

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A ) RESOLUTION NO. 17-4838  
RENEWED NON-SYSTEM LICENSE TO NEW EARTH FARM )  
FOR TRANSPORT OF SOURCE-SEPARATED FOOD WASTE ) Introduced by Martha J. Bennett,  
TO ITS PROCESSING FACILITY LOCATED IN HILLSBORO, ) Chief Operating Officer, with the  
OREGON ) concurrence of Tom Hughes,  
 ) Council President

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

WHEREAS, New Earth Farm holds Metro non-system license No. N-137-16 which expires on December 31, 2017; and

WHEREAS, New Earth Farm filed a complete application seeking a renewed non-system license to deliver source-separated food waste to its own facility 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 applications for non-system licenses for putrescible waste and that the Metro Council will approve or deny them; and

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

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


THE METRO COUNCIL RESOLVES AS FOLLOWS:

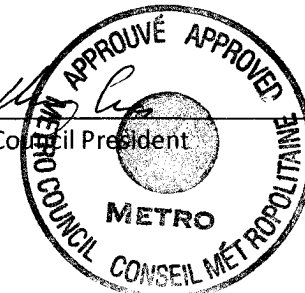
1. The non-system license renewal application of New Earth Farm is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to New Earth Farm a renewed non-system license substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 16 day of November, 2017.

Approved as to Form:

  
Alison R. Kean, Metro Attorney

  
Tom Hughes, Council President



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-137-17**

<b>LICENSEE:</b>
New Earth Farm 11000 NW Jackson Quarry Road Hillsboro, OR 97124
<b>CONTACT PERSON:</b>
Scott Olsen Phone: (503) 913-2641 E-mail: <a href="mailto:scott@newearthfarm.net">scott@newearthfarm.net</a>
<b>MAILING ADDRESS:</b>
New Earth Farm 11000 NW Jackson Quarry Road Hillsboro, OR 97124

**ISSUED BY METRO:**

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Paul Slyman  
Property and Environmental Services Director

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Date



<b>1</b>	<b>NATURE OF WASTE COVERED BY LICENSE</b>
	Source-separated food waste that is generated by businesses and schools within the Metro boundary and collected by New Earth Farm.
<b>2</b>	<b>CALENDAR YEAR TONNAGE ALLOCATION</b>
	The licensee is authorized to transport to the non-system facility listed in Section 3 up to 264 tons per calendar year of the waste described in Section 1.
<b>3</b>	<b>NON-SYSTEM FACILITY</b>
	<p>The licensee is authorized to deliver the waste described above in Section 1 only to the following non-system facility for processing and land application at an agronomic rate allowed by Oregon Department of Environmental Quality (DEQ):</p> <p style="text-align: center;">New Earth Farm 11000 NW Jackson Quarry Road Hillsboro, OR 97124</p> <p>Metro issues this license 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 DEQ that this non-system facility is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7.</p>
<b>4</b>	<b>TERM OF LICENSE</b>
	The license term is from January 1, 2018, to December 31, 2019, unless terminated sooner under Section 10.
<b>5</b>	<b>COVERED LOADS</b>
	The licensee 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>REPORTING OF ACCIDENTS AND CITATIONS</b>
	The licensee must report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of the solid waste on behalf of the licensee.
<b>7</b>	<b>MATERIAL MANAGEMENT</b>
	<p>The licensee is authorized to deliver 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"><li>(a) The non-system facility must accept all solid waste that is transported under authority of this license for the sole purpose of processing on-site. The licensee must not dispose of any source-separated recyclable material, except as provided in Section 7; and</li><li>(b) The non-system facility must receive, manage, and process 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.</li></ul>
<b>8</b>	<b>REGIONAL SYSTEM FEE AND EXCISE TAX</b>
	<p>The licensee is subject to the following conditions:</p> <ul style="list-style-type: none"><li>(a) Source-separated food waste that is delivered 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.</li><li>(b) If the licensee delivers 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 the material as required as a condition of this license, the licensee must pay to Metro:<ul style="list-style-type: none"><li>i. 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.</li><li>ii. 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.</li></ul></li></ul>



<b>9</b>	<b>RECORD KEEPING AND REPORTING</b>
	<p>(a) The licensee must keep and maintain accurate records of the amount of all waste that the licensee delivers to the non-system facility described in Section 3. These records include the information specified in <u>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements</u>. No later than the 15th day of each month, beginning with the first month following the commencement date of this license, the licensee must transmit to Metro in an electronic format prescribed by Metro the records required that apply to the preceding month.</p> <p>(b) So long as Metro provides at least three business days written notice, the licensee must make all records available to Metro (or Metro's designated agent) for inspection or copying or both. The licensee must also sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in Section 3.</p>

<b>10</b>	<b>ADDITIONAL LICENSE CONDITIONS</b>
	<p>This license is subject to the following conditions:</p> <p>(a) The 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>(b) The COO may amend or terminate this license in the event that 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 be transferred to, and disposed of at, a facility other than the facility listed in Section 3;</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; or</li><li>v. The non-system facility listed in Section 3 generates malodors that are detectable off-site.</li></ul> <p>(c) In addition to subsections (b)(i) through (b)(v) above, this license is subject to amendment, suspension, or termination pursuant to the Metro</p>



	<p>Code.</p> <p>(d) The licensee may not transfer or assign any right or interest in this license without Metro's prior written approval.</p> <p>(e) This license is subject to amendment or termination by the COO 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 only authorizes the transport of solid waste to the facility listed in Section 3. The licensee is prohibited from transporting waste generated from within the Metro boundary to any non-system facility other than that specified in this license unless Metro authorizes such in writing.</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 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 are deemed part of this license as if specifically set forth herein.</p>

<b>12</b>	<b>INDEMNIFICATION</b>
	<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, 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.</p>

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 17-4838 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO NEW EARTH FARM FOR TRANSPORT OF SOURCE-SEPARATED FOOD WASTE TO ITS PROCESSING FACILITY LOCATED IN HILLSBORO, OREGON

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November 1, 2017

Prepared by: Hila Ritter  
(503) 797-1862

Approval of Resolution No. 17-4838 will authorize the Chief Operating Officer (COO) to issue a renewed non-system license (NSL) to New Earth Farm (NEF) to annually transport a maximum of 264 tons of source-separated food waste to its processing facility located at 11000 NW Jackson Quarry Road in Hillsboro, Oregon. The proposed NSL is a renewal of an existing license that is set to expire on December 31, 2017.

## BACKGROUND

### Overview

The applicant seeks authorization to renew its NSL to transport source-separated food waste generated by businesses and schools within the Metro region to its own facility located outside of the region. Metro Code Section 5.05.040 prohibits any person from transporting solid waste to non-system facilities without an appropriate license from Metro. The proposed NSL renewal is subject to Metro Council approval because it involves putrescible waste (food waste).<sup>1</sup>

### The Applicant

NEF, which is owned and operated by Scott Olsen, is comprised of a 16-acre farmed plot that is part of a larger, 24-acre site. Produce grown at NEF is sold to the public, area restaurants and business cafeterias. Post-consumer vegetative food waste generated at commercial facilities, in addition to some meat and dairy waste, is then delivered to NEF for processing.

NEF uses the bokashi method to process the food waste. Bokashi is an in-vessel anaerobic fermentation process that converts the majority of food waste delivered to the facility into liquid and solid soil amendments. The liquid component resulting from the process is land applied at NEF and neighboring farms. The remaining solid materials are tilled into the soil at NEF. The facility processes a smaller amount of food waste using vermicomposting and black soldier fly larvae. Solids from these processes are also used at NEF.

NEF has operated under Metro authorization since 2012, when the Metro Council granted the applicant an NSL<sup>2</sup> to annually deliver a maximum of 264 tons of source-separated food waste to NEF. The current license will expire on December 31, 2017. The licensee delivered approximately 65 tons of food waste to NEF in 2016 and temporarily ceased operations in October 2016 due to an injury sustained by Mr. Olsen. NEF would like to resume operations and on October 12, 2017, NEF submitted to Metro an application requesting that Metro renew its existing NSL with a tonnage authorization of 264 tons per calendar year – the same amount in its current authorization.

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<sup>1</sup> Metro Code Section 5.05.110

<sup>2</sup> NSL No. N-137-12

## ANALYSIS/INFORMATION

### 1. Known Opposition

There is no known opposition to the proposed NSL.

### 2. Legal Antecedents

Metro Code Section 5.05.040 prohibits any person from utilizing a non-system facility 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;*

Metro staff has visited NEF and is aware of how feedstocks are managed at the facility. Since NEF accepts only limited amounts food waste for processing, the waste does not pose the same potential environmental risk as waste being delivered for landfill disposal. There is no known evidence of any other wastes currently being accepted at NEF 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 regulated and monitored 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;*

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. The Oregon Department of Environmental Quality (DEQ) and Washington County have not received any complaints or taken any enforcement actions at NEF during the term of the current license.

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

Metro and DEQ consider the operational practices and management controls in place at NEF to be adequate and consistent with other food waste processing facilities. Waste accepted at NEF is delivered in sealed containers and the majority of processing at NEF takes place in-vessel. NEF has obtained a DEQ compost facility registration permit for its processing operation.<sup>3</sup> In 2012 Washington County determined that NEF qualifies as an agricultural operation and is not required to obtain a county-issued franchise.

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<sup>3</sup> Composting facility Registration Permit Number 1514  
Staff Report to Resolution No. 17-4838  
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- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The waste subject to the proposed NSL will be delivered to NEF for use as feedstock in a composting-like process<sup>4</sup> rather than disposal. Based on the waste management hierarchy, composting is considered to be a higher and better management option than land disposal. As such, renewal 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;*

Through 2019, 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 Waste Management. The waste subject to the proposed license will be transported to a composting facility rather than disposal. Therefore, approval of the proposed license will not conflict with Metro's disposal contract.

- (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*

The applicant is currently in compliance with its Metro-issued NSL and has not had any compliance issues with regard to Metro regulations during the term of the current license. Additionally, the applicant has 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.*

NEF will provide processing capacity for the region that supports Metro's goal of diverting organics away from disposal and into recovery outlets and is providing an innovative approach to processing organics (the bokashi method).

### **3. Anticipated Effects**

The effect of Resolution No. 17-4838 will be to issue a renewed NSL to NEF to deliver up to 264 tons per calendar year of source-separated food waste to its own facility for processing.

### **4. Budget/Rate Impacts**

It is Metro's policy to manage the region's waste according to the waste management hierarchy. Metro's regional system fee and excise tax rates are based on the amount of waste that is anticipated to be disposed, in conjunction with Metro's budget for the next fiscal year. Anytime waste is diverted from Metro transfer stations, and further diverted from disposal, there will be some impact in the current fiscal year to Metro's tonnage charge, enhancement fee, and the solid waste fee and tax revenues. In the case of NEF, the source-separated food waste that will continue to be transported to NEF under

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<sup>4</sup>NEF uses the bokashi method to process the food waste. Bokashi is an in-vessel anaerobic fermentation process and converts the majority of food waste delivered to the facility into liquid and solid soil amendments.

authority of this proposed NSL and will continue to be exempt from the fee and tax because it will be composted using the bokashi method.

The historical diversion authorized under this proposed NSL has already been factored into Metro's rates and budget – which further reduces any fiscal impact of granting this license renewal.

### **RECOMMENDED ACTION**

Staff recommends approval of Resolution No. 17-4838 finding that the license application satisfies the requirements of Metro Code Section 5.05.140, and issue an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

HR  
Queue