

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER) RESOLUTION NO. 05-3583
TO ISSUE A RENEWED NON-SYSTEM LICENSE)
JOINTLY TO WILLAMETTE RESOURCES, INC. AND) Introduced by Michael Jordan,
UNITED DISPOSAL SERVICE, INC. FOR DELIVERY) Chief Operating Officer, with the
OF SOLID WASTE, INCLUDING PUTRESCIBLE) concurrence of David Bragdon,
WASTE, TO THE COVANTA WASTE-TO-ENERGY) Council President
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

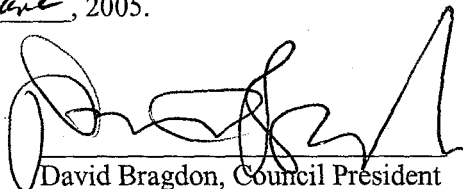
WHEREAS, Willamette Resources, Inc. and United Disposal Service, Inc. have applied for a renewed non-system license under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control"; and

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

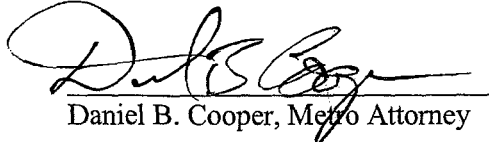
WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicants' request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; now therefore,

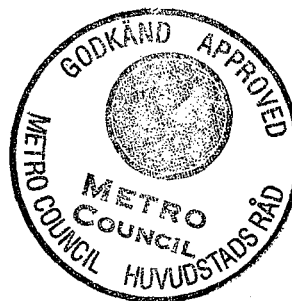
BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to issue a non-system license to Willamette Resources, Inc. and United Disposal Service, Inc. in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this 9th day of June, 2005.


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-005-05(2)

LICENSEE:	
Willamette Resources, Inc. 10295 S.W. Ridder Road Wilsonville, OR 97070	United Disposal Service, Inc. 2215 N. Front Street Woodburn, OR 97071-5999
CONTACT PERSON:	
Phone: Todd Irvine 503-570-0626	Robin Murbach 503-981-1278
Fax: 503-682-7053	503-982-7930
e-mail: todd.irvine@awin.com	robin.murbach@awin.com
MAILING ADDRESS:	
10295 S.W. Ridder Rd. Wilsonville, OR 97070	PO Box 608 Woodburn, OR 97071-5999

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

1	NATURE OF WASTE COVERED BY LICENSE
	This license authorizes delivery 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.

2	FISCAL YEAR TONNAGE LIMITATION
	This license grants the licensee the authority to dispose of up to 5,500 tons per fiscal year of the waste described in section 1, above. A fiscal year shall run from July 1 through June 30 of the following year.

3	NON-SYSTEM FACILITY
	The licensee hereunder may deliver the waste described in section 1, above, to the following non-system facility: Covanta Waste-to-Energy Facility 4850 Brooklake Rd. N.E. Brooks, OR 97305

4	TERM OF LICENSE
	The term of this license will commence on July 1, 2005 and expire at midnight on June 30, 2007.

5	MATERIALS RECOVERY
	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.

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
	<p>This non-system license shall be subject to the following conditions:</p> <ul style="list-style-type: none"> (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. (b) The Licensee's authority to deliver drop box loads of non-putrescible waste under this license shall be terminated if Metro adopts a requirement that such loads must undergo recovery at a Metro-authorized facility prior to delivery for disposal. (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"> (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

	<p>with any provision in Metro's disposal contract with Oregon Waste Systems, or</p> <p>(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.</p> <p>(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.</p> <p>(e) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:</p> <p>(i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and</p> <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>(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 facility named in section 4, 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 shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3.</p> <p>(i) This license authorizes delivery of solid waste to the Coranta Waste-to-Energy Facility. Transfer of waste generated from within the Metro boundary to any disposal site other than the Coranta Waste-to-Energy Facility is prohibited unless authorized in writing by Metro.</p>
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8	COMPLIANCE WITH LAW
	<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>

9	INDEMNIFICATION
	<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. 05-3583 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE JOINTLY TO WILLAMETTE RESOURCES, INC. AND UNITED DISPOSAL SERVICE, INC. FOR DELIVERY OF SOLID WASTE, INCLUDING PUTRESCIBLE WASTE, TO THE COVANTA WASTE-TO-ENERGY FACILITY

June 9, 2005

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 05-3583 will authorize the Chief Operating Officer to issue a renewed non-system license (NSL) to Willamette Resources, Inc (WRI) and United Disposal Service, Inc. (UDS) to annually deliver a maximum of 5,500 tons of solid waste, including putrescible waste to the Covanta Waste-to-Energy (WTE) facility located in Brooks, Oregon. Because the Covanta facility is a WTE facility, not a general-purpose landfill, this NSL will not implicate Metro's obligations under its disposal contract.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed non-system license.

2. Legal Antecedents

Changes to Code Chapter 5.05 approved by the Council that became effective 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 proposed disposal site is a waste-to-energy 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). In response to an inquiry from Metro, Marion County's Senior Environmental Engineer confirmed that the

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 waste subject to the proposed license is putrescible waste with little potential for recovery. 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 requested license will not conflict with Metro's disposal contract. The Covanta 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*

In 2002, WRI exceeded the 5,500-ton limit stipulated in its NSL for the Covanta WTE facility by 3,531 tons and in FY 2003, WRI violated by 1,241 tons the 65,000-ton cap stipulated in its solid waste facility franchise due to its failure to track tonnage on a fiscal year rather than a calendar year basis. The facility has had no violations related to public health, safety or environmental regulations.

- (7) *Such other factors as the executive officer deems appropriate for purposes of making such determination.*

The Covanta 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. Marion County is supportive of Metro's facilitation of a flow of solid waste to the facility during these times.

Staff Recommendation:

The applicant has applied to renew its authority to deliver waste to a compliant and environmentally sound facility. Incineration for energy is higher on the state hierarchy than landfilling. These factors favor a granting of the requested renewal.

Staff recommends that the NSL be renewed at its present 5,500 ton authorization. A copy of the proposed NSL is attached as Exhibit A to the Resolution.

3. Anticipated Effects

The effect of Resolution No. 05-3583 will be to issue an NSL for delivery of up to 5,500 tons per fiscal year of pre-consumer vegetative food waste and breads to the Covanta WTE facility.

4. Budget Impacts

The application under consideration is the renewal of an existing NSL. Therefore, the budget impact has already been factored into the budget.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 05-3583, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

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