

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A)	RESOLUTION NO. 17-4840
RENEWED NON-SYSTEM LICENSE JOINTLY TO WILLAMETTE)	
RESOURCES, INC. AND REPUBLIC SERVICES OF CLACKAMAS AND)	Introduced by Martha J. Bennett,
WASHINGTON COUNTIES FOR THE TRANSPORT OF COMMERCIAL)	Chief Operating Officer, with the
FOOD WASTE TO THE PACIFIC REGION COMPOST FACILITY)	concurrence of Tom Hughes,
LOCATED IN MONMOUTH, OREGON)	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, Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties jointly hold Metro non-system license No. N-005-16(4) which expires on December 31, 2017; and

WHEREAS, Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties filed a complete application seeking a renewed non-system license to deliver commercial food waste to Pacific Region Compost 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

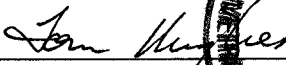
WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

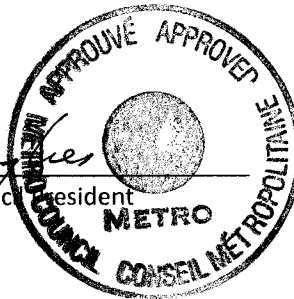
WHEREAS, the Chief Operating Officer recommends that Metro issue a renewed non-system license to Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:


1. The non-system license renewal 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 renewed non-system license substantially similar to the one attached as Exhibit A.

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


 Tom Hughes, Council President



Approved as to Form:


 Alison R. Kean, Metro Attorney

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

No. N-005-17(4)

LICENSEE:
Willamette Resources, Inc. & Republic Services of Clackamas and Washington Counties 10295 SW Ridder Rd. Wilsonville, OR 97070
CONTACT PERSON:
Jason Jordan Phone: (503) 404-4180 E-mail: jason.jordan@republicservices.com
MAILING ADDRESS:
Willamette Resources, Inc. & Republic Services of Clackamas and Washington Counties 10295 SW Ridder Rd. Wilsonville, OR 97070

ISSUED BY METRO:

Paul Slyman
Property and Environmental Services Director

Date



1	NATURE OF WASTE COVERED BY LICENSE
	<p>(a) Source-separated, commercial 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 that is generated within the Metro region and collected by Republic Services of Clackamas and Washington Counties.</p>
2	CALENDAR YEAR TONNAGE ALLOCATION
	<p>The licensee is authorized to transport to the non-system facility listed in Section 3 up to 20,000 tons per calendar year of the waste described in Section 1.</p>
3	NON-SYSTEM FACILITY
	<p>The licensee is authorized to deliver the waste described above in Section 1 only to the following non-system facility for processing and composting:</p> <p style="text-align: center;">Pacific Region Compost Facility 29969 Camp Adair Road Monmouth, Oregon 97361</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>
4	TERM OF LICENSE
	<p>The license term is from January 1, 2018, to December 31, 2019, unless terminated sooner under Section 10.</p>
5	COVERED LOADS
	<p>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.</p>



6	REPORTING OF ACCIDENTS AND CITATIONS
	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.

7	MATERIAL MANAGEMENT
	<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">(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(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.

8	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 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.(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">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.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.



9	RECORD KEEPING AND REPORTING
	<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>

10	ADDITIONAL LICENSE CONDITIONS
	<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">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 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; orv. The non-system facility listed in Section 3 generates malodors that are detectable off-site. <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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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 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>

12	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, 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. 17-4840 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE JOINTLY TO WILLAMETTE RESOURCES, INC. AND REPUBLIC SERVICES OF CLACKAMAS AND WASHINGTON COUNTIES FOR TRANSPORT OF COMMERCIAL FOOD WASTE TO THE PACIFIC REGION COMPOST FACILITY LOCATED IN MONMOUTH, OREGON

November 1, 2017

Prepared by: Hila Ritter
503-797-1862

Approval of Resolution No. 17-4840 will authorize the Chief Operating Officer (COO) to issue a renewed non-system license (NSL) jointly to Willamette Resources, Inc. (WRI) and Republic Services of Clackamas and Washington Counties (Republic) to annually transport a maximum of 20,000 tons of commercial food waste to the Pacific Region Compost facility (PRC) located at 29969 Camp Adair Road in Monmouth, Oregon. The proposed NSL is a renewal of an existing license that is set to expire on December 31, 2017.¹

BACKGROUND

1. Overview

The applicant seeks to renew its NSL to transport commercial food waste generated within the Metro region to PRC. PRC is a non-system composting 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).²

2. The Applicant

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

WRI and Republic have transported waste to PRC under Metro authorization since 2009.³ Under the current NSL, the licensee delivered about 15,275 tons of food waste to PRC in calendar year 2016 and approximately 9,800 tons through September of calendar year 2017. The current license will expire on December 31, 2017. On September 20, 2017, the applicant submitted to Metro a complete application requesting that Metro renew its existing NSL with a tonnage authorization of 20,000 tons per calendar year – the same amount in its current authorization.

ANALYSIS/INFORMATION

1. Known Opposition

¹ Non-System License No. N-005-16(4)

² Metro Code Section 5.05.110

³ Non-System License No. N-005-09(4)

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 will 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 a yard debris and food waste composting facility that is well known to Metro staff. The facility accepts composting feedstock that consists primarily of source-separated food waste, yard debris, and wood waste.

The facility initially began accepting food waste from its affiliated haulers within the Willamette Valley (i.e., Corvallis, Albany and Salem) in November 2009. Prior to this, PRC accepted only wood waste and yard debris for composting. In early 2010, PRC began accepting Metro-area food waste that was delivered under authority of NSLs. In 2011, the facility began accepting commercial food waste from the Metro South Transfer Station.

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 as described below.

- (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 rules and regulations;*

PRC is permitted by the Oregon Department of Environmental Quality (DEQ). DEQ staff report that the facility is currently in compliance with the terms of its solid waste permit.⁴ Additionally, PRC operates under a franchise agreement with Benton County. Benton County staff report that the facility is compliance with the terms of its franchise. Metro staff's investigation of the applicant, destination facility, and parent company revealed a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations during the term of the current NSL.

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

PRC operates under the authority of a Solid Waste Disposal Site Permit issued by DEQ. The facility manages all of the waste it receives, including commercial food waste, in accordance with the requirements of its DEQ-issued permit.

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

⁴ Solid Waste Disposal Site Permit: Composting Facility No. 1418

The waste subject to the proposed NSL will be delivered to PRC for the purpose of composting 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, 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;*

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 composted and not be disposed at a general-purpose landfill. Therefore, approval of the proposed license will not conflict with Metro's disposal contract.

In addition, Republic Services Inc. currently serves as Metro's contractor for processing organic waste received at the Metro South Transfer Station – including commercial food waste.

- (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 rules and regulations; and*

Metro issued a Notice of Violation (NOV) to the applicant in March 2016.⁵ The violation was cited for WRI exceeding its annual tonnage limit in 2015 for waste transported to Coffin Butte under authority of another NSL⁶ and is unrelated to the requirements of NSL No. N-005-16(4). The violation has since been resolved and the applicant is currently in compliance with all of Metro's solid waste regulations. Notwithstanding the above-referenced NOV, 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.*

The proposed NSL will renew the applicant's current authorization. PRC provides important processing and composting capacity for the region that supports Metro's goal of diverting organics away from disposal and into recovery outlets.

3. Anticipated Effects

The effect of Resolution No. 17-4840 will be to issue a renewed NSL jointly to WRI and Republic to transport up to 20,000 tons per calendar year of source-separated commercial food waste to PRC for composting.

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

⁵ NOV No. NOV-394-16

⁶ NSL No. N-005-15(3)B

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 WRI and Republic, the source-separated food waste that will be transported to PRC under authority of this proposed NSL will continue to be exempt from the fee and tax because it will be composted.

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 recommend that Council approve Resolution No. 17-4840, finding that the license renewal application satisfies the requirements of Metro Code chapter 5.05. Resolution No. 17-4840 will authorize the COO to issue a renewed NSL, similar to the one attached to the resolution as Exhibit A, to WRI and Republic.

HR
Queue