

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)
CHIEF OPERATING OFFICER TO ISSUE A NON-)
SYSTEM LICENSE TO PRIDE RECYCLING)
COMPANY FOR DELIVERY OF PUTRESCIBLE)
SOLID WASTE TO THE RIVERBEND LANDFILL)

RESOLUTION NO. 03-3390

Introduced by: Michael Jordan,
Chief Operating Officer, with the
concurrence of David Bragdon,
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, Pride Recycling Company currently has a non-system license to deliver mixed solid waste, including putrescible waste, to the Riverbend Landfill, a non-system facility, which license will expire on December 31, 2003; and,

WHEREAS, Pride Recycling Company 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; and,

WHEREAS, the 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 Pride Recycling Company in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this 4th day of December 2003.


David Bragdon, Council President

Approved as to Form:


Daniel B. Cooper, Metro Attorney





METRO

LICENSE NO. N-002-04

SOLID WASTE NON-SYSTEM LICENSE

Issued pursuant to Metro Code § 5.05.035.

1. Licensee:

<p>LICENSEE:</p> <p>Pride Recycling Company P.O. Box 820 13980 Tualatin-Sherwood Rd. Sherwood, Oregon 97140</p> <p>Contact person: Mike Leichner</p> <p>Phone: (503) 625-6177 Fax: (503) 625-6179 E-mail: mike@pridedisposal.com</p>	<p>FACILITY NAME AND LOCATION:</p> <p>Pride Recycling Company 13980 Tualatin-Sherwood Rd. Sherwood, Oregon 97140</p> <p>Contact person: Mike Leichner</p> <p>Phone: (503) 625-6177 Fax: (503) 625-6179 E-mail: mike@pridedisposal.com</p>
<p>COMPANY OWNER</p> <p>Pride Recycling Company P.O. Box 820 13980 Tualatin-Sherwood Rd. Sherwood, Oregon 97140</p> <p>Contact person: Mike Leichner</p> <p>Phone: (503) 625-6177 Fax: (503) 625-6179 E-mail: mike@pridedisposal.com</p>	<p>PROPERTY OWNER</p> <p>Lorry Leichner P.O. Box 820 13980 Tualatin-Sherwood Rd. Sherwood, Oregon 97140 (503) 625-6177</p>

2. Nature Of Waste Covered By License:

- (a) Residual solid waste remaining following resource recovery from putrescible and non-putrescible solid waste.
- (b) Consolidated loads of solid waste, including putrescible solid waste not suitable for sorting and recovery.

3. Calendar Year Tonnage Limitation:

This license grants the licensee the authority to dispose of up to 65,000 tons per calendar year of the waste described in section 2 of this license.

4. Non-System Facility:

The licensee hereunder may deliver the solid waste specified in this non-system license only to:

Riverbend Landfill
13469 S.W. Highway 18
McMinnville, OR 97128.

5. Term of License:

The term of this license will commence on January 1, 2004 and expire on December 31, 2006.

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:

This non-system license shall be subject to the following conditions:

- (a) The permissive transfer of solid waste to the Riverbend Landfill 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.
- (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, at his or her sole discretion, that:
 - (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 of Metro's contractual obligations under the terms of a contract that became effective before the effective date of this license, 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 2 of this license be transferred to, and disposed of at, a facility other than the facility described in section 4, above.

- (c) This license shall, in addition to subsections (i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.
- (d) 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.
- (e) Licensees shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.
- (f) This license shall terminate upon the execution of a designated facility agreement between Metro and the Riverbend Landfill.

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.

Signed:

Acknowledgement & Acceptance of the
Terms and Conditions of this License:

Signature

Michael Jordan, Chief Operating Officer

Print name and title

Date

Signature of Licensee

Print name and title

Date

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3390 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO PRIDE RECYCLING COMPANY FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE RIVERBEND LANDFILL

December 4, 2003

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 03-3390 will authorize the Chief Operating Officer to issue a non-system license (NSL) to Pride Recycling Company to deliver up to a maximum of 65,000 tons annually of mixed residential and commercial solid waste, including putrescible waste, to the Riverbend Landfill located in McMinnville, Oregon. The existing license will expire on December 31, 2003.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license renewal.

2. Legal Antecedents

Changes to Code Chapter 5.05 approved by the Council with an emergency clause on October 9, 2003, made the issuance of NSLs for putrescible waste subject to approval by the Council rather than subject to approval by the Chief Operating Officer as was previously the case. 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 Riverbend Landfill first came into use during the mid-eighties. When the Riverbend Landfill 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;*

The Riverbend Landfill is permitted by the DEQ. The facility was issued a Notice of Noncompliance by DEQ in 1997 when an out-of-tune gas flare caused vibrations that were heard in a residential area nearby. The problem was considered to be relatively minor violation and was promptly remedied. 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;*

Pride Recycling Company performs materials recovery, even from waste streams that have a substantial putrescible component. The waste that would be subject to the proposed license is putrescible waste that has no further recovery potential. Therefore, granting the requested license will not impact the region's recycling and waste reduction efforts.

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

Riverbend Landfill is a Waste Management facility. Thus, under a disposal agreement that has been in force since 1999, waste delivered under the proposed license is included as waste delivered to Metro's contract operator for purposes of Metro's disposal contract. The requested license does not appear to 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*

During fiscal year 2001–02, Pride Recycling Company exceeded the 68,250-ton cap stipulated in its Metro Solid Waste Facility Franchise by 4,343 tons and was issued a Notice of Violation and a \$20,000 fine by Metro. Pride contested enforcement action, which was upheld upon appeal. There have been no other incidents of non-compliance.

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

Solid waste delivered to the Riverbend Landfill counts toward the declining block fee schedule stipulated in Metro's disposal contract with Waste Management. Pride Recycling Company has been disposing of solid waste at the Riverbend Landfill under the authority of a Metro-issued NSL since October 1999.

Conclusion

The Chief Operating Officer finds that the proposed license satisfies the requirements of Metro Code Section 5.03.035 for the requested Solid Waste Facility License.

3. Anticipated Effects

The effect of Resolution No. 03-3390 will be to issue an NSL for delivery of up to 65,000 tons per calendar year of solid waste, including putrescible waste, to the Riverbend Landfill.

4. Budget Impacts

Issuance of an NSL to Pride Recycling Company will continue the status quo with no additional budget impact. The regional system fee will continue to be collected by the applicant on all solid waste received from within the Metro boundary. The excise tax is collected on all waste regardless of where it is generated.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 03-3390.

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