

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 18-4926 AUTHORIZING THE CHIEF OPERATING OFFICER TO EXTEND THE TERM OF THE NON-SYSTEM LICENSE TO GRESHAM SANITARY SERVICE FOR TRANSPORT AND DISPOSAL OF PUTRESCIBLE WASTE AT THE WASCO COUNTY LANDFILL LOCATED IN WASCO COUNTY, OREGON

---

October 31, 2018

Prepared by: Warren Johnson  
(503) 797-1836

If the Metro Council approves Resolution No. 18-4926, it will authorize the Chief Operating Officer (COO) to issue an amended non-system license (NSL) to Gresham Sanitary Service to (1) extend the term of its NSL by one year to expire on December 31, 2019, and (2) authorize Gresham Sanitary Service to transport and dispose up to 23,687 tons per calendar year of putrescible waste at the Wasco County Landfill (Wasco) located in Wasco County, Oregon. The proposed license carries forward the current license conditions.

Gresham Sanitary Service is a locally-owned company that owns and operates a Metro-franchised solid waste transfer station located at 2131 NW Birdsdales Ave. in Gresham (Metro Council District 1).<sup>1</sup> Gresham Sanitary Service is also a franchised hauler that collects waste within the city of Portland, city of Gresham, and unincorporated Multnomah County.

## BACKGROUND

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 a higher level of control and 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").<sup>2</sup> This proposed NSL covers a portion of the 13 percent of uncommitted waste not guaranteed to Waste Management under the disposal contract.

Metro has a longstanding policy of allocating its uncommitted putrescible waste tonnage to applicants that request it. Over the last several years, Metro has allocated its uncommitted tonnage to licensees based on Metro's solid waste tonnage forecast and the amount of waste that each licensee controlled during the previous 12-month period. Metro would allocate a proportional share of the uncommitted tonnage to each licensee and release it during the year. Under that methodology, each licensee initially received 85 percent of its tonnage allocation at the beginning of the calendar year and Metro would hold the remaining 15 percent in reserve for potential release by the COO later if it was in the public's interest and the uncommitted tonnage was actually available as forecasted.

In 2017, Gresham Sanitary Service received an initial tonnage authorization of 10,426 tons for the calendar year. Gresham Sanitary Service subsequently requested an increased tonnage

---

<sup>1</sup> Metro Solid Waste Facility Franchise No. F-019-16A.

<sup>2</sup> Change Order No. 11 to Metro Contract No. 900607, October 1, 2018.

authorization and the COO adjusted the NSL tonnage limit up to 23,000 tons per year to align it with Gresham Sanitary Service's franchise tonnage allocation. In 2018, the COO granted a slightly larger NSL tonnage authorization of 23,687 tons per calendar year to match Gresham Sanitary Service's franchise allocation amount.

In addition to the above, Gresham Sanitary Service holds another NSL that separately authorizes the licensee to transport and dispose of putrescible waste at Columbia Ridge Landfill and, under certain unusual circumstances and emergency conditions, Coffin Butte Landfill.<sup>3</sup> Gresham Sanitary Service holds two NSLs to maintain flexibility for disposal site options. These NSLs do not increase the total tonnage that Gresham Sanitary Service is authorized to accept under its franchise.

The COO recommends that the Metro Council maintain the status quo and extend the term of Gresham Sanitary Service's NSL until December 31, 2019, and carry forward the same annual tonnage authorization of 23,687 tons for calendar year 2019 to align it with the franchise tonnage allocation.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

There is no known opposition to the proposed license extension. Although approval of Resolution No. 18-4926 would extend Gresham Sanitary Service's authorization to transport waste to Wasco, the proposed NSL does not obligate the landfill to accept Metro-area waste. Additionally, the proposed resolution does not limit Metro's ability to terminate the NSL if the landfill is unable or unwilling to accept this waste in the future.

### **2. Legal Antecedents**

Metro Code Section 5.05.040 prohibits any person from utilizing non-system facilities without an appropriate license from Metro. Additionally, Metro Code Section 5.05.140 provides that, when determining whether to approve an NSL, the Metro Council will consider the following factors to the extent relevant.

- (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;*

Wasco is well known to Metro. Wasco is owned and operated by Waste Connections, Inc., a nationally-integrated solid waste company headquartered in The Woodlands, Texas. The landfill is a permitted Subtitle D disposal site 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.

---

<sup>3</sup> Metro Non-System License No. N-019-17(2)A

- (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;*

Waste Connections, Inc. owns and operates Wasco. 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 adequacy of the non-system facility's operational practices and management controls;*

Wasco uses 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 expected impact on the region's recycling and waste reduction efforts;*

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) *The proposed non-system license's effect with Metro's existing contractual arrangements;*

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) *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*

Gresham Sanitary Service is currently in compliance with its Metro-issued franchise and NSL. It has not had any compliance issues with regard to Metro requirements or other regulations related to public health, safety, or the environment during the term of the current license.

- (7) *Any other factor the Chief Operating Officer considers appropriate.*

The COO finds that it is in the public's interest to extend the term of the current NSL by one year in order to align it with the term of Metro's disposal contract which expires on December 31, 2019, and to establish an annual tonnage authorization of 23,687 tons per calendar year to align it with Gresham Sanitary Service's franchise tonnage allocation. With the exception of the

above-mentioned amendments, the proposed license carries forward the current license conditions.

### **3. Anticipated/Potential Effects**

Approval of Resolution No. 18-4926 will authorize the COO to issue an amended NSL to Gresham Sanitary Service to extend the term of the license by one year to expire on December 31, 2019. The proposed NSL would authorize Gresham Sanitary Service to transport up to 23,687 tons per calendar year of putrescible waste to Wasco for disposal.

### **4. Budget/Rate Impacts**

The price that Metro pays for disposal at Columbia Ridge is a “declining block rate” — meaning that the more waste that is delivered to any landfill owned by Waste Management the lower the per-ton cost paid by Metro. In general, Metro’s longstanding practice of allocating the uncommitted tonnage to a non-Waste Management landfill increases the tip fee at Metro’s transfer stations more than if all of the uncommitted waste were to flow to a landfill owned by Waste Management. As previously explained, the proposed NSL covers a portion of the uncommitted waste that is not guaranteed under Metro’s disposal contract (i.e., 23,687 tons per year transported and disposed at Wasco).

Metro’s longstanding practice of granting NSLs for the uncommitted waste has already been factored into the budget. Additionally, all of the waste authorized under the proposed NSL will continue to be subject to Metro’s regional system fee and excise tax.

### **RECOMMENDED ACTION**

The COO recommends that the Metro Council approve Resolution No. 18-4926, finding that the proposed amendments to the NSL are in the public’s interest and satisfies the requirements of Metro Code Chapter 5.05. Approval of Resolution No. 18-4926 will authorize the COO to issue an amended NSL to Gresham Sanitary Service as attached to the resolution as Exhibit A.

wj