

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER ) RESOLUTION NO. 07-3809  
TO ISSUE A RENEWED NON-SYSTEM LICENSE )  
JOINTLY TO WILLAMETTE RESOURCES, INC. AND ) Introduced by Michael Jordan,  
ALLIED WASTE OF CLACKAMAS AND ) Chief Operating Officer, with the  
WASHINGTON COUNTIES FOR DELIVERY OF ) concurrence of David Bragdon,  
SOLID WASTE, INCLUDING PUTRESCIBLE WASTE, ) Council President  
TO THE COVANTA WASTE-TO-ENERGY FACILITY )

WHEREAS, the Metro Code requires a non-system license of any person that delivers putrescible solid waste to a non-system processing or disposal facility; and

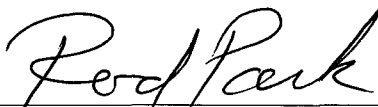
WHEREAS, Willamette Resources, Inc. and Allied Waste of Clackamas and Washington Counties have applied for a renewed non-system license under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control"; and

WHEREAS, the application conforms 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 applicants' request for a non-system license with the conditions set forth 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 jointly to Willamette Resources, Inc. and Allied Waste of Clackamas and Washington Counties in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this 24<sup>th</sup> day of May, 2007.

  
David Bragdon, Council President

Approved as to Form:

  
Daniel B. Cooper, Metro Attorney

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TEL 503 797 1650 | FAX 503 813 7544



**METRO**

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

Number N-005-07(2)

<b>LICENSEE:</b>			
Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, OR 97070		Allied Waste of Clackamas and Washington Counties 10295 SW Ridder Road Wilsonville, OR 97070	
<b>CONTACT PERSON:</b>			
	Todd Irvine	Frank Lonergan	Ray Phelps
Phone:	503-570-0625	503-682-3900	503-570-0625
Fax:	503-570-0523	503-682-9505	503-570-0523
e-mail:	<a href="mailto:todd.Irvine@awin.com">todd.Irvine@awin.com</a>	<a href="mailto:frank.lonergan@awin.com">frank.lonergan@awin.com</a>	<a href="mailto:ray.phelps@awin.com">ray.phelps@awin.com</a>
<b>MAILING ADDRESS:</b>			
10295 SW Ridder Road Wilsonville, OR 97070			

**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

<b>1</b>	<b>NATURE OF WASTE COVERED BY LICENSE</b>
	<p>(a) Municipal solid waste, including putrescible waste, generated within the Metro boundary and received at Willamette Resources, Inc. in accordance with Metro Solid Waste Facility Franchise No. F-005-03; and</p> <p>(b) Confidential records of customers generated within the Metro boundary and collected by Allied Waste of Clackamas and Washington Counties and delivered directly to the non-system facility described in section 3 of this license.</p>

<b>2</b>	<b>FISCAL YEAR TONNAGE LIMITATION</b>
	<p>Licensee is jointly authorized to deliver to the non-system facility described in section 3 of this license up to a maximum of 5,500 tons per fiscal year of the waste described in section 1 of this license, provided that the tonnage consisting of putrescible waste, when combined with the tonnage received by Willamette Resources, Inc. under Metro Solid Waste Facility Franchise Number F-005-03, does not exceed 65,000 tons. A fiscal year shall run from July 1 through June 30 of the following year.</p>

<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;">Covanta Waste-to-Energy Facility 4850 Brooklake Road, NE Brooks, OR 97305</p>

<b>4</b>	<b>TERM OF LICENSE</b>
	<p>The term of this license will commence on July 1, 2007 and expire at midnight on June 30, 2009, unless terminated sooner under section 6 of this license.</p>

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

<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 Covanta Waste-to-Energy Facility 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.</li> <li>(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"> <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 provision in Metro’s disposal contract with Oregon Waste Systems, 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 of this license be transferred to, and disposed of at, a facility other than the facility described in section 3, above.</li> </ul> </li> <li>(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.</li> <li>(d) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:             <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> </ul> </li> </ul>

	<p>(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> <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. The 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 Covanta Waste-to-Energy Facility. The Licensee shall report to Metro all solid waste, including putrescible waste, delivered under authority of this license. Transfer of waste generated from within the Metro boundary to any non-system facility other than the Covanta Waste-to-Energy Facility is prohibited unless authorized in writing by 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>
	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. 07-3809 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE JOINTLY TO WILLAMETTE RESOURCES, INC. AND ALLIED WASTE OF CLACKAMAS AND WASHINGTON COUNTIES FOR DELIVERY OF SOLID WASTE, INCLUDING PUTRESCIBLE WASTE, TO THE COVANTA WASTE-TO-ENERGY FACILITY

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May 24, 2007

Prepared by: Warren Johnson

## BACKGROUND

### Description of the Resolution

In June 2005, Willamette Resources, Inc. (WRI) and United Disposal Service, Inc. were jointly granted a non-system license (NSL) to deliver a maximum of 5,500 tons per fiscal year of solid waste, consisting primarily of putrescible waste, to the Covanta Waste-to-Energy (WTE) Facility located in Brooks, Oregon. The license commenced on July 1, 2005 and will expire on June 30, 2007. On March 20, 2007, WRI submitted to Metro an application to renew this NSL.

Approval of Resolution No. 07-3809 will authorize the Chief Operating Officer to issue a renewed NSL to WRI and Allied Waste of Clackamas and Washington Counties to jointly deliver a maximum of 5,500 tons per fiscal year of solid waste, including putrescible waste to the Covanta WTE Facility. The requested disposal site is a WTE facility rather than a general-purpose landfill and thus granting this proposed NSL will not implicate Metro's obligations under its disposal contract.

## ANALYSIS/INFORMATION

### 1. Known Opposition

There is no known opposition to the proposed NSL.

### 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 Metro 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 a WTE facility rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. A baghouse system minimizes emissions to the air and ash is disposed at a permitted monofill.

- (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 Covanta WTE Facility is permitted by the Oregon Department of Environmental Quality (DEQ). On April 10, 2007, Metro staff received verbal confirmation from Hu Gao, Project Manager with the DEQ's Western Region Office, and Jeff Bickford, Senior Environmental Engineer with the Marion County Public Works Department, that the Covanta WTE Facility is in compliance with federal, state and local requirements and 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 Covanta WTE Facility screens incoming waste for hazardous, radioactive, and other unacceptable materials and has a state-of-the-art emissions control system to minimize the risk of future environmental contamination.

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

The wastes subject to the proposed license are putrescible waste with little potential for recovery and confidential records that require special management. Approval of the NSL renewal is therefore unlikely to impact the region's recycling and waste reduction efforts.

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

The waste subject to the proposed license will not be disposed at a general-purpose landfill. Thus, approval of the proposed license will not conflict with Metro's disposal contract. The Covanta WTE Facility also has a contract with Metro for the delivery of waste from Metro South. Renewal of the NSL is not inconsistent with any of these 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*

WRI has had no violations related to public health, safety or environmental regulations. Additionally, the facility has not had any significant compliance issues regarding other Metro requirements since 2003. On two occasions prior to that time, WRI had exceeded the 5,500-ton fiscal year limit stipulated in its NSL to the Covanta WTE Facility. WRI had also exceeded its facility tonnage cap on two separate occasions prior to 2003.

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

The Covanta WTE Facility is the primary disposal site for solid waste generated within Marion County. At certain times of the year the facility requires more solid waste than is generated within the County in order to operate efficiently. During these times, Marion County supports the Metro-authorized flow of solid waste to this facility.

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 and an NSL (No. N-005-06) authorizing the annual delivery of up to 25,000 tons per calendar year of solid waste, including



putrescible waste, to the Riverbend Landfill. The issuance of the proposed NSL authorizing the delivery of up to 5,500 tons of solid waste to the Covanta WTE Facility does not increase the total tonnage that WRI is authorized to accept under its existing Franchise (No. F-005-03).

In addition, the proposed NSL is not subject to the NSL moratorium enacted by the Metro Council in February 2006 because this is a license renewal authorizing the Licensee to deliver the same type and quantity of solid waste to the same non-system facility as the existing NSL (No. N-005-05(2)).

### **3. Anticipated Effects**

The effect of Resolution No. 07-3809 will be to issue an NSL for delivery of up to 5,500 tons per fiscal year of solid waste to the Covanta WTE Facility. This is the same tonnage amount as that authorized under an existing NSL (No. N-005-05(2)).

### **4. Budget Impacts**

The Covanta WTE Facility is not a general-purpose landfill. As such, this proposed NSL will not implicate Metro's obligations under its disposal contract. The application under consideration is the renewal of an existing NSL (No. N-005-05(2)). Therefore, the financial impact has already been factored into the budget.

## **RECOMMENDED ACTION**

The Chief Operating Officer recommends approval of Resolution No. 07-3809, 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.

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