

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A ) RESOLUTION NO. 10-4202  
RENEWED NON-SYSTEM LICENSE JOINTLY TO WILLAMETTE )  
RESOURCES, INC. AND ALLIED WASTE OF CLACKAMAS AND ) Introduced by Michael Jordan,  
WASHINGTON COUNTIES FOR DELIVERY OF PUTRESCIBLE ) Chief Operating Officer, with the  
WASTE TO THE COVANTA WASTE-TO-ENERGY FACILITY ) concurrence of Carlotta Collette,  
 ) Council President

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

WHEREAS, Willamette Resources, Inc. ("WRI") and Allied Waste of Clackamas and Washington Counties ("Allied") holds Metro Solid Waste Facility Non-System License No. N-005-08(2), which expires on December 31, 2010; and

WHEREAS, WRI and Allied have filed a completed application seeking renewal of the non-system license to deliver putrescible waste to the Covanta Waste-To-Energy Facility under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, the Metro Code Chapter provides that applications for non-system licenses for putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

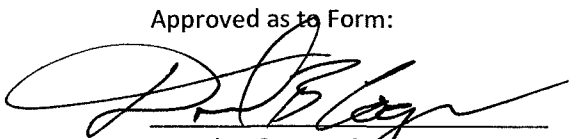
WHEREAS, the Chief Operating Officer recommends that the non-system license be renewed together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

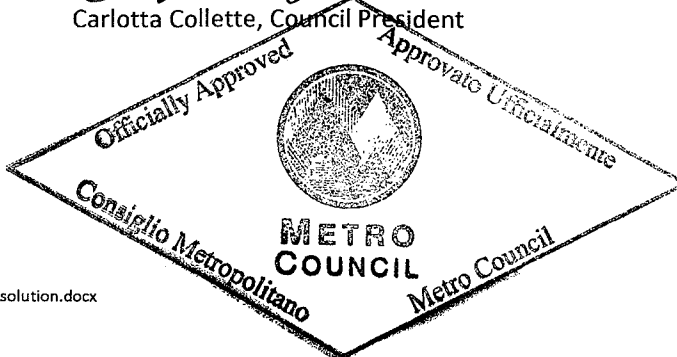
- 1. The non-system license renewal application of WRI and Allied is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
- 2. The Chief Operating Officer is authorized to issue to WRI and Allied a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 4 day of NOV, 2010.

  
Carlotta Collette, Council President

Approved as to Form:  


Daniel B. Cooper, Metro Attorney  
Resolution No. 10-4202





METRO

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

**No. N-005-11(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>		
Carol Dion Phone: (503) 570-0625 Fax: (503) 570-0523 E-mail: <a href="mailto:cdion@republicservices.com">cdion@republicservices.com</a>	Ray Phelps (503) 570-0625 (503) 570-0523 <a href="mailto:rphelps@republicservices.com">rphelps@republicservices.com</a>	Frank Lonergan (503) 570-0625 (503) 570-0523 <a href="mailto:flonergan@republicservices.com">flonergan@republicservices.com</a>
<b>MAILING ADDRESS:</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	

**ISSUED BY METRO:**

\_\_\_\_\_  
Michael Jordan, Chief Operating Officer

\_\_\_\_\_  
Date



<b>1</b>	<b>NATURE OF WASTE COVERED BY LICENSE</b>
	<p>(a) Putrescible solid waste generated within the Metro boundary and received at Willamette Resources, Inc. in accordance with Metro Solid Waste Facility Franchise No. F-005-08; 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>CALENDAR 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 5,500 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 Metro Solid Waste Facility Franchise No. F-005-08</p>
<b>3</b>	<b>NON-SYSTEM FACILITY</b>
	<p>The Licensee hereunder is authorized to deliver the waste described above in Section 1 only to the following non-system facility:</p> <p style="padding-left: 40px;">Covanta Waste-to-Energy Facility 4850 Brooklake Road, NE Brooks, OR 97305</p> <p>This license is issued on condition that the non-system facility named in this section is authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality that this non-system facility is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
<b>4</b>	<b>TERM OF LICENSE</b>
	<p>The term of this license will commence on January 1, 2011 and expire at midnight on December 31, 2012, unless terminated sooner under Section 7 of this license.</p>



<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 transporting the solid waste authorized by this license.

<b>6</b>	<b>RECORD KEEPING AND REPORTING</b>
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none"><li>i. Ticket or weight slip number from the non-system facility;</li><li>ii. Material category designating the type of material transferred to the non-system facility;</li><li>iii. Date the load was transferred to the non-system facility;</li><li>iv. Time the load was transferred to the non-system facility;</li><li>v. Net weight of the load; and</li><li>vi. Fee charged by the non-system facility</li></ul> <p>(b) No later than the fifteenth (15th) day of each month, beginning with the first month following the commencement date of this license, Licensee shall:</p> <ul style="list-style-type: none"><li>i. Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro;</li><li>ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; and</li><li>iii. Remit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.</li></ul> <p>(c) Licensee shall make all records from which Sections 6(a) and 6(b) 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) business 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>



<b>7</b>	<b>ADDITIONAL LICENSE CONDITIONS</b>
	<p>This 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 non-system facility, listed in Section 3, 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 (the "COO") in the event that the COO determines that:       <ul style="list-style-type: none"> <li>i. There has been sufficient change in any circumstances under which Metro issued 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, Inc.; 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 listed in Section 3.</li> </ul> </li> <li>(c) This license shall, in addition to subsections (b)(i) through (b)(iii), above, be subject to amendment, modification, suspension, or termination pursuant to the Metro Code.</li> <li>(d) The Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</li> <li>(e) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license.</li> <li>(f) This license authorizes the delivery of solid waste to the facility listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro.</li> </ul>

<b>8</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</p>



	as if specifically set forth herein.
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<b>9</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. 10-4202 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 PUTRESCIBLE WASTE TO THE COVANTA WASTE-TO-ENERGY FACILITY

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October 7, 2010

Prepared by: Warren Johnson

Approval of Resolution No. 10-4202 will authorize the Chief Operating Officer (COO) to issue a two-year non-system license (NSL) jointly to Willamette Resources, Inc. (WRI) and Allied Waste of Clackamas and Washington Counties (Allied) to annually deliver up to 5,500 tons of putrescible waste and certain confidential records from the Metro region to the Covanta Waste-to-Energy Facility (Covanta) in Brooks, Oregon. The applicants are owned and operated by Allied Waste Industries, Inc., a wholly owned subsidiary of Republic Waste Systems, Inc. headquartered in Phoenix, Arizona.

### BACKGROUND

In November 2008, WRI and Allied were jointly granted an NSL (No. N-005-08(2)) to deliver a maximum of 5,500 tons per calendar year of putrescible waste, generated within the Metro region and received at WRI, and certain confidential records collected by Allied to Covanta. The term of this NSL commenced on January 1, 2009 and is set to expire on December 31, 2010. The applicants delivered 3,765 tons of solid waste to Covanta under authority of this existing NSL during calendar year 2009 and 3,728 tons between January 1 and July 31, 2010.

In addition to the above, WRI currently holds NSL No. N-005-10(3) authorizing the annual delivery of up to 32,845 tons per calendar year of putrescible solid waste to Coffin Butte Landfill and NSL No. N-005-09 authorizing the annual delivery of up to 70,000 tons per calendar year of putrescible solid waste to Riverbend Landfill. These two NSLs are also set to expire on December 31, 2010 and are in the process of being renewed. WRI has obtained these NSLs to provide its facility with flexibility with regard to its disposal options. These NSLs do not increase the total tonnage that WRI is authorized to accept under Metro Solid Waste Facility Franchise No. F-005-08 (Franchise).

On August 24, 2010, WRI and Allied submitted to Metro an application requesting that Metro renew this NSL with a tonnage authorization of 5,500 tons per calendar year. This is the same annual tonnage limit that the applicants are currently authorized to transport under the existing NSL. The proposed license renews the existing authorization that WRI and Allied have held under NSLs since 1999.

### 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 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 waste-to-energy facility rather than a landfill and thus does not pose the same potential environmental risk from waste delivered from prior users. A baghouse system minimizes emissions to the air and ash is disposed at a monofill that is permitted by the Oregon Department of Environmental Quality (DEQ).

- (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;*

Covanta is permitted by the DEQ. Metro staff received verbal confirmation from the DEQ and Marion County that Covanta is in compliance with federal, state, and local requirements. Staff has also received confirmation that Covanta has a good compliance record with respect to public health, safety and environmental rules and regulations.

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

Covanta 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. In addition, Covanta uses operational practices and management controls that are considered by the DEQ to be appropriate for the protection of health, safety, and the environment.

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

The proposed license covers putrescible solid waste, which has little recovery potential, and confidential records that require special management. Thus, approval of the proposed license renewal 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 a contractual obligation to deliver a minimum of 90 percent of the region's putrescible waste that is delivered to general purpose landfills during the calendar year, to landfills owned by Waste Management. 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.

In addition, Metro has a contract with Marion County for the delivery of solid waste from Metro's transfer stations to Covanta. Renewal of this NSL is not inconsistent with this existing contractual arrangement.



- (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 is currently in compliance with its Metro-issued Franchise and NSLs and it has not had any significant compliance issues with regard to Metro regulations within the last two years. Additionally, WRI has had no violations related to public health, safety or environmental regulations during the term of the existing license.

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

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

WRI's Franchise stipulates that the facility shall not accept more than 70,000 tons of putrescible waste originating from inside the Metro region within each calendar year. The issuance of the proposed NSL authorizing the delivery of up to 5,500 tons of solid waste to Covanta does not increase the total tonnage that WRI is authorized to accept under the terms of its franchise. In particular, all putrescible waste delivered to Covanta under authority of the proposed NSL counts toward and is included in the 70,000-ton limit stipulated in WRI's Franchise.

### **3. Anticipated Effects**

The effect of Resolution No. 10-4202 will be to issue a two-year NSL authorizing WRI and Allied to deliver up to 5,500 tons per calendar year of putrescible waste and certain confidential records to Covanta for disposal.

### **4. Budget/Rate Impacts**

Covanta is not a general-purpose landfill and this NSL will not impact Metro's obligations under its disposal contract. The regional system fee and excise tax will continue to be collected on Metro-area waste delivered to Covanta under the authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-005-08(2)). The financial impact of this NSL has already been factored into the budget.

## **RECOMMENDED ACTION**

The COO recommends approval of Resolution No. 10-4202, finding that the license renewal satisfies the requirements of Metro Code Section 5.05.035, and issuance of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.