

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF)	RESOLUTION NO. 19-4980
OPERATING OFFICER TO AMEND THE)	
NON-SYSTEM LICENSE FOR GRESHAM SANITARY)	Introduced by Chief Operating
SERVICE TO AUTHORIZE AN INCREASED)	Officer Martha Bennett in
TONNAGE LIMIT FOR TRANSPORT AND DISPOSAL)	concurrence with Council
OF PUTRESCIBLE WASTE AT THE WASCO COUNTY)	President Lynn Peterson
LANDFILL AND, UNDER CERTAIN UNUSAL		
CIRCUMSTANCES, FINLEY BUTTES LANDFILL		

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 disposal facility; and

WHEREAS, Gresham Sanitary Service operates a transfer station and holds Metro Solid Waste Facility Franchise No. F-019-16B, which authorizes the facility to accept up to 23,687 tons of putrescible for calendar year 2019; and

WHEREAS, Gresham Sanitary Service filed a complete application seeking to increase the franchise tonnage allocation up to 49,000 tons of putrescible waste for 2019; and

WHEREAS, Gresham Sanitary Service holds Metro Solid Waste Facility Non-System License No. N-019-16E, which authorizes Gresham Sanitary Service to transport and dispose of up to 23,687 tons of putrescible at Wasco County Landfill in calendar year 2019;

WHEREAS, Gresham Sanitary Service seeks to increase the non-system license tonnage authorization up to 49,000 tons in calendar year 2019 to align with its franchise allocation; and

WHEREAS, Gresham Sanitary Service's non-system license authorizes the transport and disposal of putrescible waste generated from within the Metro boundary at Wasco County Landfill; and

WHEREAS, Gresham Sanitary Service seeks to use Finley Buttes Landfill as a backup disposal option during certain unusual circumstances or emergency situations that would otherwise prevent the facility from transporting waste to Wasco County Landfill; and

WHEREAS, Metro Code Chapter 5.05 provides that the Chief Operating Officer will review an amendment for a non-system license for putrescible waste and that Metro Council has authority to approve or deny the amendment; and

WHEREAS, the Chief Operating Officer recommends that Metro Council approve amendment of Gresham Sanitary Service's non-system license to increase the tonnage authorization to align with the facility's franchise tonnage allocation and add Finley Buttes Landfill as a disposal option during unusual circumstances or emergency situations; now therefore,


BE IT RESOLVED that (1) the amendment of Gresham Sanitary Service's non-system license is approved subject to the terms, conditions, and limitations contained in this Resolution and Exhibit A, (2) the Chief Operating Officer is authorized to issue an amended Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A which replaces and supersedes the current non-system license for Gresham Sanitary Service.

ADOPTED by the Metro Council this 11th day of April, 2019.



_Sam Chase, Deputy Council President

Approved as to Form:



Nathan A. S. Sykes, Acting Metro Attorney



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

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE
No. N-019-16F**

LICENSEE:	
Gresham Sanitary Service 2131 NW Birdsdales Ave Gresham, OR 97030	
CONTACT PERSON:	
	Matt Miller
Phone:	(503) 665-2424
Fax:	(503) 666-0917
E-mail:	matt@gss-nw.com
MAILING ADDRESS:	
Gresham Sanitary Service P.O. Box 1560 Gresham, OR 97030	

This non-system license replaces and supersedes the provisions of Metro Solid Waste Facility Non-System License No. N-019-16E.

ISSUED BY METRO:

Martha Bennett,
Chief Operating Officer

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
	<ol style="list-style-type: none">1. The licensee is authorized to transport up to 49,000 tons for calendar year 2019, beginning January 1, 2019, and ending December 31, 2019, of the waste described in Section 1 to the non-system facilities described in Section 3.2. This license does not increase the total tonnage that the licensee is authorized to accept under its Metro solid waste facility franchise
3	NON-SYSTEM FACILITY
	<p>The licensee is authorized to transport the waste described above in Section 1 to the following non-system facility:</p> <p style="padding-left: 40px;">Wasco County Landfill 2550 Steele Road The Dalles, OR 97058</p> <p>And, during certain unusual circumstances or emergency situations as described in Section 7, the licensee is authorized to transport the above referenced waste to the following non-system facility:</p> <p style="padding-left: 40px;">Finley Buttes Landfill 73221 Bombing Range Road Boardman, OR 97818</p> <p>This license is issued on condition that the non-system facilities named in this section are authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality or Wasco County 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
	The term of this license originally commenced on July 1, 2016 and expires at midnight on December 31, 2019, 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, <u>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements</u>.</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; andiii. 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	ADDITIONAL LICENSE CONDITIONS
	<p>This license is subject to the following conditions:</p> <p>(a) The licensee is authorized to transfer putrescible waste to Finley Buttes Landfill only during certain unusual circumstances or emergency situations, such as the closure of Interstate 84, which would prevent the licensee from transporting such waste to the Wasco County Landfill.</p>

- (b) If the licensee transports putrescible waste to Finley Buttes Landfill as provided above in Section 7(a), the licensee must:
- 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 Finley Buttes 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.
- (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.
- (d) The COO may amend or terminate this license in the event that the COO determines that:
- 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 facilities listed in Section 3; or
 - iv. There has been a change in the amount of tonnage that the licensee is authorized to accept under its Metro solid waste facility franchise. In the event that Metro amends the tonnage authorization provided in the facility's franchise, the COO may amend Section 2 of this license to match the same calendar year tonnage authorization in the franchise.
- (e) This license is, in addition to subsections (b)(i) through (b)(iv), above, subject to amendment, suspension, or termination pursuant to the Metro Code.
- (f) The licensee must not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.
- (g) This license will terminate upon the execution of a designated facility agreement with the facility listed in Section 3 that authorizes the acceptance of the waste described in Section 1.
- (h) 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.
- (i) The COO may direct the licensee's waste flow under this non-system license to

	<p>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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8	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>

9	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. 19-4980 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO AMEND THE NON-SYSTEM LICENSE FOR GRESHAM SANITARY SERVICE TO AUTHORIZE AN INCREASED TONNAGE LIMIT FOR TRANSPORT AND DISPOSAL OF PUTRESCIBLE WASTE AT WASCO COUNTY LANDFILL AND, UNDER CERTAIN UNUSUAL CIRCUMSTANCES, FINLEY BUTTES LANDFILL.

Date: March 28, 2019
Department: Property and Environmental
Services
Meeting Date: April 11, 2019

Prepared by: Hila Ritter, 503-797-1862,
hila.ritter@oregonmetro.gov
Presenters: Staff is available for questions

ISSUE STATEMENT

Gresham Sanitary Service (partner company of GSS Transfer, LLC.), a Metro-franchised transfer station located in the city of Gresham, seeks to increase the amount of putrescible waste that it is authorized to transport and dispose at Wasco County Landfill. In addition, Gresham Sanitary Service seeks to use Finley Buttes Landfill as a backup disposal site option during certain unusual circumstances and emergency situations that would otherwise prevent the facility from transporting waste to Wasco County Landfill. This resolution, which addresses the transport and disposal of putrescible waste received at GSS Transfer, LLC, is a companion to Ordinance No. 19-1434 which the Metro Council will also consider at its meeting on April 11, 2019.

Metro Code Section 5.05.110(c) requires the Metro Council to approve or deny a non-system license (NSL) to transport putrescible waste.

ACTION REQUESTED

Approve Resolution No. 19-4980 which will authorize the Chief Operating Officer (COO) to amend the NSL for Gresham Sanitary Service to align the tonnage limit authorized by its current NSL with the tonnage allocation authorized in its franchise. This action also adds Finley Buttes Landfill as a backup disposal site option for use during certain unusual circumstances and emergency situations. If Metro Council adopts companion Ordinance No. 19-1434, then Gresham Sanitary Services' NSL would be amended to increase the tonnage authorization from 23,687 tons to 49,000 tons for calendar year 2019.

IDENTIFIED POLICY OUTCOMES

This proposed resolution addresses the transport and disposal of waste that the Metro Council will consider under companion Ordinance No. 19-1434 at its meeting on April 11, 2019. These proposed decisions align with the goals of the 2030 Regional Waste Plan and help achieve the transfer system configuration policy objectives that Council adopted in

2016. The staff report to Ordinance No. 19-1434 provides a fuller description of these expected policy outcomes, and is summarized again in this staff report.

POLICY QUESTION

Should the Metro Council grant the Chief Operating Officer authority to amend the NSL for Gresham Sanitary Service to (1) increase the amount of waste that the facility may transport to align it with its franchise tonnage allocation and (2) add Finley Buttes Landfill as a backup disposal site option in calendar year 2019 according to the provisions of Metro Code Chapter 5.05.140 and as described in the resolution?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Approve the resolution as proposed to authorize the Chief Operating Officer to amend the NSL to increase the tonnage authorization up to 49,000 tons or otherwise align the limit with the franchise tonnage allocation and add Finley Buttes Landfill as a backup disposal site option during unusual circumstances and emergency situations for 2019.
2. Amend the resolution to grant a different tonnage authorization and disposal site other than that requested by the applicant.
3. Do not approve the resolution.

STAFF RECOMMENDATIONS

Provided Metro Council approves the franchise tonnage allocation increase in Ordinance No. 19-1434, staff would also recommend adoption of Resolution No. 19-4980 to authorize the Chief Operating Officer to increase the non-system license tonnage limit to align with the franchise tonnage allocation and add Finley Buttes Landfill as a backup disposal site option. If Council approves this resolution, the new tonnage authorization will become effective during the calendar year and will apply to 2019 in its entirety.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

NSLs are the main vehicles by which Metro manages the flow of solid waste transported to facilities located outside the Metro regional boundary because they allow Metro to closely monitor and potentially guide waste flows to authorized facilities for faster response to changing conditions. Metro and Waste Management are parties to a disposal contract through the end of 2019 that requires Metro to deliver 87 percent of the region's putrescible waste, that is delivered to a general purpose landfill during the calendar year, to a landfill owned by Waste Management (the "flow guarantee"). This proposed NSL covers a portion of the 13 percent of uncommitted waste not guaranteed to Waste Management under the disposal contract because neither Wasco County Landfill nor Finley Buttes Landfill are Waste Management owned landfills. Over the last several years, Metro has allocated proportional shares of its uncommitted tonnage to licensees based on Metro's solid waste tonnage forecast.

On July 21, 2016, the Metro Council adopted a transfer system configuration policy. the configuration policy shifts Metro away from its current "tonnage cap" approach, in which the Metro Council establishes annual facility tonnage limits as described above, to a more systematic and predictable "tonnage allocation" system, in which tonnage authority is

proportionally allocated to privately owned stations each year beginning in 2020. Staff is developing the detailed methodology for future tonnage allocations for adoption as administrative rules later this year, which will be effective in 2020. The proposed increase to authorize Gresham Sanitary Service to transport up to 49,000 tons is intended only for calendar year 2019. In the future, Metro will determine and adjust tonnage allocations for all privately-owned transfer stations in the region, including Gresham Sanitary Service, by applying a percentage-based allocation methodology currently being developed using the allocation framework that Metro Council adopted in November 2018. This tonnage allocation methodology will inform any future non-system license authorizations.

This resolution is complimentary to the proposed Ordinance No. 19-1434, which is consistent with Metro's transfer system configuration policy and the 2030 Regional Waste Plan (goals 12, 13, 16, and 18) because it promotes efficient off-route travel which reduces environmental impacts (goal 12), continues to support investment in the host community by way of the Community Enhancement Grant program (goal 13), implements the configuration policy (goal 16.7), and supports a small, locally-based business that is part of the region's solid waste system (goal 18).

Known Opposition/Support/Community Feedback

There is no known opposition to the proposed amendments to the NSL.

Legal Antecedents

Metro Code Chapter 5.05, entitled "Solid Waste Flow Control." Specifically, section 5.05.140 states the factors to consider regarding NSL issuance:

- (1) Wasco County Landfill and Finley Buttes Landfill are well known to Metro. They are both permitted Subtitle D disposal sites under the Resource Conservation and Recovery Act (RCRA), which establishes national landfill standards. The environmental risk associated with the use of this disposal site is regulated by the appropriate local and state authorities. It has been Metro's practice to rely on the local land use authority and the state environmental agency to determine whether environmental or human health risks posed are known, reasonable and appropriate.
- (2) Metro staff's investigation of this company has revealed a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations.
- (3) The landfills use operational practices and management controls that are typical of RCRA Subtitle D landfills. DEQ staff considers the operational practices and controls in place at this landfill appropriate for the proper management and disposal of waste and adequate for the protection of health and the environment.
- (4) The proposed license authorizes the transport and disposal of putrescible solid waste, which currently has limited recovery potential. The license puts no long-term constraint on the waste if recovery alternatives emerge for the region. Thus, approval of the proposed license extension is not expected to impact the region's recycling and waste reduction efforts.
- (5) As previously explained above, Metro and Waste Management are parties to a disposal contract that includes a flow guarantee. NSLs are the main vehicles by which Metro manages this contractual obligation. This proposed NSL controls a

portion of the uncommitted waste not guaranteed to Waste Management under the disposal contract. Metro's contract with Waste Management expires at the end of 2019. Provisions in the NSL allow Metro to monitor compliance with its disposal contract.

- (6) Gresham Sanitary Service is currently in compliance with its Metro-issued franchise and NSLs. It has not had any compliance issues with regard to Metro requirements or other regulations related to public health, safety, or the environmental during the term of the current license.
- (7) The COO finds that it is in the public's interest to increase the tonnage authorization in order to align it with Gresham Sanitary Service's proposed franchise tonnage allocation and to the facility with flexibility to use alternate disposal sites if it is otherwise unable to transport waste to Wasco County Landfill. With the exception of the above-mentioned amendments, the proposed license carries forward the current license conditions.

Anticipated Effects

Adoption of Resolution No. 19-4980 will authorize an increase from 23,687 to 49,000 tons for Gresham Sanitary Service and add Finley Buttes Landfill as a disposal option in unusual circumstances and emergency situations for calendar year 2019. If the proposed resolution is adopted, the amended non-system license is effective upon issuance. Upon adoption, the tonnage authorization of 49,000 tons applies to calendar year 2019 in its entirety.

Financial Implications (current year)

As set forth in Metro's contract for disposal of solid waste with Waste Management, the more solid waste that Metro directs to a Waste Management-owned landfill, the cheaper the disposal price is per ton for Metro's transfer stations (aka the "declining block rate"). As mentioned earlier, the Waste Management disposal contract mandates that Metro allocate *at least* 87 percent of the region's solid waste to a Waste Management landfill (primarily Columbia Ridge Landfill). Thus, Metro may allocate up to 13 percent to a non-Waste Management landfill. This 13 percent is sometimes referred to as the "uncommitted" waste because it is not committed to a Waste Management landfill, and Metro allocates this waste to other disposal sites via a NSL.

When Metro authorizes the transport of waste to a non-Waste Management owned landfill, this increases the tip fee at Metro's transfer stations because Metro must pay more, per ton, to dispose of Metro South and Metro Central's waste at a Waste Management landfill. As previously explained, the proposed Gresham Sanitary Services license allocates a portion of the 13 percent uncommitted waste to Wasco County Landfill and Finley Buttes Landfill, which are not owned by Waste Management.

Metro generally factors the uncommitted waste allocated by NSLs into its budget when setting Metro transfer station rates. However, Gresham Sanitary Service's proposed tonnage increase was not included in the forecast for FY2019-20, nor factored into the FY2018-19 rates. This would have resulted in an increase of approximately \$0.50 per ton to the mixed solid waste fee charged at Metro Central and Metro South (based on Metro's increased costs to dispose of its waste at Columbia Ridge Landfill). However, any shortfall

this fiscal year can be recouped by Metro by adjusting its tonnage charge for mixed solid waste in FY2020-21. Additionally, all of the waste authorized under the proposed NSL will continue to be subject to Metro's regional system fee and excise tax.

BACKGROUND

The applicant, Gresham Sanitary Service, Inc. is a partner company of GSS Transfer, LLC. - a local, family-owned waste collection business established in 1948.

Currently, Gresham Sanitary Service collects waste from its routes in small trucks and transports it to its facility for consolidation and top-loading into transfer trailers. The consolidated waste is then transported to a landfill for disposal, primarily Wasco County Landfill. Gresham Sanitary Service also holds NSL No. N-019-17(2)B which authorizes it to transport up to 23,687 tons of putrescible waste in calendar year 2019 to Columbia Ridge Landfill and during certain unusual circumstances and emergency situation, to Coffin Butte Landfill. Both NSLs expire on December 31, 2019, and no changes are being proposed to N-019-17(2)B. Approving the increased tonnage authorization for this NSL does not increase the total tonnage that the Gresham Sanitary Service is authorized to accept under its Metro solid waste facility franchise.

The applicant seeks to continue its current practice of consolidating putrescible waste from its collection routes at its facility, but seeks increased tonnage authorization and flexibility in landfill disposal allowances for a more sustainable operation, to expand its operation to allow third-party haulers, and avoid the added costs of travel time and tipping fees using other transfer stations.

ATTACHMENTS

- A. Exhibit A to Resolution No. 19-4980: Draft Non-System License No. N-019-16F