

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER) RESOLUTION NO. 06-3737
TO ISSUE A NON-SYSTEM LICENSE TO)
WILLAMETTE RESOURCES, INC., FOR DELIVERY) Introduced by Michael Jordan,
OF SOLID WASTE TO THE RIVERBEND LANDFILL) Chief Operating Officer, with the
) concurrence of David Bragdon,
) Council President

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

WHEREAS, Willamette Resources, Inc., has applied for a NSL under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control"; and

WHEREAS, Metro Code Section 5.05.035(e)(5)(C) provides that the term of a renewed NSL shall be two years; and

WHEREAS, the Chief Operating Officer recommends that the Metro Council make an exception to Metro Code Section 5.05.035(e)(5)(C) and authorize the Chief Operating Officer to issue this NSL for a term of 26 months in order to put the term of this license on a calendar year cycle, similar to other NSL licenses; and

WHEREAS, except as described in the previous two paragraphs regarding Metro Code Section 5.05.035(e)(5)(C), the application is in conformance with the requirements of Metro Code Chapter 5.05; and

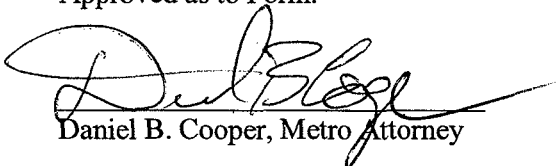
WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; now therefore,

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to issue a non-system license to Willamette Resources, Inc., in a form substantially similar to the license attached as Exhibit A.

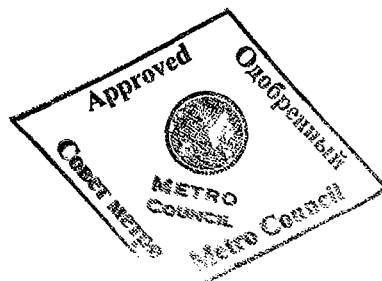
ADOPTED by the Metro Council this 26th day of October, 2006.


David Bragdon, Council President

Approved as to Form:


Daniel B. Cooper, Metro Attorney

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METRO

METRO SOLID WASTE FACILITY NON-SYSTEM LICENSE

Number N-005-06

LICENSEE:
<p>Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, OR 97070</p> <p>Willamette Resources, Inc. is a wholly owned subsidiary of:</p> <p>Allied Waste Industries 15880 N Greenway-Hayden Loop Scottsdale, AZ 85260</p>
CONTACT PERSON:
<p>Todd Irvine, General Mgr./Ray Phelps, Reg. Affairs Phone: 503-570-0626 Fax: 503-570-0523 e-mail: todd.irvine@awin.com / ray.phelps@awin.com</p>
MAILING ADDRESS:
<p>10295 SW Ridder Road Wilsonville, OR 97070</p>

METRO

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

Signature

Signature of Licensee

Michael Jordan, Chief Operating Officer
Print name and title

Print name and title

Date

Date

1	NATURE OF WASTE COVERED BY LICENSE
	Municipal solid waste, including putrescible waste and processing residual from material recovery, received at Willamette Resources, Inc. (WRI) from commercial refuse haulers, and accepted or processed in accordance with Metro Solid Waste Facility Franchise No. F-005-03.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility described in section 3 of this license up to a maximum of 25,000 tons per calendar year of the waste described in section 1 of this license. This license does not increase the total tonnage that the licensee is authorized to accept under its existing Metro Solid Waste Facility Franchise (No. F-005-03).
3	NON-SYSTEM FACILITY
	The licensee hereunder may deliver the waste described in section 1, above, to the following non-system facility only: Riverbend Landfill 13469 SW HIGHWAY 18 McMinnville, OR 97128
4	TERM OF LICENSE
	The term of this license will commence on November 1, 2006 and expire at midnight on December 31, 2008, unless terminated sooner under section 7 of this license.

5	MATERIALS RECOVERY
	Prior to delivery of residual solid waste for disposal under authority of this license, recovery of non-putrescible waste accepted by the licensee must be performed at no less than the minimum level stipulated in Metro Code chapter 5.01.

6	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.

7	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 Riverbend Landfill 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) 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 facility described in section 3, above.(c) This license shall, in addition to subsections (b)(i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.

	<p>(d) 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>(e) Licensee shall make all records from which (d) 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>(f) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(g) This license shall terminate upon the execution of a designated facility agreement with the facility listed in section 3.</p> <p>(h) This license authorizes delivery of solid waste to the Riverbend Landfill. Transfer of waste generated from within the Metro boundary to any non-system disposal site other than the Riverbend Landfill is prohibited unless authorized in writing by Metro.</p>
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8	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 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>

9	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.

WJ

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3737 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO WILLAMETTE RESOURCES, INC. FOR DELIVERY OF SOLID WASTE TO THE RIVERBEND LANDFILL

October 26, 2006

Prepared by: Warren Johnson

BACKGROUND

Description of the Resolution

In November 2004, Willamette Resources, Inc., (WRI) was granted a non-system license (NSL) to annually deliver a maximum of 23,250 tons per calendar year of solid waste, including putrescible waste, to the Riverbend Landfill. The license commenced on November 1, 2004 and will expire on October 31, 2006. On August 16, 2006, WRI submitted an application to renew this NSL. The new NSL would replicate the existing authority except that the tonnage limitation would be increased to 25,000 tons per calendar year. The requested increase is intended by the applicant to provide WRI with additional flexibility for its solid waste delivery options.

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 disposal site is Riverbend Landfill. 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 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;*

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.

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

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 a combination of both non-recoverable putrescible waste and residual from non-putrescible waste that has already undergone recovery at WRI. Thus, the waste authorized by the proposed license will have no further recovery potential and 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 (WMO). The waste subject to the proposed license is to be delivered to the Riverbend Landfill, which is a WMO facility. 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*

There have been incidents in past years where the applicant has exceeded tonnage caps imposed by its NSLs. However, the applicant's facility is regarded as well-run and has 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.*

Metro Solid Waste Facility Franchise No. F-005-03 stipulates that WRI shall not accept more than 65,000 tons of putrescible waste originating from inside the Metro region within each fiscal year. WRI currently holds an NSL (No. N-005-05(3)) authorizing the annual delivery of up to 45,000 tons per calendar year of solid waste, including putrescible waste, to the Coffin Butte Landfill. The issuance of the proposed NSL authorizing the delivery of up to 25,000 tons of solid waste to the Riverbend Landfill does not increase the total tonnage that WRI is authorized to accept under its existing Franchise.

In addition, the solid waste subject to the proposed NSL is residual from a material recovery facility; it is not subject to the NSL moratorium enacted by the Metro Council in February 2006.

Section 5.05.035(e)(5)(C) provides that renewed NSLs shall be for terms of no more than two years. The COO recommends that, notwithstanding that provision, the Metro Council make an exception to its Code and authorize the COO to issue this NSL for a period of 26 months. Metro staff has tried to coordinate the terms of its NSLs on either a calendar or fiscal year basis so that NSL renewals will occur at the same times each year, at the ends of June and December, rather than occurring at times scattered throughout the year. Authorizing this license for a period of 26 months will put it onto a calendar year schedule.

3. Anticipated Effects

The effect of Resolution No. 06-3737 will be to authorize WRI to deliver up to 25,000 tons of solid waste per year to the Riverbend Landfill during calendar years 2007 and 2008. This is an increase of 1,750 tons more than is authorized under the existing NSL.

4. Budget Impacts

The budget impact, for the additional 1,750 tons annually, is negligible.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 06-3737, finding that the proposed license satisfies the requirements of Metro Code Section 5.05.035 (with exception of its 26 month term, addressed above), and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

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