

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING ) RESOLUTION NO. 16-4738  
OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO WASTE )  
MANAGEMENT OF OREGON, INC. FOR THE TRANSPORT AND ) Introduced by Chief Operating Officer  
DISPOSAL OF PUTRESCIBLE WASTE FROM THE TROUTDALE ) Martha Bennett in concurrence with  
TRANSFER STATION TO THE COLUMBIA RIDGE LANDFILL LOCATED ) Council President Tom Hughes  
IN GILLIAM COUNTY, OREGON, AND UNDER CERTAIN UNUSUAL )  
CIRCUMSTANCES TO RIVERBEND LANDFILL LOCATED IN YAMHILL )  
COUNTY, 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, Waste Management of Oregon, Inc. ("WMO") holds Metro Solid Waste Facility Non-System License No. N-001-15B, which expires on December 31, 2016; and

WHEREAS, WMO has filed a completed application seeking renewal of the non-system license to transport putrescible waste from the Troutdale Transfer Station to the Columbia Ridge Landfill and Riverbend Landfill for disposal under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, the Metro Code Chapter 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

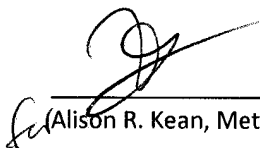
WHEREAS, the Chief Operating Officer recommends that the non-system license be renewed together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

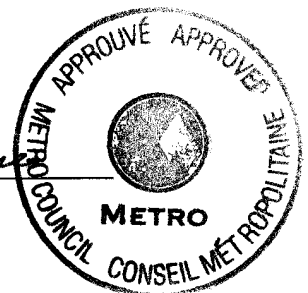
1. The non-system license renewal application of WMO is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to WMO a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

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

Approved as to Form:

  
Alison R. Kean, Metro Attorney

  
Tom Hughes, Council President



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

**No. N-001-17**

<b>LICENSEE:</b>
Waste Management of Oregon, Inc. dba Troutdale Transfer Station 869 NW Eastwind Drive Troutdale, OR 97060
<b>CONTACT PERSON:</b>
William Carr Phone: (971) 261-4008 Fax: (866) 666-3809 E-mail: <a href="mailto:wcarr@wm.com">wcarr@wm.com</a>
<b>MAILING ADDRESS:</b>
Troutdale Transfer Station 869 NW Eastwind Drive Troutdale, OR 97060

**ISSUED BY METRO:**

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

\_\_\_\_\_  
Date



<b>1</b>	<b>NATURE OF WASTE COVERED BY LICENSE</b>
	Putrescible solid waste that is generated within the Metro boundary and received at Troutdale Transfer Station in accordance with its Metro solid waste facility franchise.
<b>2</b>	<b>CALENDAR YEAR TONNAGE LIMITATION</b>
	The licensee is authorized to transport to the non-system facilities described in Section 3 up to 77,435 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.
<b>3</b>	<b>NON-SYSTEM FACILITIES</b>
	<p>The licensee is authorized to transport the waste described above in Section 1 to the following non-system facility:</p> <p style="padding-left: 40px;">Columbia Ridge Landfill 18177 Cedar Springs Lane Arlington, OR 97812</p> <p>And, during certain unusual circumstances and emergency situations as described in Section 7, the licensee is authorized to transport the above referenced waste to the following non-system facility:</p> <p style="padding-left: 40px;">Riverbend Landfill 13469 SW Highway 18 McMinnville, OR 97128</p> <p>This license is issued on condition that the non-system facilities named in this section are authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality that these non-system facilities are 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>
	The term of this license commences on January 1, 2017 and expires at midnight on December 31, 2018, unless terminated sooner under Section 7.

<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.

<b>6</b>	<b>RECORD KEEPING AND REPORTING</b>
	<p>(a) The licensee must keep and maintain accurate records of the amount of all waste that the licensee transports to the non-system facilities described in Section 3. These records include the information specified in <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 is subject to the following conditions:</p> <p>(a) The licensee is authorized to transfer putrescible waste to the Riverbend Landfill only during certain unusual circumstances and 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 transporting such waste to the Columbia Ridge Landfill.</p>

- (b) If the licensee transports putrescible waste to the Riverbend Landfill as provided above in Section 7(a), the licensee must:
  - i. Report the unusual circumstance or emergency situation to Metro within 12 hours of its discovery; and
  - ii. Notify Metro in writing if such transport of waste to the Riverbend Landfill continues for more than three consecutive business days. The written notification required by this section must include a detailed description of the particular circumstance resulting in such transport and its expected duration.
- (c) The permissive transport of solid waste to the non-system facilities, 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.
- (d) This license is subject to amendment or termination by Metro's Chief Operating Officer (the "COO") in the event that the COO determines that:
  - i. There has been sufficient change in any circumstances under which Metro issued this license;
  - 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.;
  - 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 be transported to, and disposed of at, a facility other than the facilities listed in Section 3; or
  - iv. There has been a change in the amount of tonnage that the licensee is authorized to accept under its Metro solid waste facility franchise. In the event that Metro amends the tonnage authorization provided in the facility's franchise, the COO may amend Section 2 of this license to match the same calendar year tonnage limitation in the franchise.
- (e) This license, in addition to subsections (d)(i) through (d)(iv), above, is subject to amendment, suspension, or termination pursuant to the Metro Code.
- (f) The licensee must not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.
- (g) This license will terminate upon the execution of a designated facility agreement with either of the facilities listed in Section 3 that authorizes the acceptance of the waste described in Section 1.
- (h) This license authorizes the transport of solid waste to the facilities listed in Section 3. Transport of waste generated from within the Metro boundary



	<p>to any non-system facility other than those specified in this license is prohibited unless authorized in writing by Metro.</p> <p>(i) If the licensee exceeds the calendar year limitation set forth in Section 2, each ton or portion thereof by which the licensee exceeds the limitation constitutes a separate violation subject to a penalty of up to \$500.</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 license.</p>

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 16-4738 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO WASTE MANAGEMENT OF OREGON, INC. FOR THE TRANSPORT AND DISPOSAL OF PUTRESCIBLE WASTE FROM THE TROUTDALE TRANSFER STATION TO THE COLUMBIA RIDGE LANDFILL LOCATED IN GILLIAM COUNTY, OREGON, AND UNDER CERTAIN UNUSUAL CIRCUMSTANCES TO RIVERBEND LANDFILL LOCATED IN YAMHILL COUNTY, OREGON

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November 10, 2016

Prepared by: Will Ennis  
503-797-1667

Approval of Resolution No. 16-4738 will authorize the Chief Operating Officer (COO) to issue a renewed non-system license (NSL) to Waste Management of Oregon, Inc. (WMO) to annually transport up to 77,435 tons of putrescible waste from the Troutdale Transfer Station (TTS) to the Columbia Ridge Landfill (Columbia Ridge) located in Gilliam County, Oregon, and under certain unusual circumstances and emergency conditions, to the Riverbend Landfill (Riverbend) located in Yamhill County, Oregon.

## BACKGROUND

TTS is a Metro-franchised<sup>1</sup> solid waste facility located at 869 NW Eastwind Drive, in Troutdale (Metro Council District 1). TTS, Columbia Ridge, and Riverbend are all owned and operated by WMO which is headquartered in Houston, Texas.

In December 2013, Metro entered into designated facility agreements with Columbia Ridge<sup>2</sup> and Riverbend.<sup>3</sup> These agreements, which expire at the end of 2019, allow certain types of Metro-area waste (such as non-putrescible processing residual) to be delivered to these landfills without the need for haulers to obtain an NSL. However, these agreements do not include the acceptance of Metro-area putrescible waste. Therefore, NSLs are required in order to transport and dispose of putrescible waste at these landfills.

In November 2014, WMO was granted a two-year NSL<sup>4</sup> to transport a maximum of 70,000 tons per calendar year of putrescible waste, from TTS, to Columbia Ridge and Riverbend for disposal. The NSL was amended in October 2015 to increase the annual tonnage authorization to 73,500 tons in order to align it with a corresponding increase in the facility's franchise tonnage authorization.<sup>5</sup> The NSL was similarly amended in August 2016 to again increase the annual tonnage authorization to 75,000 tons in order to reflect an additional increase in the annual tonnage authorization for the transfer station.<sup>6</sup> The term of the NSL commenced on January 1, 2015 and expires on December 31, 2016. The proposed NSL is the renewal of a current license and it renews the existing authorization that WMO has held since 2003.

On September 2, 2016, WMO submitted an application seeking the renewal of its NSL. The current NSL authorizes the facility to transport all of its putrescible solid waste primarily to Columbia Ridge with an

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<sup>1</sup> Metro Solid Waste Facility Franchise No. F-001-08F

<sup>2</sup> Metro Contract No. 932396

<sup>3</sup> Metro Contract No. 932399

<sup>4</sup> NSL No. N-001-15

<sup>5</sup> NSL No. N-001-15A

<sup>6</sup> NSL No. N-001-15B

allowance to also transport waste to Riverbend under certain unusual circumstances and emergency situations that would prevent TTS from using Columbia Ridge, such as the closure of Interstate 84. In 2015, the licensee transported approximately 73,350 tons of putrescible waste to Columbia Ridge and approximately 57,500 tons to Columbia Ridge between January 1 and September 30, 2016. The licensee did not transport any putrescible waste to Riverbend during the term of the current NSL.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

There is no known opposition to the issuance of an NSL authorizing the delivery of waste to Columbia Ridge. However, within Yamhill County, there is known local public opposition to the expansion of Riverbend and to the disposal of any waste generated outside of Yamhill County that may contribute to WMO's need to expand capacity at the landfill. However, this proposed NSL limits the use of Riverbend to unusual circumstances and emergency situations that would otherwise prevent TTS from delivering waste to Columbia Ridge, such as the closure of Interstate 84 or the temporary breakdown of the facility's compactor. The licensee did not transport any putrescible waste to Riverbend during the term of the current NSL.

Metro staff notified Yamhill County of the applicant's request and the County's solid waste staff has reported that the landfill is in compliance with local requirements and the County does not object to solid waste being received from the Metro region.

### **2. Legal Antecedents**

Metro Code Section 5.05.025 prohibits any person from utilizing non-system facilities without an appropriate license from Metro. Additionally, Code Section 5.05.043 provides that, when determining whether or not to approve an NSL application, the Metro 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 applicant (WMO) and disposal sites (Columbia Ridge and Riverbend) are well known to Metro regulatory staff. The facility and disposal sites are owned and operated by a major, nationally-integrated solid waste company that serves as Metro's disposal contractor. The environmental risks from the use of these disposal sites are expected to be minimal as the landfills are fully regulated by the appropriate local and state authorities.

- (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;*

WMO owns and operates both Columbia Ridge and Riverbend. Metro staff's investigation of WMO has revealed a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations.



- (3) *The adequacy of operational practices and management controls at the non-system facility;*

Both Columbia Ridge and Riverbend use operational practices and management controls that are typical of RCRA Subtitle D landfills.<sup>7</sup> Staff at the Oregon Department of Environmental Quality (DEQ), the landfills' regulator, considers the operational practices and controls in place at these landfills to be appropriate for the proper management of waste disposal and adequate for the protection of health and the environment.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The proposed license authorizes the transport and disposal of putrescible solid waste, which currently has limited recovery potential. The license puts no long-term constraint on the waste should recovery alternatives emerge for the region. Thus, approval of the proposed license renewal is not expected to impact the 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 WMO. The proposed NSL covers putrescible waste that will be delivered to either Columbia Ridge or Riverbend, which are owned and operated by WMO. Thus, approval of this license renewal 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*

TTS is currently in compliance with its Metro-issued franchise and NSL. The applicant has not had any compliance issues with regard to Metro regulations within the last two years. Additionally, TTS has had no violations related to public health, safety or environmental regulations during the term of the existing license.

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

The proposed NSL is a renewal of an existing license that authorizes the delivery of up to 77,435 tons per year of putrescible waste to Columbia Ridge and Riverbend – which is the same tonnage authorization provided in the applicant's franchise. The proposed NSL also includes a provision which provides that, in the event that Metro later amends the franchise tonnage authorization, the COO may also amend Section 2 of the NSL as necessary to make it the same as the annual tonnage authorization in the

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<sup>7</sup> Subtitle D landfill standards are established nationally under the Resource Conservation and Recovery Act.

franchise.<sup>8</sup> This provision, which is carried forward from the existing NSL, allows for the COO to administratively match the NSL tonnage authorization with that of the franchise when necessary.

By adopting this resolution, the Metro Council authorizes the COO to amend the yearly tonnage limit of the NSL by the amount necessary to match the tonnage authorization provided in the franchise without seeking further Council action. This proposed NSL does not increase the total tonnage that TTS is authorized to accept under the terms of its franchise.

### **3. Anticipated Effects**

The effect of Resolution No. 16-4738 will be to issue a renewed NSL authorizing TTS to transport up to 77,435 tons per calendar year of putrescible waste to Columbia Ridge and, under certain unusual circumstances and emergency conditions, Riverbend for disposal. The proposed NSL commences on January 1, 2017 and expires on December 31, 2018.

### **4. Budget Impacts**

Columbia Ridge and Riverbend are owned and operated by WMO 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 Columbia Ridge and Riverbend under the authority of the proposed NSL. The application under consideration is the renewal of an existing NSL and any financial impact of this NSL to Metro has already been factored into the budget.

## **RECOMMENDED ACTION**

The COO recommends that the Metro Council adopt Resolution No. 16-4738. Approval of this resolution will authorize the COO to issue an NSL to WMO 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

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<sup>8</sup> Section 7(d)(iv) of NSL No. N-001-15B