

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
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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 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).