

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF	)	RESOLUTION NO. 18-4928
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-005-17(2), which expires on December 31, 2018; and

WHEREAS, WRI and Republic have filed a complete 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 the Chief Operating Officer will review an application for a non-system license to transport putrescible waste and that Metro Council has authority to approve or deny the application; and

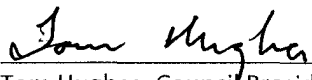
WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

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 29<sup>th</sup> day of November 2018.

  
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 Tom Hughes, Council President

Approved as to Form:

  
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 Nathan A. S. Sykes, Metro Attorney



600 NE Grand Ave.  
Portland, OR 97232-2736  
oregonmetro.gov

## METRO SOLID WASTE FACILITY NON-SYSTEM LICENSE

### No. N-005-19(2)

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

\_\_\_\_\_  
Martha J. Bennett, Metro Chief Operating Officer

\_\_\_\_\_  
Date

<b>1</b>	<b>NATURE OF WASTE COVERED BY LICENSE</b>
	<p>(a) Putrescible solid waste generated within the Metro boundary and received at Willamette Resources, Inc. in accordance with Metro Solid Waste Facility Franchise No. F-005-08I; and</p> <p>(b) Confidential records of customers generated within the Metro boundary and collected by Republic Services of Clackamas and Washington Counties and delivered directly to the non-system facility described in Section 3 of this license.</p>
<b>2</b>	<b>CALENDAR YEAR TONNAGE LIMITATION</b>
	<p>Licensee is jointly authorized to transport to the non-system facility described in Section 3 of this license up to 5,500 tons per calendar year of the waste described in Section 1 of this license. This license does not increase the total tonnage that the Licensee is authorized to accept under Metro Solid Waste Facility Franchise No. F-005-08I.</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="padding-left: 40px;">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 of this license.</p>
<b>4</b>	<b>TERM OF LICENSE</b>
	<p>The term of this license will commence on January 1, 2019 and expire on December 31, 2020, unless terminated sooner under Section 7 of this license.</p>

<b>5</b>	<b>REPORTING OF ACCIDENTS AND CITATIONS</b>
	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 facility described in Section 3 of this license. These records include the information specified in <u><i>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements</i></u>.</p> <p>(b) No later than the fifteenth (15th) day of each month, beginning with the first month following the commencement date of this license, Licensee must:</p> <ul style="list-style-type: none"> <li>i. Transmit the records required under Section 6(a) above to Metro 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) Licensee must make all records from which Sections 6(a) and 6(b) 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) business days written notice of an intent to inspect or copy documents. 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 facility named in Section 3, above.</p>

<b>7</b>	<b>ADDITIONAL LICENSE CONDITIONS</b>
	<p>This license is 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, modification, 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> <ul style="list-style-type: none"> <li>(c) This license, in addition to subsections (b)(i) through (b)(iii), above, is subject to amendment, modification, suspension, or termination pursuant to the Metro Code.</li> <li>(d) The Licensee cannot not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</li> <li>(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 of this license.</li> <li>(f) This license authorizes the transport of solid waste to the facility listed in Section 3. 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.</li> </ul>
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<b>8</b>	<b>COMPLIANCE WITH LAW</b>
	<p>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 are deemed part of this license as if specifically set forth herein.</p>

<b>9</b>	<b>INDEMNIFICATION</b>
	<p>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. 18-4928 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 IN BROOKS, OREGON

November 1, 2018

Prepared by: Will Ennis  
(503) 797-1667

Approval of Resolution No. 18-4928 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, 2018.<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 December 2016, 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, 2017 and is set to expire on December 31, 2018. The applicants transported approximately 394 tons of solid waste to Covanta under authority of the NSL during calendar year 2017 and have transported no waste between January 1 and September 30, 2018. The current NSL is set to expire on December 31, 2018.

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

- NSL No. N-005-16C authorizing the annual delivery of up to 79,880 tons per calendar year of putrescible solid waste to Columbia Ridge and Coffin Butte Landfills;<sup>2</sup>
- NSL No. N-005-17(4) authorizing the annual delivery of up to 20,000 tons of commercial food waste to Pacific Region Compost;<sup>3</sup> and
- NSL No. N-005017(5)A authorizing the annual delivery of up to 10,000 tons of commercial and residential food waste to Recology Organics Aumsville.<sup>4</sup>

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 Metro Solid Waste Facility Franchise No. F-005-08I (79,880 tons per year).

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<sup>1</sup> Metro Solid Waste Facility Non-System License No. N-005-17(2)

<sup>2</sup> NSL No. N-005-16C expires on December 31, 2018 and is in the process of being renewed.

<sup>3</sup> NSL No. N-005-17(4) expires on December 31, 2019.

<sup>4</sup> NSL No. N-005017(5)A expires on December 31, 2019.

On August 14, 2018, WRI and Republic submitted to Metro an application requesting that Metro renew this NSL 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 existing NSL. The proposed license renews the existing authorization that WRI and Republic have held under NSLs since 1999. The proposed renewed license is subject to approval or denial by the Metro Council because, it authorizes the transport of putrescible waste to a non-system facility.<sup>5</sup>

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

There is no known opposition to the proposed NSL.

### **2. Legal Antecedents**

Metro Code Section 5.05.110 prohibits any person from utilizing non-system facilities without an appropriate license from Metro. Additionally, Metro Code Section 5.05.140 provides that, when determining whether or not to approve an NSL application, the Metro Council will consider the following factors to the extent relevant to determine whether to issue a non-system license:

*(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 those 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 delivered to a disposal facility permitted by the Oregon Department of Environmental Quality (DEQ).

*(2) The non-system facility's owner and operator's regulatory compliance record with federal, state and local requirements including but not limited to public health, safety and environmental 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 the non-system facility's operational practices and management controls;*

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.

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<sup>5</sup> Metro Code Section 5.05.110(c)

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>6</sup> stipulates that only those wastesheds that burn mixed solid waste for energy recovery within their watershed boundaries may count a portion of it towards their DEQ recovery rate calculation. Marion County is the only watershed within Oregon that hosts a waste-to-energy facility within its boundaries; therefore, it is the only watershed 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 proposed license's effect with Metro's existing contractual arrangements;*

Until the end of 2019 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 this 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 applicant's record 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 regulations; and*

The applicant has a good record of compliance with regard to Metro regulations.

*(7) Any other factors as the Chief Operating Officer deems appropriate.*

Covanta is the primary disposal site for solid waste generated within Marion County. Marion County generally supports the Metro-authorized flow of solid waste to Covanta but has expressed concerns about capacity to accept new customers.

WRI's Franchise stipulates that the facility cannot accept more than 79,880 tons of putrescible waste originating from inside the Metro region within each calendar year. The issuance of the proposed NSL authorizing the delivery of up to 5,500 tons of 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 and is included in the 79,880-ton limit stipulated in WRI's Franchise.

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<sup>6</sup> ORS 465A.010(4)(f)(B)  
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### **3. Anticipated Effects**

The effect of Resolution No. 18-4928 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, 2019 and expire on December 31, 2020.

### **4. Budget/Rate Impacts**

The waste covered under the proposed NSL will be transported to Covanta. Covanta is not a general-purpose landfill and the proposed tonnage will not impact Metro's obligations under its current disposal contract. The regional system fee and excise tax will continue to be collected on the waste covered by this license. 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 approval of Resolution No. 18-4928, finding that the license renewal satisfies the requirements of Metro Code Chapter 5.05, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

WE