

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: May 10, 2001
DAY: Thursday
TIME: 1:30 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. CONTRACT REVIEW BOARD

1.1 Resolution No. 01-3073, For the Purpose of Considering the Request of Specialty Transportation Services, Inc. to Assign Its Obligations Under Metro's Solid Waste Transport Service Agreement to CSU Transport, Inc.

ADJOURN

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, 797-1542. Public Hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by email, fax or mail or in person to the Clerk of the Council. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF CONSIDERING)	
THE REQUEST OF SPECIALTY)	RESOLUTION NO. 01-3073
TRANSPORTATION SERVICES, INC.,)	
TO ASSIGN ITS OBLIGATIONS UNDER)	Introduced by Councilor
METRO'S SOLID WASTE TRANSPORT)	Bill Atherton
SERVICE AGREEMENT TO CSU)	
TRANSPORT, INC.	

WHEREAS, on March 27, 1989, Metro entered into a certain Waste Transport Services Agreement ("Agreement") with Jack Gray Transport, Inc. ("Gray") for the transportation of mixed solid waste from the Metro Central and Metro South Transfer Stations to the Oregon Waste Systems, Inc. disposal site in Arlington, Oregon; and

WHEREAS, in 1998 Metro adopted Resolution 98-2590B, thereby approving assignment of that Agreement from Gray to Specialty Transportation Services, Inc. ("STS"), a subsidiary of Asche Transportation Services, Inc. ("Asche"); and

WHEREAS, in 2000 Metro adopted Resolution 00-3020, thereby approving of a second change of ownership and control from Asche to Churchill Environmental & Industrial Equity Partners, L.P. ("Churchill") subject to certain conditions; and

WHEREAS, Metro received a request from STS dated May 8, 2001 for Metro's approval of an assignment of the Agreement from Specialty Transportation Services, Inc. to CSU Transport, Inc. ("CSU") a subsidiary of Churchill; and

WHEREAS, pursuant to Article 26 of the Agreement, written consent of Metro is required for any assignment of the rights or obligations under this Agreement; and

WHEREAS, Metro's Executive Officer has recommended approval of the requested assignment of its obligations under the Agreement, provided that Churchill and CSU expressly recognize Metro's right and priority, in the event of any default by CSU resulting in termination of the Agreement, to assume control of all equipment used by CSU in the performance of its contractual obligations to Metro for a period of one year following any default by CSU and subsequent termination; and

WHEREAS, This resolution was forwarded to the Metro Contract Review Board for its approval; now therefore

BE IT RESOLVED, THAT

1. The Metro Contract Review Board hereby consents to and approves the request by Specialty Transportation Services, Inc., of the assignment of all rights and obligations under the Agreement to CSU Transport, Inc.

2. The Metro Contract Review Board authorizes the Executive Officer to execute on behalf of Metro in a form approved by the Office of General Counsel a Waste Transportation Services Agreement Change Order incorporating the assignment for which consent is granted herein, provided that Churchill and CSU expressly recognize Metro's right and priority, in the event of any default by CSU resulting in termination of the Agreement, to assume control of all equipment used by CSU in the performance of its contractual obligations to Metro for a period of one year following any default by CSU and subsequent termination; and provided further that CSU provides such additional documentation concerning the assignment as may be required by the Office of General Counsel.

ADOPTED by the Metro Contract Review Board this 10th day of May 2001.

David Bragdon, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

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Staff Report

IN CONSIDERATION OF RESOLUTION NO. 01-3073, FOR THE PURPOSE OF CONSIDERING THE REQUEST OF SPECIALTY TRANSPORTATION SERVICES, INC. TO ASSIGN ITS OBLIGATIONS UNDER METRO'S SOLID WASTE TRANSPORT SERVICE AGREEMENT TO CSU TRANSPORT, INC.

May 9, 2001

Presented by: Councilor Atherton

Purpose

Resolution No. 01-3073 would provide a framework for Council to consider a request from Specialty Transportation Services, Inc. (STS) to assign its rights and obligations under the Metro contract for the transportation of solid waste to a newly created corporation, CSU Transport, Inc.

Background

Metro entered into a service agreement with Jack Gray Transport in 1989. The agreement authorized Gray to provide for the transportation of solid waste from the Metro Central and Metro South Transfer Stations to the Columbia Ridge Landfill in Arlington. In 1998, the Metro Council approved the assignment of the agreement to Specialty Transportation Services (STS), a subsidiary of Asche Transportation Services. In December 2000, the council approved a change of control and ownership under which Churchill Environmental and Industrial Equity Partners purchased STS.

At the time of the purchase of STS by Churchill, representatives from Churchill told the Council that they were undertaking a comprehensive review of the financial status of STS. They indicated that this review could result in debt restructuring and other corporate changes designed to improve the future profitability of STS. The proposed resolution reflects the results of this review.

Churchill and STS have informed Metro that the principal element of the proposed restructuring would be the assignment of the obligations under its Metro services agreement to newly created entity, CSU Transport, Inc. The president of STS has stated that Churchill would own this new entity. Such a transfer would not trigger the provisions of the service agreement that require Metro's consent to a change of ownership, but, in the opinion of the Office of General Counsel would trigger the assignment provisions. Those provisions also require Council consent.

The Council may approve the request, approve the request with conditions, or deny the request. If the Council denies the request, STS alone will remain obligated under the contract.

Budget Impact

Based on verbal representations from Churchill, it appears that the proposed restructuring would not affect any of the other financial or operations elements of the agreement. If these representations are correct, the requested consent will have no fiscal impact on Metro.

Appreciate Mr. Hahn. Michael J. Hahn, Pres. CEO
Churchill Capital

TALKING POINTS FOR INTRODUCTION OF RESOLUTION NO. 01-3073

- In December 2000, the Council approved a transfer of ownership under which STS, our solid waste transportation vendor, was acquired by the Churchill Environmental and Industrial Equity Partnership
- At the time this transfer was approved, Churchill representatives indicated that they would be reviewing the financial stability of STS and that this review could result in a debt or corporate restructuring
- As a result of this review, Churchill is proposing to assign the rights and obligations of STS under the Metro Transport Service Agreement to a new entity, CSU Transport, Inc.
- Metro has advised Churchill that such an assignment would trigger provisions of the agreement that require Council consent to such an assignment
- In a May 8 letter, Churchill formally requested Council consent for the assignment
- The purpose of today's meeting is to give Churchill the opportunity to present information related to the proposed assignment and to respond to any issues or questions that the Council may wish to have addressed
- A full discussion of the proposed assignment will be important to insure that the interests of region's solid waste ratepayers are protected
- The proposed resolution would grant Council consent to the proposed assignment with conditions. Council also has the option of attaching additional conditions. The Council also has the option of denying its consent.

closely monitoring -
the nuts & bolts are new -
But essence is not a surprise

Has Conditions

1. Will this be sustainable - reasonable expectation.