

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF) RESOLUTION NO. 16-4739
OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM)
LICENSE TO FOREST GROVE TRANSFER STATION FOR) Introduced by Chief Operating
TRANSPORT AND DISPOSAL OF PUTRESCIBLE WASTE AT) Officer Martha Bennett in
THE COLUMBIA RIDGE LANDFILL LOCATED IN GILLIAM) concurrence with Council
COUNTY, OREGON, AND UNDER CERTAIN) President Tom Hughes
CIRCUMSTANCES THE RIVERBEND LANDFILL LOCATED IN)
YAMHILL COUNTY, OREGON)

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

WHEREAS, Forest Grove Transfer Station ("FGTS") holds Metro Solid Waste Facility Non-System License No. N-010-15, which expires on December 31, 2016; and

WHEREAS, in previous years Metro has issued Non-System Licenses to FGTS to transport putrescible waste to the Riverbend Landfill for disposal under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, Riverbend Landfill may be unable to accept solid waste during portions of calendar year 2017; and

WHEREAS, FGTS has filed a complete application seeking a non-system license to transport putrescible waste to the Riverbend Landfill for disposal under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, because Riverbend Landfill may be unable to accept solid waste in 2017, FGTS amended its application and now seeks a non-system license to transport putrescible waste to Columbia Ridge Landfill for disposal under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, FGTS has requested that Riverbend Landfill be a back-up non-system facility in the event that unusual circumstances or emergencies occur that would prevent transporting solid waste to the Columbia Ridge Landfill; and

WHEREAS, FGTS may also seek approval from Metro to transport its waste to an alternate landfill in the future if necessary to better serve the public and minimize disruption to the system; and

WHEREAS, Metro Code Chapter 5.05 provides that the Chief Operating Officer will review an application for a non-system license for putrescible waste and that Metro Council has authority to approve or deny the application; and

WHEREAS, because there is uncertainty regarding Riverbend Landfill's ability and capacity to accept solid waste in 2017, and because Metro may be better informed of disposal options over the next few months, the Chief Operating Officer recommends that the Metro Council issue the non-system license for approximately six months rather than the customary two years; and

WHEREAS, the Chief Operating Officer recommends that Metro Council approve the non-system license together with specific conditions as provided in this Resolution and Exhibit A; now therefore,

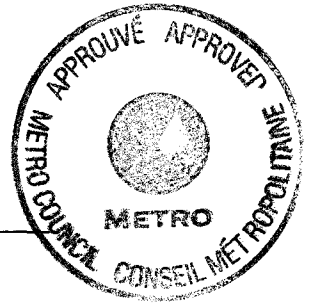
THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The non-system license application of FGTS is approved subject to the terms, conditions, and limitations contained in this Resolution and Exhibit A.
2. The Chief Operating Officer is authorized to issue to FGTS a Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A which replaces and supersedes the current non-system license and becomes effective on December 16, 2016.

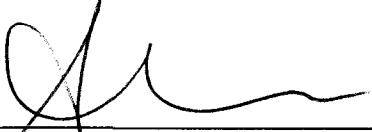
ADOPTED by the Metro Council this 13th day of Dec, 2016.



Tom Hughes, Council President



Approved as to Form:



Alison R. Kean, Metro Attorney

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

No. N-010-16

LICENSEE:	
Waste Management of Oregon, Inc. dba Forest Grove Transfer Station 1525 B Street Forest Grove, OR 97116	
CONTACT PERSON:	
	Kirk W. Duncan
Phone:	(503) 992-3015
Fax:	(503) 357-4822
E-mail:	kduncan2@wm.com
MAILING ADDRESS:	
Waste Management of Oregon, Inc. dba Forest Grove Transfer Station 1525 B Street Forest Grove, OR 97116	

This non-system license replaces and supersedes the provisions of Metro Solid Waste Facility Non-System License No. N-010-15.

ISSUED BY METRO:

 Paul Slyman
 Property and Environmental Services Director

 Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste that is generated within the Metro region and received at Forest Grove Transfer Station in accordance with its Metro solid waste facility franchise.

2	CALENDAR YEAR TONNAGE ALLOCATION
	The licensee is authorized to transport to the non-system facilities described in Section 3 up to 125,000 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.

3	NON-SYSTEM FACILITIES
	<p>(a) Effective December 16, 2016, through January 31, 2017, the licensee is authorized to transport the waste described above in Section 1 to the following non-system facilities:</p> <ul style="list-style-type: none">i. <u>Columbia Ridge Landfill</u> located at 18177 Cedar Springs Lane in Arlington, Oregon; andii. <u>Riverbend Landfill</u> located at 13469 SW Highway 18, McMinnville, Oregon. <p>(b) Effective February 1, 2017, the licensee is authorized to transport the waste described above in Section 1 only to Columbia Ridge Landfill. The licensee may not transport such waste to Riverbend Landfill unless certain unusual circumstances and emergency situations exist as described in Section 7.</p> <p>(c) 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> <p>(d) Metro’s Chief Operating Officer (the “COO”) may amend this section and any other applicable section to authorize an alternate non-system facility if the COO determines that the solid waste system or the public will benefit from, and will be better served by, transporting the waste described in this license to a facility other than those listed in this section.</p>



4	TERM OF LICENSE
	The term of this license commences on December 16, 2016, and expires at midnight on June 30, 2017, unless terminated sooner under Section 7.
5	REPORTING OF ACCIDENTS AND CITATIONS
	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.
6	RECORD KEEPING AND REPORTING
	<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">i. Transmit to Metro the records required under Section 6(a) above in an electronic format prescribed by Metro;ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; andiii. 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>(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>



7	ADDITIONAL LICENSE CONDITIONS
	<p>This license is subject to the following conditions:</p> <ul style="list-style-type: none">(a) As provided in Section 3(b), beginning on February 1, 2017, the licensee is authorized to transport putrescible waste to the Riverbend Landfill only during certain unusual circumstances and emergency situations, (such as the closure of Interstate 84, equipment failure, or driver and equipment shortages), which would prevent the licensee from transporting such waste to the Columbia Ridge Landfill.(b) If the licensee transports putrescible waste to the Riverbend Landfill as provided above in Section 7(a), the licensee must:<ul style="list-style-type: none">i. Report the unusual circumstance or emergency situation to Metro within 12 hours of its discovery; andii. 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) The COO may amend or terminate this license in the event that the COO determines that:<ul style="list-style-type: none">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; oriv. 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



	<p>subject to amendment, suspension, or termination pursuant to the Metro Code.</p> <ul style="list-style-type: none">(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 to any non-system facility other than those specified in this license is prohibited unless authorized in writing by Metro.(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.
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8	COMPLIANCE WITH LAW
	<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 rules 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>

9	INDEMNIFICATION
	<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. 16-4739 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM LICENSE TO FOREST GROVE TRANSFER STATION FOR TRANSPORT AND DISPOSAL OF PUTRESCIBLE WASTE AT THE COLUMBIA RIDGE LANDFILL LOCATED IN GILLIAM COUNTY, OREGON, AND UNDER CERTAIN CIRCUMSTANCES THE RIVERBEND LANDFILL LOCATED IN YAMHILL COUNTY, OREGON

December 1, 2016

Prepared by: Roy W. Brower
503-797-1657

Approval of Resolution No. 16-4739 will authorize the Chief Operating Officer (COO) to issue a new six-month non-system license (NSL), similar to the proposed license attached to this resolution as Exhibit A, to Forest Grove Transfer Station (FGTS). The proposed NSL will authorize FGTS to transport up to 125,000 tons per calendar year of putrescible waste from the Metro region to the Columbia Ridge Landfill (Columbia Ridge) located in Gilliam County, Oregon, and under certain circumstances and emergency conditions, to the Riverbend Landfill (Riverbend) located in Yamhill County, Oregon. The proposed NSL becomes effective on December 16, 2016, and expires on June 30, 2017.

FGTS is a Metro-franchised¹ solid waste transfer station located at 1525 B Street in Forest Grove (Metro Council District 4). FGTS, Columbia Ride, and Riverbend are owned and operated by Waste Management of Oregon, Inc. (Waste Management) headquartered in Houston, Texas.

BACKGROUND

In December 2014, Metro issued an NSL to FGTS authorizing the transport of up to 125,000 tons per calendar year of putrescible waste to Riverbend for disposal.² The term of the NSL commenced on January 1, 2015, and is set to expire on December 31, 2016. The NSL tonnage authorization was established to align it with the facility's franchise tonnage cap. Metro has a longstanding practice of aligning NSL tonnage amounts with that of the facility's franchise tonnage authorization. FGTS transported approximately 115,500 tons of putrescible waste to Riverbend in 2015 and about 99,800 tons to Riverbend so far in 2016 (through October 31, 2016).

On August 30, 2016, FGTS submitted an application to Metro seeking to renew its NSL to Riverbend and later amended its request to also include Columbia Ridge as an alternate disposal option. However, there is considerable uncertainty about the future of Riverbend's expansion as it nears capacity and as legal appeals and the expansion approval process at the Oregon Department of Environmental Quality (DEQ) continue to play out.

In order to address such uncertainty, the proposed NSL authorizes FGTS to transport putrescible waste primarily to the Columbia Ridge Landfill which is owned and operated by Waste Management. The proposed license also authorizes FGTS to use the Riverbend Landfill during a transition period until January 31, 2017 – this transition timeframe provides an opportunity for the landfill and its customers to finalize logistics and shift waste between landfills. Effective February 1, 2017, the license authorizes the use of Riverbend only under unusual circumstances and emergency situations that would otherwise

¹ Metro Solid Waste Facility Franchise No. F-004-08C

² NSL No. N-010-15

prevent FGTS from transporting waste to Columbia Ridge (such as the closure of Interstate 84, equipment failure, or driver and equipment shortages). The approach to include Riverbend as an alternative disposal option in this NSL for use only under unusual circumstances has previously been approved by Council and similarly used as part of NSLs issued to Troutdale Transfer Station since 2005. In addition to the above, the NSL includes a provision that authorizes the COO to direct the licensee to transport its waste to another alternate landfill if necessary to better serve the public and minimize disruption to the solid waste system.

In general, Columbia Ridge and Riverbend have accepted waste from the Metro region without incident over the past several years. However, in November 2016, the trailer tipper at Riverbend became severely damaged and could not be used, which limited the types of vehicles that the landfill could accept for disposal over a two-day period. This highly unusual circumstance necessitated Metro to direct certain waste transport vehicles to Coffin Butte Landfill during the time of the equipment breakdown in order to minimize disruption to the solid waste system.³ Facilities that used self-unloading trailers or held an NSL for other disposal sites were not impacted by the equipment breakdown at Riverbend. Riverbend has since installed a new trailer tipper and has resumed its standard operations

Adoption of Resolution No. 16-4739 would authorize the COO to issue a short-term NSL to FGTS to transport Metro-area putrescible waste to Columbia Ridge and, under unusual circumstances, Riverbend. The proposed NSL initially includes a 125,000-ton limit to align it with FGTS's 2017 franchise tonnage allocation, but the NSL also authorizes the COO to make additional adjustments to the tonnage amount if necessary to align it with the franchise in the future.

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 Waste Management'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 FGTS from transporting waste to Columbia Ridge as described earlier in the staff report.

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 at the landfill.

Although approval of Resolution No. 16-4739 would authorize FGTS to transport waste to two landfills, the proposed NSL does not obligate either landfill to accept Metro-area waste. Additionally, adoption of the proposed resolution does not limit Metro's ability to terminate the NSL if either landfill is unable or unwilling to accept this waste in the future. This is noted for Metro Council's consideration because Riverbend seeks to expand its disposal capacity.

³ Metro issued a "Required Use Order" to Pride Recycling Company and the FGTS to transport certain transfer trailer loads of solid waste to the Coffin Butte Landfill during the dates of November 15 through 18, 2016.

2. Legal Antecedents

Metro Code Section 5.05.025 prohibits any person from utilizing non-system facilities without an appropriate license from Metro. Additionally, Metro 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 disposal sites (Columbia Ridge and Riverbend) are well known to Metro. The disposal sites are owned and operated by a major, nationally-integrated solid waste company that serves as Metro's disposal contractor. Columbia Ridge is a permitted RCRA Subtitle D⁴ landfill since 1992. Riverbend first came into use during the mid-1980s and became a permitted RCRA Subtitle D landfill in 1993. At that time, the original unlined cells were capped and the landfill has been filling only lined cells and operating with the environmental controls required by DEQ.

The environmental risk associated with the use of these disposal sites is regulated by the appropriate local and state authorities. It has been Metro's practice to rely on the local land use authority and the state environmental agency to determine whether environmental or human health risks posed are known, reasonable and appropriate.

- (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;*

Waste Management owns and operates FGTS, Columbia Ridge, and Riverbend. Metro staff's investigation of Waste Management 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. Staff at the DEQ 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.

⁴ Subtitle D landfill standards are established nationally under the Resource Conservation and Recovery Act (RCRA).

(5) *The consistency of issuing the license with Metro's existing contractual arrangements;*

Through 2019, Metro has a contractual agreement 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 proposed NSL covers putrescible waste that will be delivered to either Columbia Ridge or Riverbend, which are owned and operated by Waste Management. Thus, approval of this NSL 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*

FGTS 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, FGTS 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 authorizes the transport of up to 125,000 tons per year of putrescible waste to Columbia Ridge and, in unusual circumstances, Riverbend – which is the same tonnage authorization included in the applicant's franchise for 2017. 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 franchise. This provision, which is carried forward from the current NSL, allows for the COO to administratively match the NSL tonnage authorization with that of the franchise when necessary.

In addition, the proposed NSL includes a provision which authorizes the licensee to transport waste primarily to Columbia Ridge and Riverbend for a short transition period through January 31, 2017. Effective February 1, 2017, the license allows the use of Riverbend only under unusual circumstances. This proposed condition is related to the available future disposal capacity of Riverbend. In 2013, Riverbend received approval to build a mechanically stabilized earthen berm, similar to berms used in road construction projects. The berm gave the landfill additional short-term capacity through early-2017.

At the current fill rate, Waste Management estimates the landfill has capacity to operate through the second quarter of 2017 without implementing some type of additional expansion or waste diversion strategy. This circumstance leads the COO to recommend the following:

- Issuing short-term (six month) NSLs;
- Establishing Columbia Ridge as the primary disposal site under the NSL rather than Riverbend, and

- Including a process within the NSL for the COO to direct waste to other alternate landfills (such as Coffin Butte Landfill) if necessary to better serve the public and minimize disruption to the solid waste system.

3. Anticipated Effects

The effect of Resolution No. 16-4739 will be to issue a new NSL authorizing FGTS to transport up to 125,000 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 December 16, 2016 and expires on June 30, 2017.

4. Budget Impacts

Columbia Ridge and Riverbend are owned and operated by Waste Management 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.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 16-4739, finding that the license renewal satisfies the requirements of Metro Code Chapter 5.05. Approval of Resolution No. 16-4739 will authorize the COO to issue an NSL, similar to the one attached to the resolution as Exhibit A, to FGTS for a six month period commencing on December 16, 2016 and expiring on June 30, 2017.

WJ/RB:bjl