

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER	)	RESOLUTION NO. 05-3615
TO ISSUE A NEW NON-SYSTEM LICENSE TO B & J	)	
GARBAGE COMPANY FOR DELIVERY OF	)	Introduced by Michael Jordan,
PUTRESCIBLE SOLID WASTE TO THE CANBY	)	Chief Operating Officer, with the
TRANSFER & RECYCLING FACILITY FOR	)	concurrence of David Bragdon,
TRANSFER TO THE RIVERBEND LANDFILL	)	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, B & J Garbage Company ("B&J") has applied for a new non-system license under the provisions of Metro Code Chapter 5.05; and,

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

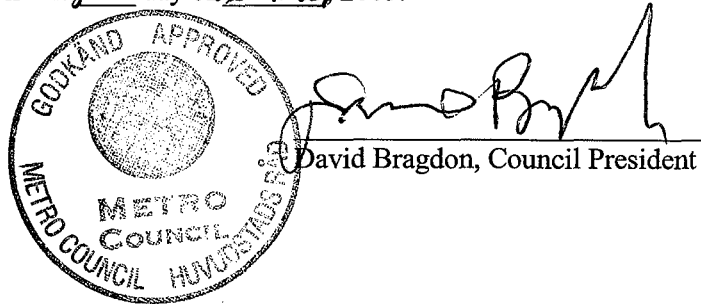
WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; and,

WHEREAS, this 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:

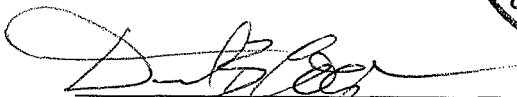
The Chief Operating Officer is authorized to issue a non-system license to B&J in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this 16<sup>th</sup> day of December 2005.



David Bragdon, Council President

Approved as to Form:



Daniel B. Cooper, Metro Attorney



**METRO**

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

Number N-118-05

<b>LICENSEE:</b>
B & J Garbage Company 1600 SE 4 <sup>th</sup> Ave. Canby, OR 97013
<b>CONTACT PERSON:</b>
Andy Kahut Phone: (503) 663-4778 Fax: (503) 263-6477 E-Mail: andy@kbrecycling.com
<b>MAILING ADDRESS:</b>
PO Box 1110 Canby, OR 97013

**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

<b>1</b>	<b>NATURE OF WASTE COVERED BY LICENSE</b>
	Non-recoverable loads of solid waste, including putrescible waste, generated within the boundaries of Metro and collected by West Linn Refuse & Recycling, Inc. The Licensee is prohibited from delivering uncompacted drop box loads of solid waste generated within the Metro boundary to any non-system facility.

<b>2</b>	<b>CALENDAR YEAR TONNAGE LIMITATION</b>
	This license grants the Licensee the authority to dispose of up to 5,000 tons per calendar year of the waste described in section 1 of this license.

<b>3</b>	<b>NON-SYSTEM FACILITY</b>
	<p>The Licensee hereunder may deliver the waste described in section 1, above, to the following non-system facility only:</p> <p style="text-align: center;">Canby Transfer &amp; Recycling, Inc. 1600 4<sup>th</sup> Ave. Canby, OR 970130</p> <p>All solid waste delivered to the above listed non-system facility under authority of this license must be subsequently transferred to the Riverbend Landfill located in McMinnville, Oregon, for disposal.</p>

<b>4</b>	<b>TERM OF LICENSE</b>
	The term of this license will commence on January 1, 2006 and expire on December 31, 2007.

<b>5</b>	<b>REPORTING OF ACCIDENTS AND CITATIONS</b>
	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.

<b>6</b>	<b>ADDITIONAL LICENSE CONDITIONS</b>
	<p>This non-system license shall be subject to the following conditions:</p> <ul style="list-style-type: none"><li>(a) The permissive transfer of solid waste to the Canby Transfer &amp; Recycling, Inc. facility authorized by this license will be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to another facility.</li><li>(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.</li><li>(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, at his or her sole discretion, that:<ul style="list-style-type: none"><li>(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,</li><li>(ii) the provisions of this license are actually or potentially in conflict with any of Metro's contractual obligations under the terms of a contract that became effective before the effective date of this license, or</li><li>(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 be transferred to, and disposed of at, a facility other than the facility described in section 3, above.</li></ul></li><li>(d) This license shall, in addition to subsections (i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.</li><li>(e) No later than the fifteenth (15th) day of each month, beginning with the</li></ul>

	<p>next month following the signature date below, Licensee shall:</p> <ul style="list-style-type: none"> <li>(i) submit to Metro's Solid Waste &amp; Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and</li> <li>(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.</li> </ul> <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 facility named in section 3, above.</p> <p>(g) This license authorizes delivery of solid waste to the Canby Transfer &amp; Recycling, Inc. facility. Transfer of waste generated from within the Metro boundary to any non-system facility other than the Canby Transfer &amp; Recycling, Inc. facility 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>
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<b>7</b>	<b>COMPLIANCE WITH LAW</b>
	<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 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.</p>

<b>8</b>	<b>INDEMNIFICATION</b>
	<p>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</p>

	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. 05-3615 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM LICENSE TO B & J GARBAGE COMPANY FOR DELIVERY OF SOLID WASTE TO THE CANBY TRANSFER & RECYCLING FACILITY FOR TRANSFER TO THE RIVERBEND LANDFILL

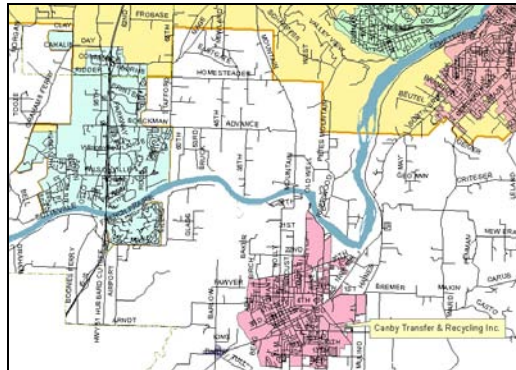
November 4, 2005

Prepared by: Steve Kraten

## BACKGROUND

### Description of the Resolution

On July 19, 2005, Metro received from Fred Kahut two applications for new NSLs. The applications were filed on behalf of two in-region hauling companies operated by Mr. Kahut, B & J Garbage Company and West Linn Refuse & Recycling, Inc. Each application requests authority to deliver putrescible solid waste from within the Metro region to the Canby Transfer & Recycling facility (“CTR”), which is also owned and operated by Mr. Kahut, from which such waste will be consolidated for disposal at the Riverbend Landfill. The application that is the subject of this staff report requests authority to deliver 5,000 tons annually from B & J Garbage Company. The other application requests authority to deliver 9,000 tons annually from West Linn Refuse & Recycling, Inc. and is presented in a separate staff report.



## ANALYSIS/INFORMATION

### 1. Known Opposition

There is no known opposition to issuance of the proposed non-system license.

### 2. Legal Antecedents

Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council shall consider the following factors to the extent relevant to such determination.

- (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 non-system facility is a transfer station rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. CTR began operations in 1996

and services only affiliated hauling companies. Staff is not aware of any wastes accepted at CTR that could pose a risk of environmental contamination.



Entrance – Canby TS



Tipping Building – Canby TS



Stormwater Swale – Canby TS

Ultimate disposal will be at the Riverbend Landfill, a Waste Management-owned company. The Riverbend Landfill first came into use during the mid-eighties. When Riverbend became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the required environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill has no known history of landfilling wastes that pose a future risk of environmental contamination.

- (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;*

CTR is permitted by the Oregon Department of Environmental Quality (DEQ). As part of the process of evaluating this application, both the Duane Altig with the DEQ and John Williams, the City of Canby's Community Development & Planning Director were contacted. Mr. Altig confirmed that the facility has remained in compliance with federal and state requirements and has a good compliance record with public health, safety and environmental rules and regulations. Mr. Williams confirmed that the facility also has a good compliance record with local requirements.

The Riverbend Landfill is permitted by the DEQ. The DEQ considers the landfill to be a well-run facility that is in compliance with federal, state and local requirements. The facility has a good compliance record with public health, safety and environmental rules and regulations. Metro has previously issued several NSLs authorizing the delivery of solid waste to this facility.

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

CTR uses operational practices and management controls that are typical of modern transfer stations. Metro staff inspected the facility and found it to be clean and well-organized.

CTR, in turn, delivers the waste it processes to the Riverbend Landfill. The Riverbend Landfill uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment.

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

The waste that the applicant has applied to deliver under the proposed NSL is solid waste, including putrescible waste, from both residential and commercial hauling routes. Such waste has little recovery potential. Any non-putrescible commercial loads suitable for recovery will be delivered to the KB



Recycling facility in Clackamas. Thus, the granting of the proposed NSL is not expected to 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. (WMO). The proposed license requires all solid waste delivered to CTR under authority of the license to be transferred to the Riverbend Landfill, which is a WMO facility, for disposal. Thus, approval of the requested license will not conflict with Metro's disposal contract or any other of its existing contractual arrangements.

(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 operates KB Recycling, a Metro-licensed material recovery facility, as well as CTR. Both facilities are regarded by their authorizing agencies (Metro, DEQ, and the City of Canby) as well-run and have had a good compliance record with all public health, safety, and environmental rules and regulations.

(7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

The applicant listed no potential benefits or justifications for the NSL request other than the fact that CTR and B&J are affiliated companies. The B&J trucks that service this franchise area are parked at a location in Clackamas after completing their daily routes.

### **3. Anticipated Effects**

The anticipated effects of Resolution No. 05-3615 will be for B&J Garbage Company to deliver up to 5,000 tons of solid waste per year to the Riverbend Landfill via CTR with an accompanying negative impact on Metro ratepayers as described below under Budget Impacts.

### **4. Budget Impacts**

The regional system fee and excise tax will continue to be collected on in-Metro waste delivered to CTR under authority of the proposed NSL. The combined budget impact of approving both the B&J Garbage (5,000 tons) and the West Linn Refuse & Recycling (9,000 tons) NSLs would be to increase the cost of the remaining Metro tonnage by approximately \$100,000 per year. If Metro passed this increase onto ratepayers this would amount to a tip fee increase of about 20 cents per ton, and if the other transfer stations were to match such a tip fee increase, then the cost to ratepayers would double to about \$200,000 per year.

## **RECOMMENDED ACTION**

The Chief Operating Officer recommends approval of Resolution No. 05-3615, finding that the proposed license satisfies the requirements of Metro Code Section 5.05.035, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.