

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF) RESOLUTION NO. 05-3640
OPERATING OFFICER TO RENEW A NON-SYSTEM)
LICENSE ISSUED TO AMERICAN SANITARY)
SERVICE, INC., FOR DELIVERY OF PUTRESCIBLE) Introduced by Michael Jordan,
SOLID WASTE TO THE WEST VAN MATERIALS) Chief Operating Officer, with the
RECOVERY CENTER AND THE CENTRAL) concurrence of David Bragdon,
TRANSFER AND RECOVERY CENTER) Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, American Sanitary Service, Inc., currently has a non-system license to deliver mixed solid waste, including putrescible waste, to the West Van Materials Recovery Center and the Central Transfer and Recovery Center, both non-system facilities, which license will expire on December 31, 2005; and,

WHEREAS, American Sanitary Service, Inc. has delivered solid waste to the West Van Materials Recovery Center and the Central Transfer and Recovery Center under a similar NSL since June 2002; and

WHEREAS, American Sanitary Service, Inc., has applied for a renewed non-system license under the provisions of Metro Code Chapter 5.05 but at a reduced tonnage level; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; and,


WHEREAS, the resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

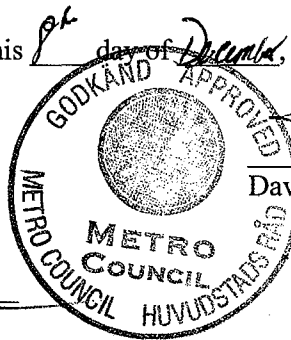
THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized to issue a non-system license to American Sanitary Service, Inc., in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this 10th day of December, 2005.

Approved as to Form:


Daniel B. Cooper, Metro Attorney





David Bragdon, Council President

Exhibit A to Resolution No. 05-3640

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1650 | FAX 503 797 1795



METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

Number N-029-05

LICENSEE:
American Sanitary Service, Inc. 12820 NE Marx Portland, OR 97230
CONTACT PERSON:
Dean Large / Scott Weld Phone: 360-695-4858 Fax: 360-695-5091 e-mail: deanl@wcnk.org / scottw@wcnk.org
MAILING ADDRESS:
PO Box 61726 Vancouver, WA 98666

METRO

**Licensee's Acceptance &
Acknowledgement of Receipt:**

Signature

Michael Jordan, Chief Operating Officer
Print name and title

Date

Signature of Licensee

Print name and title

Date

1	NATURE OF WASTE COVERED BY LICENSE
	Residential and commercial solid waste, including putrescible waste, generated within the boundaries of Metro and collected by American Sanitary Service, Inc.

2	CALENDAR YEAR TONNAGE LIMITATION
	This license grants the Licensee the authority to dispose of up to 6,613 tons per calendar year of the waste described in section 1, above.

3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the waste described in section 1, above, to the following non-system facilities only:</p> <p style="text-align: center;">West Van Material Recovery Center (WVMRC) 6601 NW Old Lower River Road Vancouver, WA 98660</p> <p style="text-align: center;">Central Transfer & Recycling Center (CTRC) 11034 NE 117th Ave. Vancouver, WA 98661</p>

4	TERM OF LICENSE
	The term of this license will commence on January 1, 2006 and expire at midnight on December 31, 2007.

5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the Licensee.

6	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to the WVMRC or CTRC authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.(b) Reporting of tonnage delivered under the authority of this license at frequency intervals to be determined by Metro. Such reporting may be required on a weekly or daily basis should the Licensee approach the tonnage limit stipulated in section 2 of this license or the combined tonnage of all NSLs issued by Metro approach the tonnage not obligated under Metro's disposal contract. Likewise, Metro reserves the right to direct the Licensee's waste flow to system facilities with a minimum of 24 hours notice.(c) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines that:<ul style="list-style-type: none">(i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,(ii) the provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Oregon Waste Systems, or(iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 1 of this license be transferred to, and disposed of at, a facility other than the facilities described in section 3, above.(d) This license shall, in addition to subsections (c)(i) through (iii), above, be subject to amendment, modification, termination, or suspension

	<p>pursuant to the Metro Code.</p> <p>(e) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:</p> <ul style="list-style-type: none"> (i) submit to Metro’s Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(f) Licensee shall make all records from which (e) above are derived available to Metro (or Metro’s designated agent) for its inspection or copying, as long as Metro provides no less than three (3) calendar days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facilities named in section 3, above.</p> <p>(g) This license authorizes delivery of solid waste to the WVMRC or CTRC facilities. Transfer of waste generated from within the Metro boundary to any non-system disposal site other than the WVMRC or CTRC facilities is prohibited unless authorized in writing by Metro.</p> <p>(h) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(i) At least once during the first half of each year and once during the second half of each year, Licensee shall review its collection routes to determine which of its accounts are in the Metro District. Any adjustments are to be implemented in the next month’s Regional System Fee and Excise Tax Report. Reports confirming the reviews and summarizing changes shall be submitted to Metro’s Solid Waste & Recycling Department by May 31 and November 30 of each year.</p>
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7	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not</p>

	those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.
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8	INDEMNIFICATION
	Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 05-3640 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO RENEW A NON-SYSTEM LICENSE ISSUED TO AMERICAN SANITARY SERVICE, INC., FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE WEST VAN MATERIALS RECOVERY CENTER AND THE CENTRAL TRANSFER AND RECYCLING CENTER

November 7, 2005

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 05-3640 will authorize the Chief Operating Officer to renew a non-system license (“NSL”) to American Sanitary Service, Inc., to deliver putrescible waste from its garbage collection routes located within the Metro boundary to the West Van Materials Recovery Center (“WVMRC”) and the Central Transfer and Recovery Center (“CTRC”), both of which are located in Clark County, Washington. American Sanitary Service, Inc., WVMRC, and CTRC are all affiliated companies. This will be similar to NSLs that American Sanitary Service, Inc. has held since June 2002. American Sanitary Service, Inc.’s, hauling franchise is located in Metro Districts 6 and 1. The applicant has requested an annual authorization of 6,613 tons. This is a about a 400 ton increase from its present NSL authorization.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license.

2. Legal Antecedents

WVMRC and CTRC are non-system disposal facilities (transfer stations) to which the applicant wishes to deliver putrescible solid waste generated from within Metro. Code section 5.05.025 prohibits any person from utilizing such non-system facilities without an appropriate license from Metro. Code section 5.05.035 stipulates that a person may utilize a non-system facility only by obtaining a non-system license from Metro. On that basis, the applicant must have a Metro non-system license in order to utilize these facilities.

Section 5.05.035(c) of the Metro Code requires the Chief Operating Officer to make recommendations as to whether any application for a non-system license for putrescible waste should be approved. Such recommendation is based on 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 disposal sites are transfer stations that do not pose any known potential for environmental risk from wastes delivered from prior users. After processing at the transfer stations, the waste is transported via barge to the Finley Buttes Landfill for disposal. (The Finley Buttes Landfill is a Metro designated facility authorized to receive non-putrescible solid waste without the need for haulers to obtain non-system licenses.)

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

Waste Connections has a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations. Waste Connections also has a good record of cooperation with Metro staff.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

WVMRC and CTRC use operational practices and management controls that are typical of transfer stations and that Metro considers adequate for the protection of health, safety, and the environment.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The majority of the waste to be covered by the proposed license is putrescible waste without significant potential for recovery. WVMRC and CTR perform recovery on non-putrescible commercial and industrial waste but at a recovery rate less than many Metro system facilities. Renewal of the license is not expected to significantly impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro's existing contractual arrangements;*

Metro has committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management of Oregon, Inc. American Sanitary seeks authority to transfer waste that meets the definition of "acceptable waste" as used in Metro's waste disposal contract. This license is one of several that expire at the end of 2005.

Metro has previously granted tonnage authorizations to NSL applicants on a first-come, first-served basis as a method for allocating the portion of the wastestream not obligated under Metro's disposal contract with Waste Management. So far, NSL tonnage requests have never exceeded the tonnage available. If it were to become necessary to reduce existing NSL tonnage allocations in order to remain in compliance with Metro's disposal contract, Metro would rescind such allocations in the reverse order with the last allocation granted being the first withdrawn.

Staff tracks the tonnage “trajectory” of each licensee on an ongoing basis and believes there are sufficient “triggers” to enable Metro to adjust NSL tonnage allocations, if necessary, toward the end of each calendar year should there be a potential for exceeding the ten percent contractual limitation.

- (6) *The record of the applicant 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*

The applicant is a solid waste hauling company that operates under local requirements within the City of Portland and Gresham and has a good record of compliance with public health, safety and environmental rules and regulations.

- (7) *Such other factors as the executive officer deems appropriate for purposes of making such determination.*

Based on the tonnage delivered by the applicant over the term of its existing NSL, the tonnage being requested is the minimum amount needed to accommodate the waste collected from its in-Metro routes.

3. Anticipated Effects

The effect of Resolution No. 05-3640 will be to issue an NSL for delivery of solid waste, including putrescible, to the applicant’s two affiliated transfer stations located in Clark County, at a tonnage authorization slightly higher than the authorization in the applicant’s current NSL, based on the applicant’s history of actual utilization.

4. Budget Impacts

The regional system fee and excise tax will continue to be collected on waste delivered under authority of the proposed NSL. Approval of all the NSLs presented to the Council will result in a total tonnage authorization nearly identical to the current authorization and is expected to maintain the status quo.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 05-3640, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

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