

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF ) RESOLUTION NO. 04-3505  
OPERATING OFFICER TO ISSUE A NON-SYSTEM )  
LICENSE TO WASTE MANAGEMENT OF OREGON, )  
INC. FOR DELIVERY OF SOLID WASTE FROM THE ) Introduced by Michael Jordan,  
TROUTDALE TRANSFER STATION TO THE ) Chief Operating Officer, with the  
COLUMBIA RIDGE LANDFILL AND THE ) concurrence of David Bragdon,  
RIVERBEND LANDFILL ) Council President

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

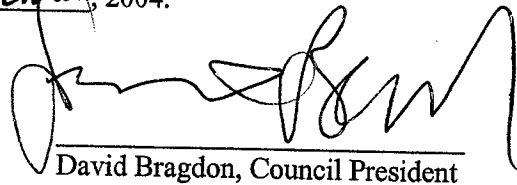
WHEREAS, Waste Management of Oregon, Inc. has applied for a non-system license under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control"; and,

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

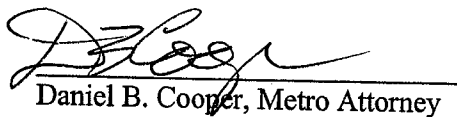
WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; now therefore,

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to issue a non-system license to Waste Management of Oregon, 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



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**METRO**

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

**Number N-001-04**

<b>LICENSEE:</b>
Waste Management of Oregon, Inc., dba Troutdale Transfer Station 869 NW Eastwind Drive Troutdale, OR 97060
<b>CONTACT PERSON:</b>
Dan Wilson Phone: (503) 640-9427 Fax: (503) 648-3942 E-mail: <a href="mailto:Dwuksib@wm.com">Dwuksib@wm.com</a>
<b>PARENT COMPANY:</b>
Waste Management of Oregon, Inc. 7227 NE 55 <sup>th</sup> Ave. Portland, OR 97218

**METRO**

**Licensee's Acceptance &  
Acknowledgement of Receipt:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Michael Jordan, Solid Waste & Recycling Director

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Signature of Licensee

\_\_\_\_\_  
Print name and title

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Date

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Date

<b>1</b>	<b>NATURE OF WASTE COVERED BY LICENSE</b>
	This license authorizes delivery from the Troutdale Transfer Station to the non-system facility listed in section 3, below, of residential and commercial solid waste generated within the Metro region, including putrescible waste collected by the licensee.
<b>2</b>	<b>CALENDAR YEAR TONNAGE LIMITATION</b>
	This license grants the licensee the authority to dispose of up to 66,625 tons in calendar year 2005 and 65,000 tons in calendar year 2006 of the waste described in section 1, above.
<b>3</b>	<b>NON-SYSTEM FACILITY</b>
	<p>The licensee hereunder may deliver the waste described in section 1, above, only to the following non-system facilities:</p> <p style="padding-left: 40px;">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="padding-left: 40px;">Riverbend Landfill 13469 S.W. Highway 18 McMinnville, OR 87128</p>
<b>4</b>	<b>TERM OF LICENSE</b>
	The term of this license will commence on January 1, 2005 and expire at midnight on December 31, 2006.
<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 of its transportation carrier during the loading and transporting of solid waste on behalf of the licensee.
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<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) 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.</li><li>(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.</li><li>(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"><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 facilities described in section 3, above.</li></ul></li><li>(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.</li><li>(e) 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</li></ul></li></ul>

	<p style="text-align: center;">the collection, payment, and accounting of such fees and taxes.</p> <p>(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.</p> <p>(g) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(h) This license authorizes delivery of solid waste from the Troutdale Transfer Station to the Columbia Ridge Landfill and the Riverbend Landfill. Transfer of waste generated from within the Metro boundary to any disposal site other than the Columbia Ridge Landfill and the Riverbend Landfill is prohibited unless authorized in writing by Metro.</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>

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## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3505 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE 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

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September 30, 2004

Prepared by: Steve Kraten

## BACKGROUND

### Description of the Resolution

On September 5, 2003, Waste Management of Oregon, Inc. (WMO) was granted a non-system license (No. N-001-03) to deliver the full amount of its putrescible waste facility cap at the Troutdale Transfer Station (TTS), 65,000 tons per calendar year, to the Columbia Ridge Landfill (CRLF). WMO needed a non-system license (NSL) to deliver putrescible solid waste from TTS to CRLF because CRLF is a designated facility only for non-putrescible and special waste. The NSL also authorized the delivery of such waste to the Riverbend Landfill in the case of an emergency, such as the closure of I-84, that would prevent the delivery of waste to CRLF. This license will expire on January 1, 2005, and on September 3, 2004, WMO submitted an application to renew this license. Since the Riverbend Landfill is a Waste Management facility, this NSL will not implicate Metro's obligations under its disposal contract. This resolution will authorize the Chief Operating Officer to renew the license, and to increase the tonnage authorization to match the increased tonnage authorization that has been granted to WMO under the terms of the TTS facility franchise.

The term of the proposed license would span two full calendar years, beginning January 1, 2005. Though the term and the tonnage limit of the NSL is based on a calendar year, the tonnage cap set by the facility's franchise is based on a fiscal year. The applicant has applied for authority to deliver 68,250 tons annually under the NSL. However, this tonnage figure is based on a temporary, non-renewable, five percent administrative increase in its 65,000-ton per fiscal year facility cap that was granted by the Chief Operating Officer and will expire on June 30, 2005, the end of FY 04-05. Thus, the 68,250-ton cap will be in effect only for the first six months of the proposed two-year term of the NSL, after which it will return to 65,000 tons per fiscal year. In order to make the NSL cap consistent with the facility cap, the proposed license authorizes the delivery of 66,625 tons in calendar 2005 (the average of 68,250 tons for the first half of the year and 65,000 tons for the second half) and 65,000 tons in calendar 2006.

## 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 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 Columbia Ridge and Riverbend Landfills are permitted by the DEQ. The DEQ considers both landfills to be well run and in compliance with federal, state and local requirements. Both facilities have 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 Columbia Ridge and Riverbend Landfills 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 only waste that the applicant has proposed to deliver for disposal under the requested license is putrescible waste and residual from waste that has already undergone material recovery. 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;*

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. The waste subject to the proposed license is proposed to be delivered to the Columbia Ridge and Riverbend Landfills, both of 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 Metro, local, state, and federal regulations.

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

Staff did not identify any additional significant factors to be considered in making a determination.

### **3. Anticipated Effects**

The effect of Resolution No. 04-3505 will be to issue an NSL to WMO for delivery of solid waste, including putrescible waste, to the Columbia Ridge Landfill and, in the event such deliveries are disrupted due to an emergency, to the Riverbend Landfill.

### **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 Chief Operating Officer in his 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. 04-3505 authorizing the issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

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