

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF ) RESOLUTION NO. 04-3504  
OPERATING OFFICER TO ISSUE A NON-SYSTEM )  
LICENSE TO WILLAMETTE RESOURCES, INC., FOR ) Introduced by Michael Jordan,  
DELIVERY OF SOLID WASTE TO THE RIVERBEND ) Chief Operating Officer, with the  
LANDFILL ) 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,

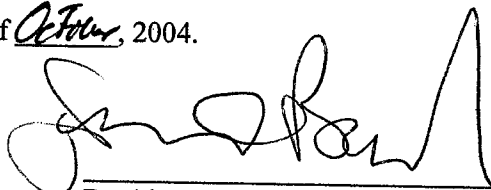
WHEREAS, Willamette Resources, Inc., has applied for a non-system license under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control"; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05, Solid Waste Flow Control, 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 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 28<sup>th</sup> day of October, 2004.



David Bragdon, Council President

Approved as to Form:



Daniel B. Cooper, Metro Attorney



600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736  
TEL 503 797 1650 | FAX 503 797 1795



METRO

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

**Number N-005-04**

<b>LICENSEE:</b>
Willamette Resources, Inc. 10295 S.W. Ridder Rd. Wilsonville, Oregon 97070  Willamette Resources, Inc. is a wholly owned subsidiary of:  Allied Waste Industries 15880 N Greenway-Hayden Loop Scottsdale, AZ 85260
<b>CONTACT PERSON:</b>
Mike Huycke, Ray Phelps and Todd Irvine Phone: (503) 570-0626 Fax: (503) 570-0523
<b>MAILING ADDRESS:</b>
10295 S.W. Ridder Rd. Wilsonville, Oregon 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>
	Municipal solid waste, including putrescible waste and processing residual from material recovery, received at Willamette Resources, Inc. (WRI) from commercial refuse haulers.
<b>2</b>	<b>FISCAL YEAR TONNAGE LIMITATION</b>
	Licensee is authorized to deliver to the non-system facility described in section 3 of this license up to a maximum of 23,250 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).
<b>3</b>	<b>NON-SYSTEM FACILITY</b>
	The licensee hereunder may deliver the waste described in section 1, above, only to the following non-system facility:  Riverbend Landfill 13469 S.W. Highway 18 McMinnville, OR 87128
<b>4</b>	<b>TERM OF LICENSE</b>
	The term of this license will commence on November 1, 2004 and will expire on October 31, 2006, unless terminated sooner under section 6 of this license.
<b>5</b>	<b>MATERIALS RECOVERY</b>
	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.

<b>6</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 solid waste on behalf of the licensee.

<b>7</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 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.</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><li>(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.</li></ul></li></ul>

	<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>
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<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 as if specifically set forth herein.</p>

<b>9</b>	<b>INDEMNIFICATION</b>
	<p>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.</p>

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3504 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO WILLAMETTE RESOURCES, INC. FOR DELIVERY OF SOLID WASTE TO THE RIVERBEND LANDFILL

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September 30, 2004

Prepared by: Steve Kraten

## BACKGROUND

### Description of the Resolution

In October 2002, Willamette Resources, Inc., (WRI) was granted a non-system license (NSL) to annually deliver a maximum of 20,000 tons per calendar year of solid waste, including putrescible waste, to the Riverbend Landfill. The license commenced on November 1, 2002 and will expire on October 31, 2004. On September 14, 2004, 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 23,250 tons per calendar year. The requested increase is intended by the applicant to accommodate the 3,250-ton (five percent) increase in WRI's facility cap approved by the Council on September 9, 2004.

## 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 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 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 its tonnage caps. However, the 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.*

On September 9, 2004, the Council approved Ordinance 04-1058, increasing WRI's putrescible waste facility cap by five percent to a total of 68,250 tons.

### **3. Anticipated Effects**

The effect of Resolution No. 04-3504 will be for WRI to deliver up to 23,250 tons of solid waste per year to the Riverbend Landfill during calendar years 2005 and 2006. This is an increase of 3,250 tons more than is authorized under the existing NSL.

### **4. Budget Impacts**

The regional system fee and excise tax will continue to be collected on in-Metro waste delivered to the Columbia Ridge Landfill and the Riverbend Landfill under authority of the proposed NSL. The budget impact of the additional tonnage authorized under this license was considered by the Council in its approval of a five percent increase in the facility's tonnage cap and is not affected by the proposed NSL.



## **RECOMMENDED ACTION**

The Chief Operating Officer recommends approval of Resolution No. 04-3504, 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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