

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 19-1434 FOR THE PURPOSE OF APPROVING AN INCREASED TONNAGE ALLOCATION AND AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE AN AMENDED SOLID WASTE FACILITY FRANCHISE FOR GSS TRANSFER, LLC.

Date: March 21, 2019
Department: Property and Environmental Services
Meeting Date: April 4, 2019

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Presenters: Roy Brower and Hila Ritter
Length:

ISSUE STATEMENT

GSS Transfer, LLC, (partner company of Gresham Sanitary Service) a Metro-franchised transfer station located in the city of Gresham, seeks to increase the tonnage allocation authorized under its solid waste facility franchise. Metro Code Section 5.01.180 states that the Metro Council may determine whether to approve or deny an application for a solid waste franchise.

ACTION REQUESTED

Staff recommends approval of Ordinance 19-1434 which will authorize the Chief Operating Officer to amend the solid waste facility franchise for GSS Transfer, LLC to increase the amount of putrescible waste that the transfer station may accept in 2019. Approval of this ordinance will increase GSS Transfer's tonnage authorization from 23,687 tons to 49,000 tons for calendar year 2019.

IDENTIFIED POLICY OUTCOMES

Approval of this ordinance will support the goals of the 2030 Regional Waste Plan adopted by Metro Council on March 7, 2019, via Ordinance No. 19-1431.¹ It will also help achieve the transfer system configuration policy objectives that Council adopted in 2016 via Resolution No. 16-4716. The staff report to Ordinance 19-1434 provides a fuller description of these expected policy outcomes.

POLICY QUESTION

Does the Metro Council grant the Chief Operating Officer authority to amend the franchise for GSS Transfer to increase the amount of waste that the facility may accept in calendar year 2019 according to the provisions of Metro Code Chapter 5.01.230 and as described in the ordinance?

¹ Goals 12, 13, 16 and 18 as described in the strategic context section of this report.

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Approve the ordinance as proposed to authorize the Chief Operating Officer to amend the franchise to increase the tonnage authorization up to 49,000 tons for 2019.
2. Amend the ordinance to grant a different tonnage authorization than that requested by the applicant.
3. Do not approve the ordinance.

STAFF RECOMMENDATIONS

Staff recommends adoption of Ordinance No. 19-1434 to approve the increased tonnage allocation requested by the applicant. If Council approves this ordinance, the new tonnage allocation will become effective during the calendar year and will apply to 2019 in its entirety.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

The 2030 Regional Waste Plan, adopted by Metro Council on March 7, 2019, sets the policy direction to shape the future of the solid waste system to better attain public benefits and improved sustainability. A major component of this plan is to take a broad look at the role, configuration, and services offered by publicly and privately-owned transfer stations. Prior to this, on July 21, 2016, the Metro Council adopted a transfer system configuration policy. The primary objectives of the policy are to: 1) ensure that the region's transfer system provides maximum public benefit, 2) maintain the current configuration of publicly and privately-owned transfer stations, 3) ensure that an adequate amount of putrescible waste flows to publicly owned stations (at least 40 percent of the region's putrescible tons), 4) limit the amount of putrescible waste that any one company may accept for transfer within the region (no more than 40 percent), and 5) improve rate transparency. The configuration policy also seeks to promote efficient off-route transport of waste to reduce greenhouse gas and provide opportunities for small, locally based businesses to participate in the region's solid waste system.

In addition to the objectives above, the configuration policy shifts Metro away from its current "tonnage cap" approach, in which the Metro Council establishes annual facility tonnage limits, to a more systematic and predictable "tonnage allocation" system, in which tonnage authority is proportionally allocated to privately owned stations each year beginning in 2020. Staff is developing the detailed methodology for future tonnage allocations for adoption as administrative rules later this year, which will be effective in 2020. This proposed 49,000-ton allocation amount for GSS Transfer is intended only for calendar year 2019. In the future, Metro will determine and adjust tonnage allocations for all privately-owned transfer stations in the region, including GSS Transfer, by applying a percentage-based allocation methodology currently being developed using the allocation framework that Metro Council adopted in November 2018 under Ordinance No. 18-1426.

This proposed ordinance is consistent with Metro's transfer system configuration policy and the 2030 Regional Waste Plan (goals 12, 13, 16, and 18) because it promotes efficient off-route travel which reduces environmental impacts (goal 12), continues to support investment in the host community by way of the Community Enhancement Grant program

(goal 13), implements the configuration policy (goal 16.7), and supports a small, locally-based business that is part of the region's solid waste system (goal 18).

Known Opposition/Support/Community Feedback

Metro posted notice and provided an opportunity for the public to review and submit comments on the change of authorization application. A detailed description of the community response is provided in the *Public Comment Report* included as Attachment 2 to this staff report. Overall, the comments that Metro received indicated general support for the proposed tonnage increase requested by GSS Transfer for calendar year 2019.

In addition to posting the application for public review and comment, staff also attended a meeting of the Northwest Neighborhood Association (NWN) on January 28, 2019, to discuss GSS Transfer's application. As explained further in the *Public Comment Report*, NWN currently considers GSS Transfer's operations reasonable, but has some concerns about expanded transfer station operations. The city of Gresham staff supports the proposed increase at GSS Transfer because the facility's rates are on par with those at the publicly-owned transfer stations, and it allows their licensed haulers to increase route efficiencies which keep rates stable for its ratepayers.

Staff finds that GSS Transfer has a good compliance history and adequately demonstrated that it will appropriately manage the increased tonnage without creating negative off-site impacts. Staff finds it is in the public's interest to authorize an increased tonnage amount for GSS Transfer for calendar year 2019.

Legal Antecedents

Metro Code Chapter 5.01, entitled "Solid Waste Facility Regulation." Specifically, section 5.01.230(a)(3) states that a franchisee must submit an application to Metro when the franchisee requests to modify other limiting conditions of the applicant's franchise.

GSS Transfer submitted a complete change of authorization application to Metro on November 28, 2018, including the \$100 application fee.

Anticipated Effects

Adoption of Ordinance No. 19-1434 will authorize an increase from 23,687 to 49,000 tons for GSS Transfer for calendar year 2019. If the proposed ordinance is adopted, the amended franchise will become effective 90 days after the date of adoption. Upon adoption, the tonnage allocation of 49,000 tons applies to calendar year 2019 in its entirety.

Financial Implications (current year)

GSS Transfer is seeking a change of authorization to its franchise to increase the amount of waste it is authorized to accept by an additional 25,313 tons of putrescible waste for calendar year 2019. While approval of this ordinance is expected to reduce the amount of putrescible waste received at Metro's transfer stations, it is not expected to decrease Metro's share of the overall putrescible waste tonnage in the region by a commensurate amount. A portion of the tonnage that the applicant plans to divert from other transfer stations (including Metro Central and South) will likely be backfilled, at least in part, by the

subsequent shifting of tons in order to fully utilize the regional system. Notwithstanding, staff expects that Metro Central and South will experience a slight decrease in putrescible waste tonnage through direct diversion to GSS Transfer. Whenever Metro stations receive lower tonnage amounts, it results in higher per unit processing costs in the short term. Therefore, approval of the proposed ordinance is expected to impact Solid Waste Fund operating costs and revenues in the short term until rates are adjusted to account for future tonnage amounts. Furthermore, beginning in 2020, as part of Metro's tonnage allocation methodology, Metro will require that at least 40 percent of the region's putrescible waste tonnage flows to publicly owned transfer stations (Metro Central and South).

The full amount of GSS Transfer's proposed tonnage increase was not included in the forecast for FY2019-20, nor factored into the FY2018-19 rates. This would have resulted in an increase of approximately \$0.50 per ton to the mixed solid waste fee charged at Metro Central and South. Any shortfall this fiscal year can be recouped by Metro by adjusting its tonnage charge for mixed solid waste in FY2020-21.

Community enhancement committee in the city of Gresham could receive up to an additional \$25,313 per year under the proposed tonnage increase – for a total of up to \$49,000 for 2019. As a result of this action, the city of Troutdale enhancement committee might experience a reduction in funds based on potential tonnage shifts from Troutdale to Gresham. In addition, it is likely that the Metro Central and South community enhancement committees would also experience a reduction in fees from any tonnage diverted to other facilities.

Staff is developing an administrative rule that sets forth a detailed process for determining and adjusting future tonnage allocations. Staff notes that this prescribed tonnage allocation process, beginning in 2020, may result in a different, not yet determined, tonnage allocation for GSS Transfer.

BACKGROUND

The applicant, GSS Transfer, is a partner company of Gresham Sanitary Service, Inc. - a local, family-owned waste collection business established in 1948. Gresham Sanitary began operations as an "exempt" solid waste reload facility in 1992 at its base of operations located at 2131 NW Birdsedale Avenue in Gresham. In 2016, the Metro Council authorized Gresham Sanitary to expand its operations from simply reloading waste to other transfer stations, to becoming a franchised transfer station that transports waste directly to a landfill.² Gresham Sanitary has collected putrescible waste from residential and commercial customers within the city of Gresham, East Multnomah County, and the Port of Portland for nearly 30 years. Gresham Sanitary also holds a solid waste transfer station permit issued by the Oregon Department of Environmental Quality (DEQ) in 2016.³

Metro has conducted seven inspections of GSS Transfer during the term of the current franchise. GSS Transfer is currently in compliance with Metro's requirements and it has

² Ordinance No. 16-1391-A

³ Solid Waste Disposal Site Permit No. 1392

not had any compliance issues during the term of its current franchise. In addition, DEQ and city of Gresham staff have reported that there are no enforcement or compliance issues associated with this site.

Currently, Gresham Sanitary collects waste from its routes in small trucks and transports it to its facility for consolidation and top-loading into transfer trailers. The consolidated waste is then transported to a landfill for disposal, primarily Wasco County Landfill.

The applicant seeks to continue its current practice of consolidating putrescible waste from its collection routes at its facility, but seeks increased tonnage allocation to ensure a more sustainable operation, expand its operation to allow third-party haulers, and avoid the added costs of travel time and tipping fees using other transfer stations.

On November 28, 2018, the applicant submitted to Metro a complete solid waste facility change of authorization application accompanied by payment of the appropriate application fee. The applicant requested to both increase its annual franchise tonnage authorization from 23,687 tons to 49,000 tons and amend its non-system license (N-019-16E) to similarly increase the annual tonnage it is authorized to transport to Wasco County Landfill. The proposed non-system license amendment will be brought to Metro Council for consideration on April 11, 2019 under Resolution No. 19-4980.

ATTACHMENTS

- A. Exhibit A to Ordinance No. 19-1434: Draft Franchise No. F-019-16C
- B. Attachment 1 to Staff Report: Images
- C. Attachment 2 to Staff Report: Public comment report