

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)	RESOLUTION NO. 21-5223
CHIEF OPERATING OFFICER TO ISSUE A)	
RENEWED NON-SYSTEM LICENSE JOINTLY)	Introduced by Chief Operating Officer
TO WILLAMETTE RESOURCES, INC. AND)	Marissa Madrigal in concurrence with
REPUBLIC SERVICES OF CLACKAMAS AND)	Council President Lynn Peterson
WASHINGTON COUNTIES FOR TRANSPORT)	
OF COMMERCIAL FOOD WASTE AND YARD)	
DEBRIS MIXED WITH RESIDENTIAL FOOD)	
WASTE TO THE PACIFIC REGION COMPOST)	
FACILITY LOCATED IN BENTON COUNTY,)	
OREGON)	

WHEREAS, Metro Code Chapter 5.05 requires a non-system license (“NSL”) of any person that transports solid waste generated from within the Metro Region to a non-system disposal facility; and

WHEREAS, Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties (collectively “Republic”) jointly hold Metro NSL No. N-005-17(4)B that expires on December 31, 2021, and authorizes the transport of source-separated commercial food waste and yard debris mixed with residential food waste to Pacific Region Compost, which is a non-system solid waste facility located in Benton County, Oregon; and

WHEREAS, the NSL issued to Republic was originally scheduled to expire on December 31, 2019, but the Chief Operating Officer extended the term for an additional six months to expire June 30, 2020 as authorized by Metro Code Chapter 5.05; and

WHEREAS, on March 24, 2020, Governor Brown issued Executive Order 20-12 (“Stay Home, Save Lives”) in response to the COVID-19 global pandemic; and

WHEREAS, in response to the disruption caused by the COVID-19 pandemic, the Metro Council passed Resolution No. 20-5104 in May 2020 authorizing the COO to extend the term of this NSL for an additional 18 months to expire on December 31, 2021; and

WHEREAS, Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties filed a complete application in August 2021 seeking a renewed non-system license to deliver commercial food waste and yard debris mixed with residential food waste to Pacific Region Compost 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 Metro Code Section 5.05.140; and

WHEREAS, the Chief Operating Officer recommends that Metro issue a renewed 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,

BE IT RESOLVED that the Metro Council:

1. Approves the non-system license application of Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. Authorizes the Chief Operating Officer 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 with a term of two years.

ADOPTED by the Metro Council this 9th day of December 2021.



Lynn Peterson, Council President

Approved as to Form:



Carrie MacLaren, Metro Attorney



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

METRO SOLID WASTE FACILITY NON-SYSTEM LICENSE

No. N-005-22(4)

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

ISSUED BY METRO:

Pamela C. Peck
Policy and Compliance Program Director

Date



1	NATURE OF WASTE COVERED BY LICENSE
	<ol style="list-style-type: none"> 1. Source-separated, commercial food waste and yard debris mixed with residential food waste that is generated within the Metro boundary and received at Willamette Resources, Inc. in accordance with its Metro solid waste facility franchise; and 2. Source-separated, commercial food waste and yard debris mixed with residential food waste that is generated within the Metro boundary and collected by Republic Services of Clackamas and Washington Counties.
2	CALENDAR YEAR TONNAGE LIMITATION
	The licensee is authorized to transport to the non-system facility listed in Section 3 up to 25,000 tons per calendar year of the waste described in Section 1.
3	NON-SYSTEM FACILITY
	<ol style="list-style-type: none"> 1. The licensee is authorized to transport the waste described in Section 1 to the following non-system facility for processing and composting: <ul style="list-style-type: none"> Pacific Region Compost Facility 29969 Camp Adair Road Corvallis, OR 97330 2. 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, Benton County or other local government agency that this non-system facility is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 10.
4	TERM OF LICENSE
	January 1, 2022 to December 31, 2023, unless amended, suspended, revoked or terminated as provided in this license.
5	COVERED LOADS
	The licensee must suitably contain and cover, on all sides, all loads of the waste described in Section 1 that are transported under authority of this license to the non-system facility listed in Section 3 to prevent spillage of waste while in transit.
6	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.



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> <ol style="list-style-type: none"> 1. The non-system facility must accept all solid waste that is transported under authority of this license for the sole purpose of processing and composting on-site. The licensee must not dispose of any source-separated recyclable material, except as provided in Section 8; and 2. The non-system facility must receive, manage, process, and compost 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> <ol style="list-style-type: none"> 1. The waste described in Section 1 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 in accordance with Metro Code Chapters 5.02 and 7.01. 2. If the licensee 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 licensee must pay to Metro an amount equal to the: <ol style="list-style-type: none"> (a) Regional system fee, as provided in Metro Code Chapter 5.02, for each ton or portion thereof of waste transported to the non-system facility that is ultimately transported to a disposal site. (b) Excise tax, as provided in Metro Code Chapter 7.01, for each ton or portion thereof of waste transported to the non-system facility that is ultimately delivered to a disposal site.
9	RECORD KEEPING AND REPORTING
	<ol style="list-style-type: none"> 1. The licensee must keep and maintain accurate records of the amount of all waste that the licensee transports to the non-system facility listed in Section 3. These records 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>. 2. The licensee must submit to Metro the records required under Section 9.1 in an electronic format prescribed by Metro no later than fifteen days following the end of each month. 3. The licensee must make available to Metro (or Metro's designated agent) all records from which Section 9.1 is derived for its inspection or copying or both, as long as Metro provides at least three business days written notice of an intent to inspect or copy documents. 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>4. Metro may require the licensee to report the information required by this section on a weekly or daily basis.</p> <p>5. If the licensee fails to submit the records or payments to Metro by the timeline set forth in Section 9, each day by which the licensee exceeds the due date may constitute a separate violation subject to a penalty of up to \$500 per violation, in accordance with Metro Code Chapter 5.05.</p>
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10	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license is subject to the following conditions:</p> <ol style="list-style-type: none"> 1. 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. 2. This license is subject to amendment, suspension, revocation or termination by Metro in the event that Metro determines that: <ol style="list-style-type: none"> (a) There has been sufficient change in any circumstances under which Metro issued this license; (b) Metro's solid waste system or the public will benefit from, and will be better served by, transporting the waste described in Section 1 to a facility other than those listed in Section 3; (c) 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 7; (d) The non-system facility listed in Section 3 does not control and minimize odors that are detectable off-site; or (e) The Metro Council adopts legislation or other policy which affects food waste management practices in the region. 3. In addition to subsections 10.2(a) through (e), Metro may amend, suspend, revoke or terminate this license pursuant to the Metro Code. 4. The licensee cannot transfer or assign any right or interest in this license without Metro's prior written approval. 5. This license is subject to amendment or termination by Metro upon the execution of a designated facility agreement with a facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1. 6. This license authorizes transport of solid waste only to the facility listed in Section 3. Transfer 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. 7. Metro 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 Metro is effective immediately. 8. If the licensee exceeds the calendar year authorization set forth in Section 2, each ton or portion thereof by which the licensee exceeds the limitation constitutes a separate violation subject to a penalty of up to \$500, in accordance with Metro Code Chapter 5.05.



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 rules adopted pursuant to Metro Code Chapter 5.05 whether or not those provisions have been specifically mentioned or cited in this license. 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 shall be deemed part of this license as if specifically set forth.</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 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 litigation is commenced, during litigation or on appeal.</p>

IN CONSIDERATION OF RESOLUTION NO. 21-5223 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 AND YARD DEBRIS MIXED WITH RESIDENTIAL FOOD WASTE TO THE PACIFIC REGION COMPOST FACILITY LOCATED IN BENTON COUNTY, OREGON

Date: 11/22/2021
Department: WPES
Meeting Date: 12/09/2021

Prepared by: Joanna Dyer, 503-813-7550,
joanna.dyer@oregonmetro.gov

ISSUE STATEMENT

Willamette Resources, Inc. (WRI) and Republic Services of Clackamas and Washington Counties (Republic) seek to renew their joint non-system license to transport commercial food waste and yard debris mixed with residential food waste generated in the Metro region to the Pacific Region Compost Facility (PRC) located in Benton County, Oregon for composting. Metro Code Section 5.05.160 requires that the Metro Council approve or deny a non-system license application for putrescible waste.

ACTION REQUESTED

Adopt Resolution No. 21-5223 which will authorize the Chief Operating Officer (COO) to issue a renewed non-system license jointly to WRI and Republic with a term of two years.

IDENTIFIED POLICY OUTCOMES

Adoption of this resolution will authorize WRI and Republic to continue to transport commercial food waste and yard debris mixed with residential food waste to PRC for composting and will enable Metro to continue to track the amount and types of putrescible waste being transported out of the Metro region.

POLICY QUESTION(S)

Should the Metro Council approve Republic's NSL application and grant the COO authority to issue a renewed non-system license to WRI and Republic to transport commercial food waste and yard debris mixed with residential food waste to PRC in Benton County for composting, according to the provisions of Metro Code 5.05.160 and as described in Resolution No. 21-5223?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Adopt Resolution No. 21-5223 as proposed to authorize the COO to issue a renewed non-system license jointly to WRI and Republic to transport commercial food waste and yard debris mixed with residential food waste to PRC in Benton County for composting.
2. Amend Resolution No. 21-5223 to renew the non-system license with different conditions other than those recommended by staff.

3. Do not adopt Resolution No. 21-5223.

STAFF RECOMMENDATIONS

Staff recommends that Council adopt Resolution No. 21-5223 to authorize the COO to issue a renewed NSL jointly to WRI and Republic to transport commercial food waste and yard debris mixed with residential food waste to PRC in Benton County for composting. If Council adopts this resolution, the renewed non-system license (No. N-005-22(4)) will become effective on January 1, 2022 with a term of two years.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

NSLs are the main authorizations by which Metro manages the flow of solid waste transported to facilities located outside of the Metro jurisdictional boundary because they allow Metro to closely monitor and potentially guide waste flows to authorized facilities.

KNOWN OPPOSITION / SUPPORT / COMMUNITY FEEDBACK

There is no known opposition to the proposed NSL.

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 to approve an NSL application, the Metro Council will consider the following factors:

- (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 proposed NSL authorizes the transport of commercial food waste and yard debris mixed with residential food waste to PRC, 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 environmental risk from the use of this facility is presumed to be minimal because it is fully regulated and monitored 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) 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;*

Metro staff's investigation of the destination facility 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. PRC is permitted by the Department of Environmental Quality (DEQ permit No. 1418). DEQ has indicated that the facility is in compliance with its permit requirements. Additionally, PRC

operates under a franchise agreement with Benton County. PRC self-reported receiving and responding to 32 odor notices from community members in 2019 and 25 and 2020 ([Coffin Butte Landfill and Pacific Region Compost Annual Report 2020](#)). Benton County staff report that the facility is compliance with the terms of its franchise agreement and has not issued any enforcement actions between January 2019 and September 2021.

(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 and a franchise agreement with Benton County. The facility manages all of the waste it receives, including commercial food waste, in accordance with the requirements of its DEQ-issued permit and franchise agreement.

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

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;

This proposed license will not affect Metro's existing contractual agreements.

(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 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.

ANTICIPATED EFFECTS

Adoption of Resolution No. 21-5223 will authorize the Chief Operating Officer to issue a renewed NSL jointly to WRI and Republic to transport up to 25,000 tons per calendar year of commercial food waste and yard debris mixed with residential food waste to PRC for composting.

FINANCIAL IMPLICATIONS

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 disposal, there will be some impact in the current fiscal year to Metro's tonnage charge, enhancement fee, and solid waste fee and tax revenues.

The source-separated food waste that will be transported 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.

BACKGROUND

Republic Services Inc., a waste management company headquartered in Phoenix, Arizona, is the parent company of WRI, Republic and PRC. WRI and Republic have transported waste to PRC under Metro authorization since 2009. The term of the current non-system license originally commenced on January 1, 2018 and was originally scheduled to expire on December 31, 2019, but the COO extended the term for six additional months as allowed per Metro Code Section 5.05.170(5)(D).

In March 2020, the standard renewal process for this NSL was disrupted when the World Health Organization declared COVID-19 a global pandemic and Governor Brown issued Executive Order 20-12 ("Stay Home, Save Lives"). Rather than requiring WRI and Republic to submit a renewal application at a time when the health and economic repercussions of the pandemic were still unknown, in May 2020, the COO recommended and Council approved an 18-month term extension with an expiration date of December 31, 2021 (Resolution No. 20-5104).

Though current policy does not require a compost facility to be designated to receive Metro area waste, in April 2021, Metro Council approved the designation of three compost facilities (Recology Organics in Aumsville, Recology Organics in North Plains and Dirt Hugger in Dallesport, Washington; Resolution No. 21-5167). PRC has not applied to become a designated facility and therefore WRI and Republic must apply for a renewed NSL to continue to transport waste to PRC.

On August 20, 2021, WRI and Republic submitted an application requesting renewal of their joint NSL along with the \$50 application fee. The application was complete on August 26, 2021. The current NSL authorizes WRI and Republic to transport up to 20,000 tons per calendar year of commercial food waste and yard debris mixed with residential food waste to PRC and up to 10,000 tons of food waste per calendar year to Recology Organics Aumsville. In its renewal application, the licensee requested a 25,000 ton per calendar limit for waste transported to either facility. As mentioned previously, Recology Organics Aumsville has been designated by Metro Council and the COO believes a Designated Facility Agreement will be in place by the end of the 2021. Therefore the proposed NSL only

includes the authorization to transport waste to PRC, as once a DFA is in place with Recology Organics Aumsville, an NSL will not be required to transport Metro area waste to that facility.

The licensee has transported 14,341 tons of food waste to PRC in 2018, 14,409 tons in 2019, 20,174 tons in 2020 and 13,041 tons from January through September 2021. The licensee has not transported any waste to Recology Organics Aumsville over the term of the current NSL, which expires on December 31, 2021.

ATTACHMENTS

- A. Exhibit A to Resolution No. 21-5223: Draft non-system license No. N-005-22(4).