

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 19-4980 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO AMEND THE NON-SYSTEM LICENSE FOR GRESHAM SANITARY SERVICE TO AUTHORIZE AN INCREASED TONNAGE LIMIT FOR TRANSPORT AND DISPOSAL OF PUTRESCIBLE WASTE AT WASCO COUNTY LANDFILL AND, UNDER CERTAIN UNUSUAL CIRCUMSTANCES, FINLEY BUTTES LANDFILL.

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Department: Property and Environmental  
Services  
Meeting Date: April 11, 2019

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Presenters: Staff is available for questions

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### ISSUE STATEMENT

Gresham Sanitary Service (partner company of GSS Transfer, LLC.), a Metro-franchised transfer station located in the city of Gresham, seeks to increase the amount of putrescible waste that it is authorized to transport and dispose at Wasco County Landfill. In addition, Gresham Sanitary Service seeks to use Finley Buttes Landfill as a backup disposal site option during certain unusual circumstances and emergency situations that would otherwise prevent the facility from transporting waste to Wasco County Landfill. This resolution, which addresses the transport and disposal of putrescible waste received at GSS Transfer, LLC, is a companion to Ordinance No. 19-1434 which the Metro Council will also consider at its meeting on April 11, 2019.

Metro Code Section 5.05.110(c) requires the Metro Council to approve or deny a non-system license (NSL) to transport putrescible waste.

### ACTION REQUESTED

Approve Resolution No. 19-4980 which will authorize the Chief Operating Officer (COO) to amend the NSL for Gresham Sanitary Service to align the tonnage limit authorized by its current NSL with the tonnage allocation authorized in its franchise. This action also adds Finley Buttes Landfill as a backup disposal site option for use during certain unusual circumstances and emergency situations. If Metro Council adopts companion Ordinance No. 19-1434, then Gresham Sanitary Services' NSL would be amended to increase the tonnage authorization from 23,687 tons to 49,000 tons for calendar year 2019.

### IDENTIFIED POLICY OUTCOMES

This proposed resolution addresses the transport and disposal of waste that the Metro Council will consider under companion Ordinance No. 19-1434 at its meeting on April 11, 2019. These proposed decisions align with the goals of the 2030 Regional Waste Plan and help achieve the transfer system configuration policy objectives that Council adopted in

2016. The staff report to Ordinance No. 19-1434 provides a fuller description of these expected policy outcomes, and is summarized again in this staff report.

### **POLICY QUESTION**

Should the Metro Council grant the Chief Operating Officer authority to amend the NSL for Gresham Sanitary Service to (1) increase the amount of waste that the facility may transport to align it with its franchise tonnage allocation and (2) add Finley Buttes Landfill as a backup disposal site option in calendar year 2019 according to the provisions of Metro Code Chapter 5.05.140 and as described in the resolution?

### **POLICY OPTIONS FOR COUNCIL TO CONSIDER**

1. Approve the resolution as proposed to authorize the Chief Operating Officer to amend the NSL to increase the tonnage authorization up to 49,000 tons or otherwise align the limit with the franchise tonnage allocation and add Finley Buttes Landfill as a backup disposal site option during unusual circumstances and emergency situations for 2019.
2. Amend the resolution to grant a different tonnage authorization and disposal site other than that requested by the applicant.
3. Do not approve the resolution.

### **STAFF RECOMMENDATIONS**

Provided Metro Council approves the franchise tonnage allocation increase in Ordinance No. 19-1434, staff would also recommend adoption of Resolution No. 19-4980 to authorize the Chief Operating Officer to increase the non-system license tonnage limit to align with the franchise tonnage allocation and add Finley Buttes Landfill as a backup disposal site option. If Council approves this resolution, the new tonnage authorization will become effective during the calendar year and will apply to 2019 in its entirety.

### **STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION**

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 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"). This proposed NSL covers a portion of the 13 percent of uncommitted waste not guaranteed to Waste Management under the disposal contract because neither Wasco County Landfill nor Finley Buttes Landfill are Waste Management owned landfills. Over the last several years, Metro has allocated proportional shares of its uncommitted tonnage to licensees based on Metro's solid waste tonnage forecast.

On July 21, 2016, the Metro Council adopted a transfer system configuration policy. the configuration policy shifts Metro away from its current "tonnage cap" approach, in which the Metro Council establishes annual facility tonnage limits as described above, 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. The proposed increase to authorize Gresham Sanitary Service to transport up to 49,000 tons 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 Gresham Sanitary Service, by applying a percentage-based allocation methodology currently being developed using the allocation framework that Metro Council adopted in November 2018. This tonnage allocation methodology will inform any future non-system license authorizations.

This resolution is complimentary to the proposed Ordinance No. 19-1434, which 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**

There is no known opposition to the proposed amendments to the NSL.

### **Legal Antecedents**

Metro Code Chapter 5.05, entitled "Solid Waste Flow Control." Specifically, section 5.05.140 states the factors to consider regarding NSL issuance:

- (1) Wasco County Landfill and Finley Buttes Landfill are well known to Metro. They are both permitted Subtitle D disposal sites 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.
- (2) 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 landfills use 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 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) 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) Gresham Sanitary Service is currently in compliance with its Metro-issued franchise and NSLs. It has not had any compliance issues with regard to Metro requirements or other regulations related to public health, safety, or the environmental during the term of the current license.
- (7) The COO finds that it is in the public's interest to increase the tonnage authorization in order to align it with Gresham Sanitary Service's proposed franchise tonnage allocation and to the facility with flexibility to use alternate disposal sites if it is otherwise unable to transport waste to Wasco County Landfill. With the exception of the above-mentioned amendments, the proposed license carries forward the current license conditions.

### **Anticipated Effects**

Adoption of Resolution No. 19-4980 will authorize an increase from 23,687 to 49,000 tons for Gresham Sanitary Service and add Finley Buttes Landfill as a disposal option in unusual circumstances and emergency situations for calendar year 2019. If the proposed resolution is adopted, the amended non-system license is effective upon issuance. Upon adoption, the tonnage authorization of 49,000 tons applies to calendar year 2019 in its entirety.

### **Financial Implications (current year)**

As set forth in Metro's contract for disposal of solid waste with Waste Management, the more solid waste that Metro directs to a Waste Management-owned landfill, the cheaper the disposal price is per ton for Metro's transfer stations (aka the "declining block rate"). As mentioned earlier, the Waste Management disposal contract mandates that Metro allocate *at least* 87 percent of the region's solid waste to a Waste Management landfill (primarily Columbia Ridge Landfill). Thus, Metro may allocate up to 13 percent to a non-Waste Management landfill. This 13 percent is sometimes referred to as the "uncommitted" waste because it is not committed to a Waste Management landfill, and Metro allocates this waste to other disposal sites via a NSL.

When Metro authorizes the transport of waste to a non-Waste Management owned landfill, this increases the tip fee at Metro's transfer stations because Metro must pay more, per ton, to dispose of Metro South and Metro Central's waste at a Waste Management landfill. As previously explained, the proposed Gresham Sanitary Services license allocates a portion of the 13 percent uncommitted waste to Wasco County Landfill and Finley Buttes Landfill, which are not owned by Waste Management.

Metro generally factors the uncommitted waste allocated by NSLs into its budget when setting Metro transfer station rates. However, Gresham Sanitary Service'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 Metro South (based on Metro's increased costs to dispose of its waste at Columbia Ridge Landfill). However, any shortfall

this fiscal year can be recouped by Metro by adjusting its tonnage charge for mixed solid waste in FY2020-21. Additionally, all of the waste authorized under the proposed NSL will continue to be subject to Metro's regional system fee and excise tax.

## **BACKGROUND**

The applicant, Gresham Sanitary Service, Inc. is a partner company of GSS Transfer, LLC. - a local, family-owned waste collection business established in 1948.

Currently, Gresham Sanitary Service 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. Gresham Sanitary Service also holds NSL No. N-019-17(2)B which authorizes it to transport up to 23,687 tons of putrescible waste in calendar year 2019 to Columbia Ridge Landfill and during certain unusual circumstances and emergency situation, to Coffin Butte Landfill. Both NSLs expire on December 31, 2019, and no changes are being proposed to N-019-17(2)B. Approving the increased tonnage authorization for this NSL does not increase the total tonnage that the Gresham Sanitary Service is authorized to accept under its Metro solid waste facility franchise.

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

## **ATTACHMENTS**

- A. Exhibit A to Resolution No. 19-4980: Draft Non-System License No. N-019-16F