

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)	RESOLUTION NO. 22-5294
CHIEF OPERATING OFFICER TO ISSUE A)	
NEW NON-SYSTEM LICENSE TO COR)	Introduced by Chief Operating Officer
DISPOSAL, LLC FOR TRANSPORT OF)	Marissa Madrigal in concurrence with
COMMERCIAL FOOD WASTE TO THE ANNEN)	Council President Lynn Peterson
BROS., INC. COMPOST FACILITY LOCATED)	
IN MARION 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 facility; and

WHEREAS, COR Disposal, LLC filed a complete application seeking a new non-system license to transport commercial food waste to Annen Bros., Inc. for composting 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 an application for a non-system license for putrescible waste and that the Metro Council will approve or deny the application; 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 new non-system license to COR Disposal, LLC 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 COR Disposal, LLC subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. Authorizes the Chief Operating Officer to issue to COR Disposal, LLC a new non-system license substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 8th day of December 2022.



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-057-22

LICENSEE:
COR Disposal, LLC 4530 NE 138 th Ave. Portland, OR 97230
CONTACT PERSON:
Alando Simpson Phone: 503-285-9940 Email: alando@cordr.com
MAILING ADDRESS:
COR Disposal, LLC PO Box 301427 Portland, OR 97294

ISSUED BY METRO:

Pamela C. Peck
Policy and Compliance Program Director

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Source-separated commercial food waste generated within the Metro Area and collected by COR Disposal, LLC.
2	CALENDAR YEAR TONNAGE LIMITATION
	The licensee is authorized to transport to the non-system facility listed in Section 3 up to 5,000 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: Annen Bros., Inc. 14358 Dominic Road NE Mt. Angel, OR 973622. 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, Marion 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
	December 1, 2022 to November 30, 2025, 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
	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:



	<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.
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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 is exempt from regional system fee and excise tax in accordance with Metro Code Chapters 5.02 and 7.01, provided that it is delivered under authority of this license and is accepted and composted at the non-system facility listed in Section 3 in accordance with all applicable regulations. 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. 4. Metro may require the licensee to report the information required by this section on a weekly or daily basis. 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.
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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 is subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility. 2. Metro may amend, suspend, revoke, or terminate this license 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 the one 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 Metro Code. 4. The licensee cannot transfer or assign any right or interest in this license without Metro's prior written approval. 5. Metro may amend or terminate this license 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
	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.
12	INDEMNIFICATION
	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.

IN CONSIDERATION OF RESOLUTION NO. 22-5294 FOR THE PURPOSE OF
AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM
LICENSE TO COR DISPOSAL, LLC FOR TRANSPORT OF COMMERCIAL FOOD WASTE
TO THE ANNEN BROS., INC. COMPOST FACILITY LOCATED IN MARION COUNTY,
OREGON

Date: Nov. 9, 2022
Department: WPES
Meeting Date: Dec. 1, 2022

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

ISSUE STATEMENT

COR Disposal, LLC (COR Disposal) is requesting a new Metro Solid Waste Facility Non-System License (NSL) to transport up to 5,000 tons per calendar year of source-separated commercial food waste generated within the Metro Area to the Annen Bros., Inc. compost facility (Annen Bros.) located in Marion County, Ore. for composting. Metro Code Section 5.05.160 requires that the Metro Council approve or deny an NSL application for putrescible waste.

ACTION REQUESTED

Approve Resolution No. 22-5294 which will authorize the Chief Operating Officer (COO) to issue a new NSL to COR Disposal, LLC for a term of three years.

IDENTIFIED POLICY OUTCOMES

Adoption of this resolution will authorize COR Disposal to transport source-separated commercial food waste generated in the Metro Area to Annen Bros. for composting and will enable Metro to track the amount and types of putrescible waste transported out of the Metro Area. Metro has a longstanding practice of allowing the transport of food waste generated in the Metro Area to permitted compost facilities located outside of the region provided that the transporter applies for and receives Metro authorization.

POLICY QUESTION

Should Metro Council approve COR Disposal's application and grant the COO authority to issue a new NSL to COR Disposal to transport source-separated commercial food waste to Annen Bros. in Marion County for composting, according to the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control", as described in Resolution No. 22-5294?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Adopt Resolution No. 22-5294 as proposed to authorize the COO to issue a new NSL to COR Disposal to transport source-separated commercial food waste to Annen Bros. in Marion County for composting.
2. Amend Resolution No. 22-5294 to issue the NSL with different conditions other than those recommended by staff.

3. Do not adopt Resolution No. 22-5294.

STAFF RECOMMENDATION

Staff recommends Metro Council adopt Resolution 22-5294 to authorize the COO to issue a new NSL to COR Disposal to transport source-separated commercial food waste to Annen Bros. in Marion County for composting, with a three-year term.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Food waste is the single largest portion of our garbage. As food decomposes in landfills, it creates methane, a powerful greenhouse gas that contributes to climate change. For more than 15 years, Metro and local communities have taken steps to keep food waste out of landfills and put it to better use. Currently, commercial food waste generated by participating restaurants, grocery stores and other businesses in the Metro Area is transported to food waste processing facilities or compost facilities located in Albany, Aumsville, and Benton County, Ore., and Klickitat County, Wash. In July 2018, the Metro Council approved Ord. No. 18-1418 which amended Metro Code Chapter 5.10 to establish a Business Food Waste Requirement which requires city and county governments to ensure that food waste collection services are available to businesses in their communities. After a two-year delay due to the COVID pandemic, implementation of the requirement began on March 31, 2022, and includes businesses that generate more than 250 pounds of food waste per week.

Metro will continue to evaluate NSL applications proposing to transport food waste to processing facilities that are not currently part of Metro's solid waste system. NSLs are the main authorizations by which Metro manages the flow of solid waste transported to facilities located outside of the Metro Area 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 those wastes pose a future risk of environmental contamination;*

Metro has not previously considered an NSL to use the proposed facility. Metro obtained information about the site history from DEQ and the facility operator. Staff performed a site inspection at Annen Bros. on Sept. 26, 2022, to learn more about the facility's operations.

Annen Bros. is an active hazelnut farm, and the compost facility is located on farm property. The facility uses an aerated static pile compost system that was originally built in 2012. At that time, Annen Bros. functioned as a hops farm and primarily composted the hop waste from its farming operation on site. The farm has since transitioned away from growing hops, and the hazelnut farm produces less agricultural waste that can be used as feedstock. The facility currently receives feedstocks on an irregular basis from three main sources: yard debris from DeSantis Landscape, horse manure and bedding from various farms in Wilsonville, and agricultural waste from local farms. Regarding any known risk of environmental contamination, the facility operator reported to staff during the site visit that clopyralid was detected last year in horse manure received at the facility. The facility did not market any of the compost produced from this feedstock for use off-site. Clopyralid is a persistent herbicide that is primarily used on agricultural land and is commonly found in manure because of the hay or grain fed to animals. The facility has implemented measures to address potential clopyralid contamination in the future by keeping incoming manure separate from other feedstocks, and segregating and storing clopyralid-contaminated finished compost for an extended period to allow any clopyralid to degrade. This practice is approved by DEQ. Staff is not aware of any other waste materials received at the facility that may have posed a potential risk of environmental contamination.

The proposed NSL would authorize the applicant to transport source-separate food waste to the facility which does not pose a risk of clopyralid contamination.

(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 destination facility revealed a good record of compliance with DEQ. Annen Bros. holds a Composting Facility Registration permit issued by DEQ (permit No. 1510). DEQ evaluates the level of risk in three areas to determine the type of permit to issue: potential to pollute groundwater, potential to pollute surface water, and potential odor impact to neighbors. DEQ issues registration permits to compost facilities that are considered low risk in all three areas.

The facility's current registration permit renewal was issued in July 2022 and expires on July 31, 2032. DEQ held a public comment period for the renewal and did not receive any comments. DEQ has indicated that the facility is in compliance with its permit requirements and that the facility is authorized to receive the type and amount of food waste proposed by the applicant. Metro staff notified Marion County of the proposed NSL to transport food waste to Annen Bros. and the County did not submit any comments.

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

As previously mentioned, Metro has not previously considered a non-system license for the proposed facility. The facility is regulated by DEQ and is required to adhere to certain performance standards as described in its Composting Facility Registration permit.

The facility does not routinely receive commercial food waste for composting at this time, but it is authorized by DEQ to do so. As the facility begins to receive this type of waste, the operator will likely need to adjust its operational practices to accommodate the material. In particular, the operator may need to increase its grinding frequency and improve equipment and vehicle access to its aerated pad. The facility owner would like to make improvements to the facility to allow for a more efficient operation resulting in higher volumes of throughput, but has had challenges with funding. Metro staff will continue to monitor the facility during the term of the proposed license and work closely with DEQ to identify and address an operational concerns or compliance issues that may arise.

In general, DEQ considers the facility to be low risk and finds that the facility has adequate operational practices and controls in place to receive and process the source-separated food waste under the proposed NSL.

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

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

As mentioned earlier in this report, implementation of Metro's Business Food Waste Requirement began in March 2022 with a focus on businesses that generate 250 pounds or more per week of food waste. While there is sufficient capacity for this waste within the existing composting system, the applicant is looking for innovative and alternative options that are more cost effective.

ANTICIPATED EFFECTS

Adoption of Resolution 22-5294 will authorize the Chief Operating Officer to issue a new NSL to COR Disposal to transport up to 5,000 tons of commercial food waste per calendar year to the Annen Bros. 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. Any time 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 commercial food waste that will be transported under authority of this proposed NSL will be exempt from the fee and tax because it will be composted. The diversion authorized under this proposed NSL has already been factored into Metro's rates and budget, as the waste is currently collected for composting which further reduces any fiscal impact of approving this license.

BACKGROUND

The applicant, COR Disposal, is a locally owned waste collection company located at 4530 NE 138th Ave. in Portland (Metro District 1). City of Roses Disposal and Recycling is the parent company of COR Disposal, LLC and CORE Recycling, which operates COR Transfer Station under Metro Solid Waste Facility Franchise No. F-057-19E. The applicant seeks a new NSL to transport commercial food waste generated within the Metro Area to Annen Bros., a non-system on-farm compost facility located at 14358 Dominic Rd NE in unincorporated Marion County. Metro Code Section 5.05.040 prohibits any person from transporting solid waste to a non-system facility without an appropriate license from Metro. The proposed NSL is subject to Metro Council approval because it involves putrescible waste.

Prior to receiving this application, Metro staff were not familiar with the Annen Bros. facility and visited the site on Sept. 26, 2022 to meet the operator and learn more about the facility and its operations. The composting facility was designed by Green Mountain Technologies and consists of an 0.8 acre concrete slab, of which 0.5 acre is aerated. The aerated pad is sloped so that leachate can collect in a trench drain, from which it is pumped into one of three 5,000-gallon tanks located along the side of the three-sided storage building adjacent to the pad. The aerated pad has a throughput capacity of 8,000 yards of

feedstock per batch, or 2,500 tons. This facility is not open to the public; however, the facility does have an operating scale on site. Annen Bros. currently has three main feedstocks: yard debris from DeSantis Landscape, horse manure and bedding from various farms in Wilsonville, and agricultural material from local farms. DeSantis Landscape is also affiliated with the Moda Center and referred Annen Bros. as a possible outlet for the venue's food waste. Feedstock generated at these offsite locations is seasonal, inconsistent, and varying (by volume). Because of this irregular flow, feedstocks are separated on site by type as they are received. Active compost piles are built to create an ideal ratio of carbon to nitrogen. Active piles remain on the pad for minimum of six weeks, at which point it can be moved off the pad to cure. Aeration and temperature are monitored to achieve consistency along each pile. Finished compost is screened down to a half inch in size and cured in a separate area of the property. The final screener is a rotating front-loader attachment that can only process a few yards at a time. The facility operator sends finished compost to labs to test for microplastics and clopyralid, a banned herbicide, and currently land-applies the finished compost on the farm's own fields.

To better understand the composition and management of the food waste prior to collection and transport, Metro staff visited the two current generators of the waste that the applicant has proposed to transport to Annen Bros. Both generators, the Moda Center and Providence Park, are sports/entertainment venues located in Portland. Both facilities separate pre-consumer food waste generated in prep-kitchens and place them into 60-gallon roll carts. Moda Center transfers this waste into a 10-yard compactor which is collected monthly, and at Providence Park, COR collects the waste directly from the rollcarts on an on-call basis, usually every 2 weeks.

On Aug. 5, 2022, COR submitted an application requesting a new NSL along with the \$50 application fee. The application was complete on Aug. 18, 2022. If approved, the NSL would be effective on December 1, 2022 and expire on November 30, 2025.