

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW ) RESOLUTION NO. 17-4796  
NON-SYSTEM LICENSE JOINTLY TO WILLAMETTE RESOURCES, INC. )  
AND REPUBLIC SERVICES OF CLACKAMAS AND WASHINGTON ) Introduced by Martha J. Bennett,  
COUNTIES FOR THE TRANSPORT OF COMMERCIAL FOOD WASTE ) Chief Operating Officer, with the  
AND YARD DEBRIS MIXED WITH RESIDENTIAL FOOD WASTE TO THE ) concurrence of Tom Hughes,  
RECOLOGY ORGANICS AUMSVILLE COMPOST FACILITY LOCATED IN ) Council President  
AUMSVILLE, 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 facility; and

WHEREAS, Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties have jointly filed a complete application seeking a new non-system license to transport source-separated commercial food waste and yard debris mixed with residential food waste to Recology Organics Aumsville compost facility under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, the solid waste authorized under the Non-System License is generated within the Metro region, and is transported to the Recology Organics Aumsville for compost; and

WHEREAS, Metro Code Chapter 5.05 provides that applications for non-system licenses for putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council; and

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

WHEREAS, the Chief Operating Officer recommends that Metro issue a new non-system license jointly to Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

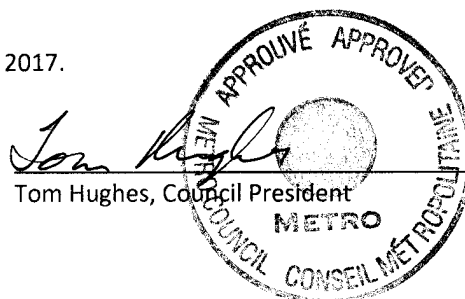
1. The non-system license application of Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties a new 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.

Approved as to Form:



Alison R. Kean, Metro Attorney





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

## METRO SOLID WASTE FACILITY NON-SYSTEM LICENSE

### No. N-005-17(4)

**LICENSEE:**

Willamette Resources, Inc.  
10295 SW Ridder Road  
Wilsonville, OR 97070

Republic Services of Clackamas and  
Washington Counties  
10295 SW Ridder Road  
Wilsonville, OR 97070

**Contact Person:**

Jason Jordan  
Phone : 503-665-2424  
Email : [jason.jordan@republicservices.com](mailto:jason.jordan@republicservices.com)

**MAILING ADDRESS:**

Willamette Resources, Inc.  
10295 SW Ridder Road  
Wilsonville, OR 97070

Republic Services of Clackamas and  
Washington Counties  
10295 SW Ridder Road  
Wilsonville, OR 97070

**ISSUED BY METRO:**

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

\_\_\_\_\_  
Date

<b>1</b>	<b>NATURE OF WASTE COVERED BY LICENSE</b>
	<p>(a) Source-separated, commercial food waste and yard debris mixed with residential food waste generated within the Metro boundary and received at Willamette Resources, Inc. in accordance with its Metro Solid Waste Facility Franchise; and</p> <p>(b) Source-separated, commercial food waste and yard debris mixed with residential food waste that is generated within the Metro region and collected by Republic Services of Clackamas and Washington Counties.</p>
<b>2</b>	<b>CALENDAR YEAR TONNAGE LIMITATION</b>
	The licensees are authorized to deliver to the non-system facility listed in Section 3 up to 10,000 tons per calendar year of the waste described in Section 1.
<b>3</b>	<b>NON-SYSTEM FACILITY</b>
	<p>The licensees are 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 Organics Aumsville        8712 Aumsville HWY 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 that this non-system facility is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 10.</p>
<b>4</b>	<b>TERM OF LICENSE</b>
	The term of this license will commence on June 1, 2017 and expire on December 31, 2019, unless terminated sooner under Section 10.

<b>5</b>	<b>COVERED LOADS</b>
	The licensees must suitably contain and cover, on all sides, all loads of source-separated food waste that are delivered under authority of this license to prevent spillage of waste while in transit to the non-system facility listed in Section 3.

<b>6</b>	<b>MATERIAL MANAGEMENT</b>
	<p>The licensees are authorized to transport the waste described in Section 1 of this license to the non-system facility listed in Section 3 under the following conditions:</p> <p>(a) The non-system facility must accept all solid waste that is delivered under authority of this license for the sole purpose of processing and composting on-site. The licensees must not dispose of any source-separated recyclable material, except as provided in Section 7; and</p> <p>(b) The non-system facility must receive, manage, process, and compost all solid waste that is delivered under authority of this license in accordance with all applicable local, state and federal laws, rules, regulations, ordinances, orders, and permits.</p>

<b>7</b>	<b>REGIONAL SYSTEM FEE AND EXCISE TAX</b>
	<p>The licensees are subject to the following conditions:</p> <p>(a) Source-separated 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 fee and excise tax.</p> <p>(b) If the licensees transports waste under this license to the non-system facility listed in Section 3 but the material does not meet the facility's acceptance criteria (for example, the material is too contaminated for processing or composting) or the non-system facility fails to process and compost the material as required as a condition of this license, the licensees 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 delivered to the non-system facility that is ultimately delivered to a disposal site.</p> <p>(c) If the licensees transports waste under this license to the non-system facility listed in Section 3 but the material does not meet the facility's acceptance criteria (for example, the material is too contaminated for processing or composting) or the</p>

	non-system facility fails to process and compost the material as required as a condition of this license, the licensees 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 delivered to the non-system facility that is ultimately delivered to a disposal site.
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<b>8</b>	<b>REPORTING OF ACCIDENTS AND CITATIONS</b>
	The licensees must report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.

<b>9</b>	<b>RECORD KEEPING AND REPORTING</b>
	<p>(a) The licensees must keep and maintain accurate records of the amount of all solid waste that the licensees transport to the non-system facility 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 licensees must perform the following no later than fifteen days following the end of each month:</p> <ul style="list-style-type: none"> <li>i. Transmit to Metro the records required under Section 9(a) above in an electronic format prescribed by Metro; and</li> <li>ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; and</li> </ul> <p>(c) The licensees must make available to Metro (or Metro’s designated agent) all records from which Sections 9(a) and 9(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 licensees 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 licensees to report the information required by this section on a weekly or daily basis.</p>

<b>10</b>	<b>ADDITIONAL LICENSE CONDITIONS</b>
	This non-system license is subject to the following conditions:

	<p>(a) The permissive transport of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.</p> <p>(b) The Chief Operating Officer (the “COO”) may amend or terminate this license if the COO determines that:</p> <ul style="list-style-type: none"> <li>i. There has been sufficient change in any circumstances under which Metro issued this license;</li> <li>ii. The provisions of this license are actually or potentially in conflict with any provision in Metro’s disposal contract with Oregon Waste Systems, Inc;</li> <li>iii. Metro’s solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facility listed in Section 3; or</li> <li>iv. The non-system facility listed in Section 3 fails to manage the waste subject to this license in accordance with the material management requirements described in Section 6.</li> </ul> <p>(c) This license is, in addition to subsections (b)(i) through (b)(iv), above, subject to amendment, termination, or suspension pursuant to the Metro Code.</p> <p>(d) The licensees 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 of this license.</p> <p>(f) This license authorizes transport of solid waste only to the facility listed in Section 3. 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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<b>11</b>	<b>COMPLIANCE WITH LAW</b>
	<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 Metro Code Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the licensee’s solid waste by federal, state, regional or</p>

	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.
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<b>12</b>	<b>INDEMNIFICATION</b>
	The licensees 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. Expenses include, but are not limited to all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal.

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 17-4796 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM LICENSE JOINTLY TO WILLAMETTE RESOURCES, INC. AND REPUBLIC SERVICES OF CLACKAMAS AND WASHINGTON COUNTIES FOR TRANSPORT OF COMMERCIAL FOOD WASTE AND YARD DEBRIS MIXED WITH RESIDENTIAL FOOD WASTE TO THE RECOLOGY ORGANICS AUMSVILLE COMPOST FACILITY LOCATED IN AUMSVILLE, OREGON

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May 3, 2017

Prepared by: Hila Ritter  
503-797-1862

Approval of Resolution No. 17-4796 will authorize the Chief Operating Officer (COO) to issue a new non-system license (NSL) jointly to Willamette Resources, Inc. (WRI) and Republic Services of Clackamas and Washington Counties to annually deliver a maximum of 10,000 tons per calendar year of source-separated commercial food waste and yard debris mixed with residential food waste to the Recology Organics Aumsville (ROA) compost facility, formerly known as NW Greenlands, located at 8712 Aumsville HWY SE Salem, Oregon.

## BACKGROUND

### Overview

The applicant, Republic Services, Inc., (RSI) is a waste management company headquartered in Phoenix, Arizona, and is the parent company of WRI. RSI is also the contract operator for the Metro South Transfer Station.

On February 14, 2017, the applicant submitted an application to Metro seeking a new NSL to annually transport up to 10,000 tons of source-separated food waste; which includes both commercial food waste and yard debris mixed with residential food waste, generated within the Metro region to ROA. The proposed NSL is subject to Metro Council approval because the request includes commercial food waste.

In addition to the above request for ROA, the applicant currently holds another NSL<sup>1</sup> that authorizes the transport of food waste to Pacific Region Compost (PRC) which will expire on December 31, 2017. The applicant seeks a second NSL because it anticipates that there will be an increase in commercial food waste generation in region. In addition, the applicant seeks to have an alternate facility option in case there are unexpected operational problems at PRC. The applicant believes having another outlet for food waste that is closer to the Metro region will increase market competitiveness for its customers.

## ANALYSIS/INFORMATION

### A. Known Opposition

There is no known opposition to the proposed NSL.

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<sup>1</sup> NSL No. N-005-16(4)



## B. Legal Antecedents

Metro Code Chapter 5.05 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 shall consider the following factors to the extent relevant to such determination.

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The non-system facility identified in this proposed license is an established yard debris and food waste composting facility that is known to Metro staff. The facility accepts organics feedstock that consists primarily of source-separated food waste, yard debris, and wood waste. 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 Oregon Department of Environmental Quality (DEQ) and appropriate local 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;*

ROA is permitted by DEQ. DEQ staff reports that the facility is currently in compliance with the terms of its solid waste permit.<sup>2</sup> Metro staff's investigation of the applicant and destination facility revealed a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations.

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

ROA operates under the authority of a DEQ-issued permit. The DEQ monitors the facility to ensure that it manages all of the waste it receives, including commercial food waste, in accordance with the requirements of its permit.

ROA 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 food waste in a timely manner, blending of feedstocks, good housekeeping, and monitoring moisture and temperatures of composting feedstock. More importantly, the use of a forced aeration system and a bio-filter system help control and minimize odors. The system pulls air through the composting piles and directs the air to a bio-filter consisting of organic material such as wood chips or compost overs. Bio-filters are commonly used at composting facilities due to their success in effectively treating odors associated with composting.

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

The waste subject to the proposed NSL will be delivered to ROA for the purpose of composting rather than disposal. Based on the waste management hierarchy, composting is considered to be a higher and

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<sup>2</sup> DEQ Solid Waste Disposal Site Permit: Composting Facility Permit Number 1419

better management option than disposal. As such, approval of the proposed NSL is likely to continue having a positive impact on 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 that is delivered to general purpose landfills during the calendar year, to landfills owned by Metro's disposal contractor, Waste Management. The waste subject to the proposed license will not be disposed at a landfill. Therefore, approval of the proposed license will not conflict with Metro's disposal contract; however, increased diversion of organic material from disposal shrinks the amount of waste committed under the flow guarantee and the amount available for allocation to NSLs that control the remaining ten percent.

In addition, RSI currently serves as Metro's contractor for processing solid waste received at the Metro South Transfer Station.

- (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; and*

Metro issued Notices of Violation (NOVs) to the applicant in April 2015 and February 2016.<sup>3</sup> The violations were cited for operational issues at WRI, specifically improper reporting of tonnage data and exceeding its tonnage cap. However neither of these issues were related to the transport of food waste nor operations at ROA. The violations have since been resolved and the applicant is currently in compliance with all of Metro's solid waste regulations. Notwithstanding the above-referenced NOVs, Metro staff's investigation of the applicant revealed a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations.

- (7) *Any other factor the Chief Operating Officer considers appropriate.*

ROA provides important processing and composting capacity for the region that supports Metro's goal of diverting organics away from disposal and into recovery outlets.

The proposed license includes a 31-month term, commencing on June 1, 2017, and expiring on December 31, 2019. Although NSLs are typically issued for a two-year period, Metro Code provides that new NSLs may be issued for up to a three-year period.<sup>4</sup>

### **C. Anticipated Effects**

The effect of Resolution No. 17-4796 will be to issue a new NSL jointly to WRI and RSI to transport up to 10,000 tons per calendar year of source-separated commercial food waste and yard debris mixed with residential food waste to ROA for composting. The proposed NSL will commence on June 1, 2017 and expire on December 31, 2019.

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<sup>3</sup> NOV Nos. NOV-377-15 and NOV-394-16 respectively.

<sup>4</sup> Metro Code Section 5.05.170(5)

**D. Budget/Rate Impacts**

The commercial food waste and yard debris mixed with residential food waste that will be transported under authority of this proposed NSL is exempt from regional system fee and excise tax. The overall impact of food waste diversion programs in the region has already been factored into Metro's budget.

**RECOMMENDED ACTION**

The COO finds that the proposed license satisfies the requirements of Metro Code Chapter 5.05 and recommends that the Metro Council adopt Resolution No. 17-4796. Approval of this resolution will authorize the COO to issue an NSL jointly to WRI and Republic Services of Clackamas and Washington Counties (attached as Exhibit A).