

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)	RESOLUTION NO. 23-5363
CHIEF OPERATING OFFICER TO ISSUE A)	
RENEWED NON-SYSTEM LICENSE TO)	Introduced by Chief Operating Officer
REPUBLIC SERVICES FOR TRANSPORT OF)	Marissa Madrigal in concurrence with
COMMERCIAL FOOD WASTE AND YARD)	Council President Lynn Peterson
DEBRIS MIXED WITH RESIDENTIAL FOOD)	
WASTE TO THE PACIFIC REGION COMPOST)	
FACILITY)	

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

WHEREAS, an NSL includes certain requirements to ensure that solid waste generated within the region is transported to an authorized facility and properly managed; and

WHEREAS, Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties jointly hold Metro NSL No. N-005-22(4) that expires on December 31, 2023, 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, Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties filed a complete application in August 2023 seeking a renewed NSL to transport 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 an application for an NSL for putrescible waste and that the Metro Council will determine whether to 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 renewed NSL 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 NSL 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 NSL substantially similar to the one attached as Exhibit A with a term of two years.

ADOPTED by the Metro Council this 7th day of December 2023.



Approved as to Form:

Lynn Peterson, Council President



Carrie MacLaren, Metro Attorney



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

METRO SOLID WASTE FACILITY NON-SYSTEM LICENSE

No. N-005-24(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:

Warren Johnson
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 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 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 determines that this non-system facility is not authorized to accept such waste, Metro may immediately amend, suspend or terminate this license pursuant to Section 10.
4	TERM OF LICENSE
	January 1, 2024 to December 31, 2025, unless amended, suspended, revoked or terminated as provided in this license.
5	COVERED LOADS
	To prevent spillage of waste while in transit, 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.
6	REPORTING OF ACCIDENTS AND CITATIONS
	The licensee must report to Metro within five business days any significant incidents (such as a fire), accident, or citation involving any vehicle 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 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 transported under the 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 report to Metro the records required under Section 9.1 no later than fifteen days following the end of each month in the form and format prescribed by Metro. An authorized representative of the licensee must certify that the report is accurate. 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.



	<ol style="list-style-type: none"> 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 Metro decision to direct the solid waste described in this license to any other facility. 2. Metro may amend, suspend, revoke or terminate this license pursuant to Metro Code 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. The licensee cannot transfer or assign any right or interest in this license without Metro's prior written approval. 4. 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. 5. 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. 6. 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. 7. If the licensee exceeds the calendar year limitation 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. 8. Unless otherwise specified, all terms are as defined in Metro Code Chapter 5.00. <ol style="list-style-type: none"> (a) "Food waste" means waste from fruits, vegetables, meats, dairy products, fish, shellfish, nuts, seeds, grains, coffee grounds, and other food that results from the distribution, storage, preparation, cooking, handling, selling or serving of food for human consumption. Food waste



	<p>includes but is not limited to excess, spoiled or unusable food and includes inedible parts commonly associated with food preparation such as pits, shells, bones, and peels. Food waste does not include liquids or large amounts of oils and meats which are collected for rendering, fuel production or other non-disposal applications, or any food fit for human consumption that has been set aside, stored properly and is accepted for donation by a charitable organization and any food collected to feed animals in compliance with applicable regulations.</p> <p>(b) "Residential Food Waste" means source-separated yard debris mixed with residential food waste from a curbside collection program adopted or otherwise authorized by a local government.</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. This includes all applicable Metro Code provisions and administrative rules regardless of whether this license specifically mentions or cites those provisions. 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. 23-5363 FOR THE PURPOSE OF
AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-
SYSTEM LICENSE TO REPUBLIC SERVICES FOR TRANSPORT OF COMMERCIAL
FOOD WASTE AND YARD DEBRIS MIXED WITH RESIDENTIAL FOOD WASTE TO
THE PACIFIC REGION COMPOST FACILITY

Date: 11/9/2023
Department: WPES
Meeting Date: 12/07/2023

Prepared by: Will Ennis
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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 source-separated 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 states that the Metro Council will determine whether to approve or deny a non-system license application for putrescible waste.

ACTION REQUESTED

Adopt Resolution No. 23-5363 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 source-separated 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 WRI's and Republic's joint NSL application and grant the COO authority to issue a renewed non-system license to WRI and Republic to transport source-separated 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. 23-5363?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Adopt Resolution No. 23-5363 as proposed to authorize the COO to issue a renewed non-system license jointly to WRI and Republic to transport source-separated commercial food waste and yard debris mixed with residential food waste to PRC in Benton County for composting.
2. Amend Resolution No. 23-5363 to issue the renewed non-system license with different conditions other than those recommended by staff.

3. Do not adopt Resolution No. 23-5363.

STAFF RECOMMENDATION

Staff recommends that Council adopt Resolution No. 23-5363 to authorize the COO to issue a renewed NSL jointly to WRI and Republic to transport source-separated 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-005-24(4)) will become effective on January 1, 2024 with a term of two years.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

NSLs allow Metro to closely monitor the region's solid waste to ensure that it is transported to authorized facilities and properly managed.

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 source-separated 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. Metro relies on the local land use authority and the state environmental agency to monitor the site and staff is not aware of any environmental or human health risks posed at the facility.

- (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. Benton County staff report that the facility is compliance with the terms of its franchise agreement and no enforcement actions were issued between January 2022 and September 2023. PRC self-reported receiving and responding to two odor notices from community members in 2022 and none in 2023 through October 25.

(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 for a composting facility 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. 23-5363 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

The proposed NSL covers source-separated commercial food waste and yard debris mixed with residential food waste that will be transported to PRC for composting. As such, the proposed waste is exempt from regional system fee and excise tax payments. This is the renewal of a longstanding NSL and the historical diversion of this material for composting has already been factored into Metro's fee-setting and budget. There are no expected financial implications resulting from the proposed 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 commenced on January 1, 2022 and is scheduled to expire on December 31, 2023.

On August 2, 2023, WRI and Republic submitted an application requesting renewal of their joint NSL along with the \$50 application fee. The application was deemed complete on August 8, 2023. The current NSL authorizes 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. In its renewal application, the licensee requested the same per calendar limit for waste transported to PRC. The licensee transported 16,580 tons of food waste to PRC in 2022, and 7,200 tons from January through September 2023.

As part of Metro's ongoing efforts to improve clarity and establish more uniform requirements, staff is proposing to include definitions describing "food waste" and "residential food waste" in the body of the NSL that will better align it with other Metro authorizations.

ATTACHMENTS

- A. Exhibit A to Resolution No. 23-5363: Draft non-system license No. N-005-24(4).