

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER) RESOLUTION NO.06-3743
TO RENEW A NON-SYSTEM LICENSE TO WASTE)
MANAGEMENT OF OREGON, INC. FOR DELIVERY) Introduced by Michael Jordan,
OF SOLID WASTE FROM THE TROUTDALE) Chief Operating Officer, with the
TRANSFER STATION TO THE COLUMBIA RIDGE) concurrence of David Bragdon,
LANDFILL AND 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, Waste Management of Oregon, Inc. has applied for renewal of a non-system license under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control"; and

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

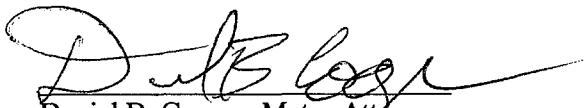
WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; now therefore,

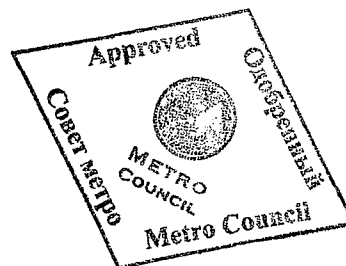
BE IT RESOLVED that the Metro Council authorizes the Chief Operation Officer to issue a non-system license to Waste Management of Oregon, Inc. in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this 30th day of November, 2006.


David Bragdon, Council President

Approved as to Form:


Daniel B. Cooper, Metro Attorney



600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
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METRO

METRO SOLID WASTE FACILITY NON-SYSTEM LICENSE

Number N-001-06

LICENSEE:
Waste Management of Oregon, Inc. dba Troutdale Transfer Station 869 NW Eastwind Drive Troutdale, OR 97060
CONTACT PERSON:
Dan Wilson Phone: 503-640-9427 Fax: 503-648-3942 e-mail: DanWilson@wm.com
MAILING ADDRESS:
869 NW Eastwind Drive Troutdale, OR 97060

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
	Municipal solid waste, including putrescible and non-putrescible waste and special waste received at the Troutdale Transfer Station and processed in accordance with Metro Solid Waste Facility Franchise No. F-001-03.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to delivery to the non-system facilities described in section 3 of this license up to a maximum of 65,000 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-001-03).
3	NON-SYSTEM FACILITY
	<p>The licensee hereunder may deliver the waste described in section 1, above, to the following non-system facilities:</p> <p style="text-align: center;">Columbia Ridge Landfill 18177 Cedar Springs Lane Arlington, OR 97812</p> <p>Or, in emergency conditions as described in section 7 of this license,</p> <p style="text-align: center;">Riverbend Landfill 13469 SW Highway 18 McMinnville, OR 97128</p>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2007 and expire at midnight on December 31, 2008, unless terminated sooner under section 7 of this license.

5	MATERIAL 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) Putrescible waste may be transported to the Riverbend Landfill only in emergency situations, such as the closure of Interstate 84 or the temporary breakdown of a compactor at the Troutdale Transfer Station, which would prevent the Licensee from delivering such waste to the Columbia Ridge Landfill.(b) 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.(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, or(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 pursuant to the Metro Code.
- (e) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:
 - (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.
- (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.
- (g) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.
- (h) This license shall terminate upon the execution of a designated facility agreement with the facilities listed in Section 3.
- (i) This license authorizes delivery of solid waste to the Columbia Ridge Landfill and the Riverbend Landfill. Transfer of waste generated from within the Metro boundary to any non-system disposal sites other than the Columbia Ridge Landfill and the Riverbend Landfill is prohibited unless authorized in writing by Metro.

8	COMPLIANCE WITH LAW
	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.

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.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3743 AUTHORIZING THE CHIEF OPERATING OFFICER TO RENEW A NON-SYSTEM LICENSE TO WASTE MANAGEMENT OF OREGON, INC. FOR DELIVERY OF SOLID WASTE FROM THE TROUTDALE TRANSFER STATION TO THE COLUMBIA RIDGE LANDFILL AND THE RIVERBEND LANDFILL

November 30, 2006

Prepared by: Warren Johnson

BACKGROUND

Description of the Resolution

On November 2, 2004, Waste Management of Oregon, Inc. (WMO) was granted a non-system license (NSL) to deliver solid waste up to 66,625 tons in calendar year 2005 and 65,000 tons in calendar year 2006 from the Troutdale Transfer Station (TTS) to the Columbia Ridge Landfill (CRLF) and the Riverbend Landfill. WMO needed a NSL to deliver putrescible waste from TTS to CRLF because CRLF is not designated (pursuant to Metro Code Section 5.05.030(a)(6) and Metro's designated facility agreement with WMO for the landfill) to accept putrescible waste from the Metro region. The NSL also authorized the delivery of solid waste to the Riverbend Landfill in the case of an emergency, such as the closure of Interstate 84, that would prevent the delivery of waste to CRLF. The license commenced on January 1, 2005 and will expire on December 31, 2006.

On October 6, 2006, WMO submitted an application to renew this NSL. The new NSL would replicate the existing authority except that the tonnage limitation would authorize the delivery of a combined total of 65,000 tons of solid waste per calendar year. The term of the proposed license would span two full calendar years, beginning January 1, 2007 and expiring on December 31, 2008.

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 CRLF is a general-purpose landfill that began accepting waste in January 1990. The landfill has synthetic and clay liner systems that are consistent with federal Subtitle D regulations. Since beginning operation, 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.

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 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 CRLF and the Riverbend Landfill are permitted by the DEQ. The DEQ considers the landfills to be well run and in compliance with federal, state and local requirements. The facilities have a good compliance record with public health, safety and environmental rules and regulations, according to recent communication with the DEQ concerning this application.

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

The CRLF and the Riverbend Landfill use 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 non-putrescible waste, putrescible waste and special waste. The TTS franchise (F-001-03) requires that the facility perform material recovery on the non-putrescible waste it receives. Therefore, the waste that the applicant has proposed to deliver for disposal under the requested NSL consists of non-recoverable waste and residual from waste that has already undergone material recovery. 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, WMO. The waste subject to the proposed license is to be delivered to the CRLF and the Riverbend Landfill, which are WMO facilities. 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 has a good record of compliance with applicable Metro, local, state, and federal 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-001-03 stipulates that TTS shall not accept more than 65,000 tons of putrescible waste originating from inside the Metro region within each fiscal year. The issuance of the proposed NSL will authorize the delivery of a combined total of up to 65,000 tons of solid waste to the CRLF and the Riverbend Landfill, consistent with Franchise No. F-001-03.

The proposed NSL is a replacement license that authorizes the licensee to deliver the same type and quantity of solid waste to the same non-system facilities as the existing license; therefore, it is not subject to the NSL moratorium enacted by the Metro Council in February 2006 (Metro Code Section 5.05.035(h)).

3. Anticipated Effects

The effect of Resolution No. 06-3743 will be to authorize TTS to deliver a combined total of up to 65,000 tons of solid waste per year, including putrescible waste, to the CRLF and the Riverbend Landfill during calendar years 2007 and 2008.

4. Budget Impacts

The CRLF and Riverbend Landfill are Waste Management facilities; this NSL will not implicate Metro's obligations under its disposal contract. The regional system fee and excise tax will continue to be collected on in-Metro waste delivered to the CRLF and the Riverbend Landfill under authority of the proposed NSL.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 06-3743 finding that the proposed license satisfies the requirements of Metro Code Section 5.05.035, and authorizing the issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

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