8(a), the licensee must:</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 transport of waste to the Coffin Butte Landfill continues for more than three consecutive business days. The written notification required by this section must include a detailed description of the particular circumstance resulting in such transport and its expected duration. <p>(c) 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 by Metro to direct the solid waste described in this license to any other facility.</p> <p>(d) The Chief Operating Officer (COO) may amend or terminate this license 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.; 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 facilities listed in Section 3. <p>(e) This license is, in addition to subsections (d)(i) through (d)(iii), above, subject to amendment, suspension, or termination pursuant to the Metro Code.</p> <p>(f) 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>(g) This license will terminate upon the execution of a designated facility</p>
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	<p>agreement with either of the facilities listed in Section 3 that authorizes the acceptance of the waste described in Section 1.</p> <p>(h) 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 those specified in this license is prohibited unless authorized in writing by Metro.</p> <p>(i) 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.</p> <p>(j) If the licensee exceeds the calendar year authorization set forth in Section 2, each ton or portion thereof by which the licensee exceeds the authorization constitutes a separate violation subject to a penalty of up to \$500.</p>
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9	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 rules 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.</p>

10	INDEMNIFICATION
	<p>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, 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 attorneys’ fees, whether incurred before any litigation is commenced, during any litigation or on appeal.</p>

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 17-4795 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM LICENSE TO GRESHAM SANITARY SERVICE FOR TRANSPORT AND DISPOSAL OF PUTRESCIBLE WASTE AT THE COLUMBIA RIDGE LANDFILL LOCATED IN GILLIAM COUNTY, OREGON, AND UNDER CERTAIN UNUSUAL CIRCUMSTANCES TO COFFIN BUTTE LANDFILL LOCATED IN BENTON COUNTY, OREGON

May 3, 2017

Prepared by: Hila Ritter
503-797-1862

Approval of Resolution No. 17-4795 will authorize the Chief Operating Officer (COO) to issue a new non-system license (NSL), to Gresham Sanitary Service (GSS) to annually transport up to 23,000 tons of putrescible waste to the Columbia Ridge Landfill located in Arlington, Oregon and under certain unusual circumstances and emergency conditions to the Coffin Butte Landfill located in Benton County, Oregon. The term of the proposed NSL will commence on June 1, 2017 and expire on December 31, 2018.

BACKGROUND

Overview

The applicant, GSS, is a local family-owned business established in 1948. GSS owns and operates a Metro-franchised¹ solid waste transfer station located at 2131 NW Birdsdale Avenue, in Gresham (Metro Council District 1). The applicant is also one of the franchised haulers that collects waste within the city of Gresham, as well as collecting commercial waste from the Portland Airport (Metro Council District 5).

In addition to the above, GSS currently holds an NSL that authorizes the facility to annually transport putrescible waste to the Wasco County Landfill.² This NSL is to expire on December 31, 2018. GSS seeks to obtain a second NSL because it will likely reach its allocated tonnage amount at the Wasco County Landfill by early June 2017. The applicant seeks an additional NSL to provide greater flexibility with regard to disposal options – these NSLs do not increase the total tonnage that GSS is authorized to accept under its transfer station franchise.

On March 14, 2017, GSS submitted an NSL application seeking authorization to transport waste primarily to Columbia Ridge Landfill. The waste transported under authority of this NSL to the Columbia Ridge Landfill meets Metro's contractual obligation to deliver at least 90 percent of the region's putrescible waste destined for disposal to a landfill owned and operated by Waste Management. The applicant also requested authority to transport waste to Coffin Butte Landfill in the case of an unusual circumstance (such as the closure of Interstate 84, equipment failure, or driver and equipment shortages) that would otherwise prevent GSS from transporting waste through the Columbia Gorge. If the licensee transports waste to Coffin Butte Landfill, it is required to report a detailed description of the unusual circumstance, including its expected duration, to Metro within twelve hours of its discovery.

Columbia Ridge Landfill, which is the primary disposal site authorized under this proposed NSL, is owned and operated by Waste Management of Oregon, Inc. (WMO) which is headquartered in Houston, Texas.

¹ Metro Solid Waste Facility Franchise No. F-019-16

² Metro Non-System License No. N-019-16A which authorizes the delivery of up to 10,426 tons during calendar year 2017.

Coffin Butte Landfill, which would be used only under unusual circumstances, is owned and operated by Allied Waste Industries, Inc. a wholly owned subsidiary of Republic Waste Systems, Inc. (Republic) headquartered in Phoenix, Arizona.

1. Special Provisions of the NSL for Managing Risk

The proposed license includes two conditions that are intended to address disposal at Columbia Ridge and 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. 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 any system facility, if necessary, to prevent a violation of the disposal contract's 90 percent flow guarantee. Section 8 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.

B. Disposal Charges for use of Columbia Ridge Landfill

In accordance with Metro Code Chapter 5.02, GSS is required to remit to Metro a per ton disposal charge for all solid waste transported under authority of this proposed NSL. Upon arrival at Columbia Ridge Landfill, WMO will charge GSS' waste disposal cost to Metro's disposal account, and then GSS will reimburse Metro directly for those costs. Metro will invoice GSS for remittance of the disposal costs.

ANALYSIS/INFORMATION

A. Known Opposition

There is no known opposition to the proposed new license.

B. Legal Antecedents

Metro Code Section 5.05.040 prohibits any person from utilizing non-system facilities without an appropriate license from Metro. Additionally, Metro Code Section 5.05.140 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 (Gresham Sanitary Services) and the disposal sites (Columbia Ridge Landfill and Coffin Butte Landfill) are well known to Metro staff. Metro has an established Designated Facility Agreements

with Columbia Ridge Landfill³ and Coffin Butte Landfill,⁴ to receive non-putrescible, special and cleanup waste. Both of the landfills are owned and operated by major, nationally-integrated solid waste companies. The environmental risks from the use of the disposal site are minimal because the landfills are fully authorized and regulated by the appropriate local and state authorities.

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

WMO owns and operates Columbia Ridge Landfill and Republic owns and operates Coffin Butte Landfill. Metro staff's investigation of WMO and Republic have revealed a good record of compliance with regard to local, state, and Metro requirements. Additionally, Oregon Department of Environmental Quality ("DEQ") staff has indicated the facilities are in compliance with their Solid Waste Disposal Site Permits.

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

The Columbia Ridge and Coffin Butte Landfills use operational practices and management controls that are typical of other RCRA Subtitle D landfills.⁵ 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.

- (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 proposed non-system license's effect with Metro's existing contractual arrangements;*

Metro has a contractual agreement to deliver a minimum of 90 percent of the region's putrescible waste, which is delivered to general purpose landfills during the calendar year, to landfills owned by WMO. The proposed NSL covers putrescible waste that will be transported primarily to Columbia Ridge, which is owned and operated by WMO. Notwithstanding this primary authority, this proposed NSL also authorizes the licensee to transport a portion of the 10 percent of uncommitted waste not guaranteed to WMO under the disposal contract to Coffin Butte Landfill under unusual circumstances that would prevent the use of Columbia Ridge Landfill. Metro's contract with Waste Management expires at the end of 2019. Since the proposed NSL authorizes the use of Coffin Butte Landfill only under unusual circumstances, staff finds that approval of this license will not conflict with Metro's disposal contract or any other of its existing contractual arrangements. Staff will continue to closely monitor and manage regional waste flows to comply with Metro's contractual agreements.

³ Metro Contract No. 932396

⁴ Metro Contract No. 932397

⁵ Subtitle D landfill standards are established nationally under the Resource Conservation and Recovery Act (RCRA).

(6) *The applicant's record 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 regulations;*

GSS is currently in compliance with its Metro-issued Franchise and NSL. The applicant has not had any compliance issues with regard to Metro regulations since its authorization as a transfer station in 2016. Additionally, GSS 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.*

In addition to the special conditions previously described in this staff report, the proposed license includes a 19-month term, commencing on June 1, 2017, and expiring on December 31, 2018. Although NSLs are typically issued for a two-year period, staff recommends that the Metro Council establish a 19-month term in this instance to align its expiration date with another similar contract expiration date.

C. Anticipated/Potential Effects

The effect of Resolution No. 17-4795 will be to issue a new NSL to GSS to transport up to 23,000 tons per calendar year of putrescible waste to Columbia Ridge Landfill for disposal, and under certain unusual circumstances and emergency conditions to Coffin Butte Landfill. The NSL will commence on June 1, 2017 and expire on December 31, 2018.

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.

The Metro Regional System Fee and Excise Tax will continue to be collected on all waste delivered under authority of the proposed NSL.

RECOMMENDED ACTION

The COO recommends that the Metro Council adopt Resolution No. 17-4795. Approval of this resolution will authorize the COO to issue an NSL to GSS 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).