

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 19-4981 FOR THE PURPOSE OF AMENDING THE NON-SYSTEM LICENSE FOR CITY OF ROSES DISPOSAL & RECYCLING, INC. TO INCREASE THE TONNAGE LIMIT FOR TRANSPORT AND DISPOSAL OF PUTRESCIBLE WASTE AT THE WASCO COUNTY LANDFILL AND, UNDER CERTAIN UNUSUAL CIRCUMSTANCES, COWLITZ COUNTY HEADQUARTERS LANDFILL.

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Date: May 2, 2019  
Department: Property and Environmental  
Services  
Meeting Date: May 16, 2019

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Presenters: Staff is available for questions

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### ISSUE STATEMENT

City of Roses Disposal & Recycling, Inc. (partner company of CORE Recycling) a Metro-licensed non-putrescible (dry) waste material recovery facility located at 4580 NE 138<sup>th</sup> Avenue in Portland, (Metro District 1), has applied to Metro for authorization (a solid waste facility franchise) to operate a transfer station and accept putrescible waste at its existing facility. The Metro Council will consider the transfer station franchise application (Ordinance No. 19-1435) at its meeting on May 16, 2019. If that transfer station franchise is approved, then City of Roses Disposal & Recycling seeks to also increase the amount of putrescible waste that it is authorized to transport and dispose at the Wasco County Landfill and the Cowlitz County Headquarters Landfill, as a backup disposal site option during certain unusual circumstances and emergency situations that would otherwise prevent the facility from transporting waste to the Wasco County Landfill. This resolution addresses the transport and disposal of putrescible waste received at City of Roses Disposal & Recycling's proposed transfer station (COR Transfer Station).

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

### ACTION REQUESTED

Review applicable code criteria and Metro policies to determine whether Council should grant an amended NSL for City of Roses Disposal & Recycling to align the license tonnage limit with the tonnage allocation authorized in its proposed franchise. If Metro Council adopts this resolution and companion Ordinance No. 19-1435, then City of Roses Disposal & Recycling's NSL would also be amended increase the tonnage authorization from 472 tons to 15,000 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. 19-1435 at its meeting on May 16, 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.

## **POLICY QUESTION**

Should the Metro Council approve amending the NSL for City of Roses Disposal & Recycling to increase the amount of putrescible waste that the licensee may transport to a landfill in order to align that waste amount with its proposed franchise tonnage allocation 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 amend the NSL to increase the tonnage authorization up to 15,000 tons for calendar year 2019 or otherwise align the limit with the franchise tonnage allocation.
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 solid waste facility franchise application in Ordinance No. 19-1435, staff recommends adoption of Resolution No. 19-4981 to increase the non-system license tonnage limit to align that amount with the franchise tonnage allocation. If Council approves this resolution, then the effective date will be aligned with that of the transfer station franchise.

## **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 Cowlitz County Headquarters 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 City of Roses Disposal & Recycling to transport up to 15,000 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 City of Roses Disposal & Recycling, 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. 19-1435, 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), supports 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) *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 those wastes pose a future risk of environmental contamination;*

Wasco County Landfill and Cowlitz County Headquarters 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) *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 regulations;*

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;*

The landfills use operational practices and management controls that are typical of RCRA Subtitle D landfills. DEQ and Cowlitz County staff consider the operational practices and controls in place at these landfills 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 regulations;*

City of Roses Disposal & Recycling is currently in compliance with its Metro-issued solid waste facility license and NSL. 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) Any other factor the Chief Operating Officer considers appropriate.*

Staff finds that it is in the public's interest to increase the tonnage authorization in order to align it with City of Roses Disposal & Recycling'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 NSL carries forward the current NSL conditions.

### **Anticipated Effects**

Adoption of Resolution No. 19-4981 will amend the NSL for City of Roses Disposal & Recycling to align its NSL tonnage authorization with that of its proposed franchise tonnage allocation. If Council approves this resolution as proposed, the facility will be authorized to transport up to 15,000 tons of putrescible waste for calendar year 2019 to Wasco County Landfill and, under certain unusual circumstances, Cowlitz County Headquarters Landfill. If Council approves this resolution, then the effective date will be aligned with that of the transfer station franchise.

### **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 putrescible 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 City of Roses Disposal & Recycling's license allocates a portion of the 13 percent uncommitted waste to Wasco County Landfill and Cowlitz County Headquarters 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. Staff understands that the putrescible waste that City of Roses Disposal & Recycling will initially partner with Waste Connections to receive the uncommitted waste that it currently transports to affiliated disposal sites. Metro's cost and rate model already takes into account that this uncommitted waste will be disposed at a landfill that is not owned by Waste Management. 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, City of Roses Disposal & Recycling, Inc. is a locally-owned company that has operated a waste hauling service and a Metro-licensed dry waste material recovery facility (CORE Recycling) on NE 109<sup>th</sup> since 2013. City of Roses Disposal & Recycling applied for and obtained Metro and DEQ authorization to operate a dry waste material recovery facility at its current location, 4530 NE 138<sup>th</sup> Ave in Portland.

On November 28, 2018, City of Roses Disposal & Recycling submitted to Metro an application seeking authorization to operate a transfer station and accept putrescible waste at its current site. The applicant also requested that Metro amend its NSL (N-134-16C) to authorize the new transfer station to transport putrescible waste to a disposal site and align the NSL tonnage authorization with that of the proposed franchise tonnage allocation. NSL No. N-134-16C was initially issued to City of Roses Disposal & Recycling when it was located at its previous site on NE 109<sup>th</sup> Avenue in Portland. If approved, the proposed NSL will be amended to cover putrescible waste accepted under the proposed franchise at the current site located at NE 138<sup>th</sup> Avenue in Portland.

#### **ATTACHMENTS**

- A. Exhibit A to Resolution No. 19-4981: Draft Non-System License No. N-057-16D