

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF	)	RESOLUTION NO. 16-4736
OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM	)	
LICENSE TO WILLAMETTE RESOURCES, INC. AND REPUBLIC	)	Introduced by Martha Bennett,
SERVICES OF CLACKAMAS AND WASHINGTON COUNTIES	)	Chief Operating Officer, with the
FOR TRANSPORT AND DISPOSAL OF PUTRESCIBLE WASTE	)	concurrence of Tom Hughes,
AT THE COVANTA WASTE-TO-ENERGY FACILITY LOCATED	)	Council President
IN BROOKS, OREGON	)	

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

WHEREAS, Willamette Resources, Inc. ("WRI") and Republic Services of Clackamas and Washington Counties ("Republic") hold Metro Solid Waste Facility Non-System License No. N-005-15(2), which expires on December 31, 2016; and

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

WHEREAS, Metro Code Chapter 5.05 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

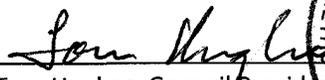
WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

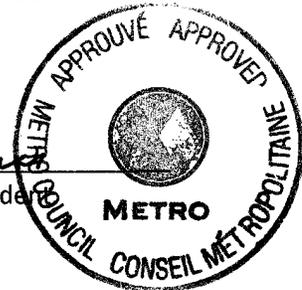
WHEREAS, the Chief Operating Officer recommends that the non-system license be renewed together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The non-system license renewal application of WRI and Republic 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 Republic a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 1 day of December, 2016.

  
 Tom Hughes, Council President



Approved as to Form:



*for* Alison R. Kean, Metro Attorney

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736  
TEL 503 797 1835 | FAX 503 813 7544



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

**No. N-005-17(2)**

<b>LICENSEE:</b>	
Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, OR 97070	Republic Services of Clackamas and Washington Counties 10295 SW Ridder Road Wilsonville, OR 97070
<b>CONTACT PERSON:</b>	
Jason Jordan Phone: (503) 404-4180 Fax: (503) 570-0523 E-mail: <a href="mailto:Jason.jordan@republicservices.com">Jason.jordan@republicservices.com</a>	Frank Lonergan (503) 682-3900 (503) 682-9505 <a href="mailto:flonergan@republicservices.com">flonergan@republicservices.com</a>
<b>MAILING ADDRESS:</b>	
Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, OR 97070	Republic Services of Clackamas and Washington Counties 10295 SW Ridder Road Wilsonville, OR 97070

**ISSUED BY METRO:**

\_\_\_\_\_  
Paul Slyman  
Property & Environmental Services Director

\_\_\_\_\_  
Date



<b>1</b>	<b>NATURE OF WASTE COVERED BY LICENSE</b>
	<ol style="list-style-type: none"><li>1. Putrescible solid waste that is generated within the Metro region and received at Willamette Resources, Inc. in accordance with its Metro solid waste facility franchise; and</li><li>2. Confidential records of customers generated within the Metro region and collected by Republic Services of Clackamas and Washington Counties and transported directly to the non-system facility described in Section 3.</li></ol>
<b>2</b>	<b>CALENDAR YEAR TONNAGE LIMITATION</b>
	<p>The licensee is jointly authorized to transport to the non-system facility described in Section 3 up to 5,500 tons per calendar year of the waste described in Section 1. This license does not increase the total tonnage that the licensee is authorized to accept under its Metro solid waste facility franchise.</p>
<b>3</b>	<b>NON-SYSTEM FACILITY</b>
	<p>The licensee is authorized to transport the waste described above in Section 1 only to the following non-system facility:</p> <p style="text-align: center;">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.</p>
<b>4</b>	<b>TERM OF LICENSE</b>
	<p>The term of this license will commence on January 1, 2017 and expire at midnight on December 31, 2018, unless terminated sooner under Section 7.</p>
<b>5</b>	<b>REPORTING OF ACCIDENTS AND CITATIONS</b>



	The licensee must report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.
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<b>6</b>	<b>RECORD KEEPING AND REPORTING</b>
	<p>(a) The licensee must keep and maintain accurate records of the amount of all solid waste that the licensee transports to the non-system facility described in Section 3. These records must include the information specified in the Metro document titled, <u>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements</u>.</p> <p>(b) The licensee must perform the following no later than fifteen days following the end of each month:</p> <ul style="list-style-type: none"><li>i. Transmit to Metro the records required under Section 6(a) above 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) The licensee must make available to Metro (or Metro’s designated agent) all records from which Sections 6(a) and 6(b) above are derived for its inspection or copying, as long as Metro provides at least three business days written notice of an intent to inspect or copy documents. The licensee must, 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.</p>

<b>7</b>	<b>ADDITIONAL LICENSE CONDITIONS</b>
	<p>This license shall be subject to the following conditions:</p> <p>(a) The permissive transport of solid waste to the non-system facility, listed in Section 3, authorized by this license is subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.</p> <p>(b) This license is subject to amendment or termination by Metro’s Chief Operating Officer (the “COO”) in the event that the COO determines that:</p> <ul style="list-style-type: none"><li>i. There has been sufficient change in any circumstances under which Metro issued this license;</li></ul>



	<ul style="list-style-type: none"> <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> <p>(c) This license, in addition to subsections (b)(i) through (b)(iii), above, is subject to amendment, suspension, or termination pursuant to the Metro Code.</p> <p>(d) The Licensee must not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(e) This license will 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.</p> <p>(f) This license authorizes the transport of solid waste to the facility listed in Section 3. The transport 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.</p>
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<b>8</b>	<b>COMPLIANCE WITH LAW</b>
	<p>The licensee must 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 is deemed part of this license as if specifically set forth herein.</p>

<b>9</b>	<b>INDEMNIFICATION</b>
	<p>The licensee must 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</p>



	license.
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WE:bjl

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 16-4736 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO WILLAMETTE RESOURCES, INC. AND REPUBLIC SERVICES OF CLACKAMAS AND WASHINGTON COUNTIES FOR TRANSPORT AND DISPOSAL OF PUTRESCIBLE WASTE AT THE COVANTA WASTE-TO-ENERGY FACILITY LOCATED IN BROOKS, OREGON

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November 10, 2016

Prepared by: Will Ennis  
(503) 797-1667

Approval of Resolution No. 16-4736 will authorize the Chief Operating Officer (COO) to issue a renewed non-system license (NSL) to Willamette Resources, Inc. (WRI) and Republic Services of Clackamas and Washington Counties (Republic) to annually transport 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 proposed NSL is a renewal of an existing NSL that is set to expire on December 31, 2016.<sup>1</sup>

## BACKGROUND

WRI is a Metro-franchised transfer station located at 10295 SW Ridder Road in Wilsonville (Metro Council District 3). The applicants are owned and operated by Republic Services, Inc. headquartered in Phoenix, Arizona.

In October 2014, WRI and Republic were jointly granted an NSL to transport 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 Republic to Covanta. The term of this NSL commenced on January 1, 2015 and is set to expire on December 31, 2016. In 2015, the licensees transported approximately 3,230 tons of solid waste to Covanta under authority of the NSL and no waste to the facility between the dates of January 1 and September 30, 2016. The current NSL is set to expire on December 31, 2016.

In addition to the above-mentioned NSL for Covanta, WRI currently holds three other NSLs that authorize the transport of putrescible waste to different disposal sites. These NSL include:

- NSL No. N-005-15B authorizing the transport of up to 75,000 tons per calendar year of putrescible solid waste to Riverbend Landfill;
- NSL No. N-005-15(3)C authorizing the transport of up to 44,478 tons per calendar year of putrescible solid waste to Coffin Butte Landfill; and
- NSL No. N-005-16(4) authorizing the transport of up to 20,000 tons of commercial food waste to Pacific Region Compost.

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 its Metro solid waste facility franchise.

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<sup>1</sup> Metro Solid Waste Facility Non-System License No. N-005-15(2)  
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On August 29, 2016, WRI and Republic submitted to Metro an application requesting that Metro renew its NSL for Covanta 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 current NSL. The proposed license renews the existing authorization that WRI and Republic have held under NSLs since 1999. The proposed license renewal is subject to approval or denial by the Metro Council because, it authorizes the transport of putrescible waste to a non-system facility.<sup>2</sup>

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

There is no known opposition to the proposed NSL.

### **2. Legal Antecedents**

Metro Code Section 5.05.025 prohibits any person from utilizing non-system facilities without an appropriate license from Metro. Additionally, Section 5.05.043 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. Air emissions from the facility are controlled through the use of high efficiency combustion within the furnace/boiler as well as by selective non-catalytic reduction, spray dryer absorbers, fabric filter baghouses and an activated carbon injection system. The ash generated at the facility is then 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 DEQ. Metro staff received verbal confirmation from 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;*

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<sup>2</sup> Metro Code Section 5.05.040

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. Furthermore, the Metro-area waste that is delivered to Covanta is not included in Metro's recovery rate calculation because state statute<sup>3</sup> provides that only those wastesheds that burn mixed solid waste for energy recovery within their wasteshed boundaries may count a portion of it towards their DEQ recovery rate calculation. Marion County is the only wasteshed within Oregon that hosts a waste-to-energy facility within its boundaries; therefore, it is the only wasteshed that is allowed to include a portion of the in-County waste that is delivered to Covanta in its recovery rate. Approval of the proposed license renewal is not expected to impact the Metro region's recycling and waste reduction efforts.

*(5) The consistency of issuing the license 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.

*(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*

Metro issued WRI a Notice of Violation on February 18, 2016 for exceeding the tonnage authorization for Metro Solid Waste Non-System License N-005-15(3)B.<sup>4</sup> The matter was resolved and WRI is currently in compliance with its Metro-issued franchise and NSLs.

*(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 currently authorizes the facility to accept up to 73,500 tons of putrescible waste during calendar year 2016. The issuance of the proposed NSL authorizing the delivery of up to 5,500 tons of

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<sup>3</sup> ORS 465A.010(4)(f)(B)

<sup>4</sup> Notice of Violation No. NOV-394-16

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 the tonnage authorization provided in WRI's franchise.

### **3. Anticipated Effects**

The effect of Resolution No. 16-4736 will be to issue a renewed NSL authorizing WRI and Republic to deliver up to 5,500 tons per calendar year of putrescible waste and certain confidential records to Covanta for disposal. The proposed renewed NSL would commence on January 1, 2017 and expire on December 31, 2018.

### **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 proposed NSL is a renewal of an existing authorization and the financial impact of this NSL has already been factored into the budget.

### **RECOMMENDED ACTION**

The COO recommends that the Metro Council adopt Resolution No. 16-4736. Approval of this resolution will authorize the COO to issue an NSL to WRI and Republic subject to the requirements listed in Metro Code Chapter 5.05, as well as the special conditions that are incorporated into the proposed NSL (attached as Exhibit A to the proposed resolution).

WE:bjl