

Metro | Agenda

Meeting: Metro Council
Date: Thursday, November 4, 2010
Time: 2 p.m.
Place: Council Chambers

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. COMMUNITY INVESTMENT TOOLKIT: ECO-EFFICIENT EMPLOYMENT

Bateschell

4. CONSENT AGENDA

4.1 Consideration of the Minutes for October 28, 2010

4.2 **Resolution No. 10-4189**, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Willamette Resources Inc. for Delivery of Putrescible Waste to the Riverbend Landfill for Disposal.

4.3 **Resolution No. 10-4190**, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to West Linn Refuse & Recycling, Inc. for Delivery of Putrescible Waste to Canby Transfer & Recycling Inc. for the Purpose of Transfer to the Riverbend Landfill for Disposal.

4.4 **Resolution No. 10-4191**, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Pride Recycling Company for Delivery of Putrescible Waste to the Riverbend Landfill for Disposal.

4.5 **Resolution No. 10-4192**, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Gray and Company for Delivery of Putrescible Waste to the Riverbend Landfill for Disposal.

4.6 **Resolution No. 10-4193**, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Forest Grove Transfer Station for Delivery of Putrescible Waste to the Riverbend Landfill for Disposal.

4.7 **Resolution No. 10-4194**, For the Purpose of Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Hoodview Disposal & Recycling, Inc. for Delivery of Putrescible Waste to Canby Transfer & Recycling Inc. for the Purpose of Transfer to the Riverbend Landfill for Disposal.

4.8 **Resolution No. 10-4202**, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License Jointly to Willamette Resources Inc and Allied Waste of Clackamas and Washington Counties for Delivery of Putrescible Waste to the Covanta Waste-to-Energy Facility.

- 4.9 **Resolution No. 10-4203**, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Waste Management of Oregon, Inc. for Delivery of Putrescible Waste from the Troutdale Transfer Station to the Columbia Ridge Landfill and Riverbend Landfill.
- 4.10 **Resolution No. 10-4204**, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Epson Portland, Inc. for Delivery of Industrial Solid Waste and Putrescible Waste to the Covanta Waste-to-Energy Facility.
- 4.11 **Resolution No. 10-4205**, For the Purpose of Authorizing the Chief Operating Officer to Issue a Non-System License to AGG Recology, Inc. for Delivery of Food Waste to the Nature's Needs Facility for Composting During the Washington County Non-Green Feedstock Demonstration Project.
5. **ORDINANCES – FIRST READING**
- 5.1 **Ordinance No. 10-1249**, For the Purpose of Amending the FY 2010-11 Budget and Appropriations Schedule and the FY 2010-11 Through 2014-15 Capital Improvement Plan, and Declaring an Emergency.
6. **CHIEF OPERATING OFFICER COMMUNICATION**
7. **COUNCILOR COMMUNICATION**

ADJOURN

Television schedule for November 4, Metro Council meeting

<p>Clackamas, Multnomah and Washington counties, and Vancouver, WA Channel 11 – Community Access Network <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 <i>Date:</i> 2 p.m. Thursday, Oct. 28 (Live)</p>	<p>Portland Channel 30 (CityNet 30) – Portland Community Media <i>Web site:</i> www.pcmv.org <i>Ph:</i> 503-288-1515 <i>Date:</i> 8:30 p.m. Sunday, Oct. 31 <i>Date:</i> 2 p.m. Monday, Nov. 1</p>
<p>Gresham Channel 30 - MCTV <i>Web site:</i> www.metroeast.org <i>Ph:</i> 503-491-7636 <i>Date:</i> 2 p.m. Monday, Nov. 1</p>	<p>Washington County Channel 30– TVC – TV <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 <i>Date:</i> 11 p.m. Saturday, Oct. 30 <i>Date:</i> 11 p.m. Sunday, Oct. 31 <i>Date:</i> 6 a.m. Tuesday, Nov. 2 <i>Date:</i> 4 p.m. Wednesday, Nov. 3</p>
<p>Oregon City, Gladstone Channel 28 – Willamette Falls Television <i>Web site:</i> http://www.wftvmedia.org/ <i>Ph:</i> 503-650-0275 Call or visit web site for program times.</p>	<p>West Linn Channel 30 – Willamette Falls Television <i>Web site:</i> http://www.wftvmedia.org/ <i>Ph:</i> 503-650-0275 Call or visit web site for program times.</p>

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.

Agenda items may not be considered in the exact order. For questions about the agenda, call the Metro Council Office at 503-797-1540. 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 included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro web site www.oregonmetro.gov and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 503-797-1804 or 503-797-1540 (Council Office).

Agenda Item Number 3.0

**COMMUNITY INVESTMENT TOOLKIT:
ECO-EFFICIENT EMPLOYMENT**

Metro Council Meeting
Thursday, Nov. 4, 2010
Metro Council Chambers



DATE: October 27, 2010
TO: Metro Council
FROM: Miranda Bateschell, Senior Regional Planner
RE: Community Investment Toolkit: Eco-efficient Employment

Background:

In order to reach the region’s 2040 vision for a sustainable place to live and work, Metro staff is focused on finding innovative and successful ways to invest in existing communities and increase capacity within the Urban Growth Boundary. Integral to this work is the Community Investment Toolkit Series, which provides local governments with tools and resources to build sustainable vibrant communities. Metro staff is publishing the third volume of the series, Eco-efficient Employment. Eco-efficient employment means businesses realizing economic and ecological benefits by utilizing operations that produce more with less – less water, less energy, less capital, less land, less waste.

It can be complicated to implement smart growth techniques in employment areas and develop eco-efficient employment projects. The planning tools and focused investment strategies described in the third volume of Metro’s Community Investment Toolkit provide mechanisms to reduce barriers and costs and increase incentives and flexible systems to support this type of development. Most importantly, the toolkit highlights successful applications of the eco-efficient employment tools demonstrating how barriers can be overcome, resulting in on-the-ground examples of sustainable development projects and job growth. The toolkit presents some of the newest research, leading experts, exemplary projects and best resources available at time of publication. These resources help our region assess employment areas and local needs and facilitate applying innovative tools and new approaches.

Content:

Volume 3 compiles tools and best practices to increase employment opportunities and land capacity within the region. The Employment Coordination Advisory Committee helped prioritize and develop the content of this volume, and it focuses on tools that are controlled at the local level. This volume of the toolkit presents tools and best practices, from outside and within the region, for governments, developers and businesses to design employment areas that respond to climate change and promote job opportunities for the 21st century. Strategies fall into three categories:

1. **High-performance infrastructure:** Model approaches for building more environmentally and economically sustainable infrastructure systems that reduce resource waste and the demand on our current systems.

2. **21st century design:** Code changes and planning tools for designing vibrant employment areas that facilitate community, attract industry and reduce the impacts of climate change.
3. **Revitalizing employment areas:** Strategies for redeveloping and reusing underutilized employment and industrial land for future economic growth.

The toolkit highlights a number of tools within each category, describing their use and potential issues and considerations that arise in their implementation. Employment uses in the region range from 100-acre manufacturing sites to vertical mixed-use office and commercial projects along transit corridors to institutional campuses in or adjacent to residential neighborhoods. In the toolkit, the term employment or employment use refers to all of these types of businesses and locations, and the toolkit presents the tools' flexibility and applicability to different employment types. An attached table of contents lists the tools within these three categories.

Distribution and engagement:

The intent of Metro's Community Investment Toolkit is to serve as a useful guide of best practices for our local partners in implementing the region's 2040 vision and as a useful tool for the Metro Council to celebrate local successes and to increase aspirations. Distributing the toolkit and discussing its content with our local partners is integral to seeing implementation of these tools in our local communities.

We will have several hundred copies available by mid-November, and we encourage you to take copies with you when attending meetings and events to share the document with our local partners. Metro staff will also distribute copies to each local jurisdiction and Metro advisory committees in addition to having the publication available on Metro's website.

With local business and public sector partners, Metro staff is also planning an event for January 2011 to generate interest in eco-efficient employment, demonstrate the benefits and feasibility of particular tools, feature expertise of industry leaders, highlight local success stories, and create a forum for public and private sector exchange. This fall, Metro staff will generate awareness and interest in the toolkit and the event through distribution of the publication and presentations to local groups and councils. The goal is to reach audiences that may not be aware of the pertinence of the tools to their work, build partnerships with jurisdictions and stakeholder groups, and introduce these groups to subject matter experts. We also intend to provide technical assistance activities following the January 2011 event to further support implementation. These activities may include: webcast trainings related to specific tools, local success story presentations and networking events, and implementation feasibility workshops co-sponsored by local partners.

	PAGE
→ Preface: regional choices for how we grow	v
→ Introduction to eco-efficient employment: tools for investing in our community	xi
→ Metro resources	xvi
→ CHAPTER 1: High-performance infrastructure	1
<i>How can we build more environmentally and economically sustainable infrastructure systems that reduce resource waste and the demand on current systems?</i>	
Systems approach	3
<ul style="list-style-type: none"> • Baseline assessments • Greenhouse gas inventories • Resource mapping • Integrated planning and design process • Co-location • Life-cycle cost assessments • Triple bottom line analysis 	
High-performance mechanisms	17
<ul style="list-style-type: none"> • Innovative infrastructure techniques • Technical assistance programs and networks • Funding mechanisms • Financial incentives • Sustainability indicators • Performance benchmarking 	
→ CHAPTER 2: 21st century design	47
<i>How can we design vibrant employment areas that facilitate community, attract industry, and reduce the impacts of climate change?</i>	
Innovative design and development codes	49
<ul style="list-style-type: none"> • Systems-based codes • Modern mobility • Transitions • Sustainable landscapes • Expansion and reuse 	

**Innovative planning
and development**

- Design guidelines
- Flexible menu approach
- LEED-ND
- Full-site utilization plans
- Unconventional leasing
- Performance benchmarking

69

► CHAPTER 3: **Revitalizing employment areas**

85

How can we redevelop and reuse underutilized employment and industrial areas for future economic growth?

Redevelopment and reuse

- Strategic public investments
- Land acquisition and banking
- Site readiness analysis
- Legal agreements
- Brownfield redevelopment

Index of case studies by development type

112

Index of case studies by tool

115

Image credits

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Agenda Item Number 4.1

Consideration of the Minutes for October 28, 2010

Consent Agenda

Metro Council Meeting
Thursday, Nov. 4, 2010
Metro Council Chambers

Agenda Item Number 4.2

Resolution No. 10-4189, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Willamette Resources Inc. for Delivery of Putrescible Waste to the Riverbend Landfill for Disposal.

Consent Agenda

Metro Council Meeting
Thursday, Nov. 4, 2010
Metro Council Chambers

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A) RESOLUTION NO. 10-4189
RENEWED NON-SYSTEM LICENSE TO WILLAMETTE)
RESOURCES INC. FOR DELIVERY OF PUTRESCIBLE WASTE TO) Introduced by Michael Jordan,
THE RIVERBEND LANDFILL) Chief Operating Officer, with the
) concurrence of Carlotta Collette,
) Acting Council President

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, Willamette Resources, Inc. (WRI) holds Metro Solid Waste Facility Non-System License No. N-005-09, which expires on December 31, 2010; and

WHEREAS, WRI has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to the 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 WRI 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 a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2010.

Carlotta Collette, Acting Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Resolution No. 10-4189



METRO

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

No. N-005-11

LICENSEE:	
Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, OR 97070	
CONTACT PERSON:	
Carol Dion	Ray Phelps
Phone: (503) 570-0626	(503) 784-3516
Fax: (503) 570-0523	(503) 570-0523
E-Mail: CDion@republicservices.com	RPhelps@republicservices.com
MAILING ADDRESS:	
Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, OR 97070	

ISSUED BY METRO:

Michael Jordan, Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste generated within the Metro boundary and received at Willamette Resources, Inc. in accordance with Metro Solid Waste Facility Franchise No. F-005-08.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility described in Section 3 of this license up to 70,000 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-005-08.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder is authorized to deliver the waste described above in Section 1 to the following non-system facility:</p> <p style="text-align: center;">Riverbend Landfill 13469 SW Highway 18 McMinnville, OR 97128</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 or local regulatory authority 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>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2011 and expire at midnight on December 31, 2012, unless terminated sooner under Section 7 of this license.



5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall 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 shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none">i. Ticket or weight slip number from the non-system facility;ii. Material category designating the type of material transferred to the non-system facility;iii. Date the load was transferred to the non-system facility;iv. Time the load was transferred to the non-system facility;v. Net weight of the load; andvi. Fee charged by the non-system facility <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 shall:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro 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 Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall 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 shall, 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>



7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.(b) This license shall be subject to amendment, modification, or termination by Metro's Chief Operating Officer (the "COO") 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 Waste Management Disposal Services of Oregon, Inc., dba 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 of this license be transferred 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 Solid Waste Facility Franchise No. F-005-08. In the event that the tonnage authorization provided under the franchise is increased as the result of a growth allowance, the COO may amend Section 2 of this license to increase the calendar year tonnage limitation up to the same tonnage amount stipulated in the franchise.(c) This license shall, in addition to subsections (b)(i) through (b)(iv), above, be subject to amendment, modification, suspension, or termination pursuant to the Metro Code.(d) The Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.(e) This license shall 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.(f) This license authorizes the delivery of solid waste to the facility listed in Section 3. Transfer 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.



8	COMPLIANCE WITH LAW
	<p>Licensee shall 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 shall be deemed part of this license as if specifically set forth herein.</p>
9	INDEMNIFICATION
	<p>Licensee shall 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. 10-4189 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO WILLETTE RESOURCES, INC. FOR DELIVERY OF PUTRESCIBLE WASTE TO THE RIVERBEND LANDFILL

October 4, 2010

Prepared by: Warren Johnson

Approval of Resolution No. 10-4189 will authorize the Chief Operating Officer (COO) to issue a two-year non-system license (NSL) to Willamette Resources, Inc. (WRI) to annually deliver up to 70,000 tons of putrescible waste from the Metro region to the Riverbend Landfill (RLF) in McMinnville, Oregon. The proposed two-year NSL is the renewal of an existing license that is set to expire on December 31, 2010. The applicant (WRI) is owned and operated by Allied Waste Industries, Inc. (Allied), a wholly owned subsidiary of Republic Waste Systems, Inc. headquartered in Phoenix, Arizona.

BACKGROUND

On March 1, 2009, Metro and RLF entered into a designated facility agreement (Metro Contract No. 929082) which allows the landfill to accept certain types of waste from the Metro region (such as non-putrescible processing residual). Although RLF is a Metro-designated facility, an NSL is required to deliver Metro-area putrescible waste to the landfill because it is not designated, as provided in Metro Code Section 5.05.030(a) or under the agreement, to accept putrescible solid waste from the Metro region. These types of NSLs are important because they allow Metro to closely monitor and potentially guide waste flows as necessary to ensure compliance with its obligations under the disposal contract.

In December 2008, WRI was granted an NSL (No. N-005-09) to deliver a maximum of 70,000 tons per calendar year of putrescible waste to the RLF for disposal. The term of this NSL commenced on January 1, 2009 and is set to expire on December 31, 2010. The applicant delivered 6,010 tons of solid waste to RLF under authority of this existing NSL during calendar year 2009 and 539 tons between January and July 2010.

In addition to the above, WRI currently holds NSL No. N-005-10(3) authorizing the annual delivery of up to 32,845 tons per calendar year of putrescible solid waste to Coffin Butte Landfill and NSL No. N-005-08(2) authorizing the annual delivery of up to 5,500 tons per calendar year of putrescible solid waste to the Covanta Waste-to-Energy Facility. These two NSLs are also set to expire on December 31, 2010 and are in the process of being renewed. 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-005-08 (Franchise).

On August 24, 2010, WRI submitted to Metro an application requesting that Metro renew this NSL with a tonnage authorization of 70,000 tons per calendar year. This is the same annual tonnage limit that WRI is currently authorized to transport under its existing NSL. The proposed NSL is a renewal of an existing license. The proposed license renews the existing authorization that WRI has held under NSLs since 2002.

ANALYSIS/INFORMATION

1. Known Opposition

Within Yamhill County, there is known local public opposition to the expansion of RLF. The expansion decision continues to play itself out through the county and state land use process. In the past, local opponents of landfill expansion have expressed objections to the disposal of any waste generated outside of the County that may contribute to Waste Management's need to expand capacity at the landfill.

Metro staff notified Yamhill County of the applicant's request and the County's solid waste staff indicated by letter that the landfill was in compliance with local requirements.

2. Legal Antecedents

Section 5.05.035(c) 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 RLF first came into use during the mid-eighties. When RLF became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the environmental controls required by the Oregon Department of Environmental Quality (DEQ). During the term of the existing NSL, Metro staff has not found any evidence that the landfill has accepted waste that it was not permitted by DEQ to accept. It appears that the future risk of environmental contamination is likely to be minimal, provided that the synthetic liner system remains intact, leachate is collected and properly treated, groundwater is monitored for contamination migration, and the DEQ is diligent in its oversight of the facility.

- (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;*

The RLF is owned and operated by Waste Management of Oregon, Inc. (WMO). The landfill is permitted by the DEQ. Metro staff received verbal confirmation from the DEQ and Yamhill County that RLF is in compliance with federal, state, and local requirements. Staff has also received confirmation that the landfill 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;*

The RLF uses operational practices and management controls that are typical of Subtitle D landfills and 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. Thus, approval of the proposed license renewal is not expected to impact the region's recycling and waste reduction efforts.

(5) *The consistency of the designation 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 putrescible solid waste covered under the proposed NSL is to be delivered to RLF, which is 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*

WRI is currently in compliance with its Metro-issued Franchise and NSLs and it has not had any significant compliance issues with regard to Metro regulations within the last two years. Additionally, WRI 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 putrescible solid waste to RLF. The NSL includes a 70,000-ton limit in order to match the tonnage limit stipulated in WR's Franchise. Section 4.3 of the Franchise provides that, effective January 1, 2011, the COO may increase the Franchise tonnage authorization based on a growth allowance established by Metro Code. However, the decision on this upcoming action item has not yet been made so the facility's tonnage limit for 2010 and 2011 is not known at this point.

Based on the information provided above, the COO recommends that the Metro Council approve an NSL renewal for WRI with a growth allowance provision stipulating that the COO may increase the tonnage limit of the proposed NSL as necessary to align it with that of the facility's Franchise tonnage limit—this provision would be implemented in the event that the Franchise is subsequently amended for a growth allowance as described above.

Specifically, Section 7(b)(iv) of the proposed license allows the COO to increase the yearly tonnage limit of the NSL by the amount necessary to match the tonnage authorization stipulated in the applicant's Franchise. This means that the COO is authorized to increase the yearly tonnage limit of the proposed license up to the amount of the facility's Franchise limit without seeking further Council action. This proposed NSL does not increase the total tonnage that WRI is authorized to accept under the terms of its Franchise.

3. Anticipated Effects

The effect of Resolution No. 10-4189 will be to issue a two-year NSL authorizing WRI to deliver up to 70,000 tons per calendar year of putrescible waste to the RLF for disposal.

4. Budget Impacts

RLF is 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 RLF under the authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-005-09). The financial impact of this NSL has already been factored into the budget.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 10-4189, finding that the license renewal satisfies the requirements of Metro Code Section 5.05.035, and issuance of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

TG/WJ:bjl
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Agenda Item Number 4.3

Resolution No. 10-4190, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to West Linn Refuse & Recycling, Inc. for Delivery of Putrescible Waste to Canby Transfer & Recycling Inc. for the Purpose of Transfer to the Riverbend Landfill for Disposal.

Consent Agenda

Metro Council Meeting
Thursday, Nov. 4, 2010
Metro Council Chambers

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A) RESOLUTION NO. 10-4190
RENEWED NON-SYSTEM LICENSE TO WEST LINN REFUSE &)
RECYCLING, INC. FOR DELIVERY OF PUTRESCIBLE WASTE) Introduced by Michael Jordan,
TO CANBY TRANSFER & RECYCLING, INC. FOR THE) Chief Operating Officer, with the
PURPOSE OF TRANSFER TO THE RIVERBEND LANDFILL) concurrence of Carlotta Collette,
) Acting Council President

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, West Linn Refuse & Recycling, Inc. ("WLR") holds Metro Solid Waste Facility Non-System License No. N-119-09, which expires on December 31, 2010; and

WHEREAS, WLR has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to Canby Transfer & Recycling, Inc. for the purpose of transfer to the 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 WLR 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 WLR a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2010.

Carlotta Collette, Acting Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Resolution No. 10-4190



METRO

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

No. N-119-11

LICENSEE:
West Linn Refuse & Recycling, Inc. 1600 SE 4 th Avenue Canby, OR 97013
CONTACT PERSON:
Andy Kahut Phone: (503) 663-4778 Fax: (503) 263-6477 E-mail: akahut@kahutwasteservices.com
MAILING ADDRESS:
West Linn Refuse & Recycling, Inc. P.O. Box 550 Canby, OR 97013

ISSUED BY METRO:

Michael Jordan, Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste that is generated by residential and commercial customers within the Metro region and collected by West Linn Refuse & Recycling, Inc.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility listed in Section 3 of this license up to 9,000 tons per calendar year of the waste described in Section 1 of this license.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the waste described in Section 1, above, only to the following non-system facility for the purpose of transfer to the Riverbend Landfill for disposal:</p> <p style="text-align: center;">Canby Transfer & Recycling, Inc. 1600 SE 4th Avenue Canby, OR 97013</p> <p>This license is issued on condition that the non-system facility and disposal site 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 or local regulatory authority that the non-system facility or disposal site are not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2011 and expire at midnight on December 31, 2012, unless terminated sooner under Section 7 of this license.
5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall 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 shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none">i. Ticket or weight slip number from the non-system facility;ii. Material category designating the type of material transferred to the non-system facility;iii. Date the load was transferred to the non-system facility;iv. Time the load was transferred to the non-system facility;v. Net weight of the load; andvi. Fee charged by the non-system facility <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 shall:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro 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 Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall 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 shall, 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>

7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <p>(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be 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 shall be subject to amendment, modification or termination by Metro's Chief Operating Officer (the "COO") in the event that the COO</p>



	<p>determines that:</p> <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 Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.; or 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 described in Section 3. <p>(c) This license shall, in addition to subsections (b)(i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.</p> <p>(d) Licensee shall 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 shall 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.</p> <p>(f) This license authorizes delivery of solid waste to the facility listed in Section 3. Transfer 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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8	COMPLIANCE WITH LAW
	<p>Licensee shall 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 shall be deemed part of this license as if specifically set forth herein.</p>

9	INDEMNIFICATION
	<p>Licensee shall 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. 10-4190 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO WEST LINN REFUSE & RECYCLING, INC. FOR DELIVERY OF PUTRESCIBLE WASTE TO CANBY TRANSFER & RECYCLING, INC. FOR THE PURPOSE OF TRANSFER TO THE RIVERBEND LANDFILL

October 4, 2010

Prepared by: Warren Johnson

Approval of Resolution No. 10-4190 will authorize the Chief Operating Officer (COO) to issue a two-year non-system license (NSL) to West Linn Refuse and Recycling, Inc. (WLR) to annually deliver up to 9,000 tons of putrescible waste from the Metro region to Canby Transfer & Recycling, Inc. (CTR) for the purpose of transfer to the Riverbend Landfill (RLF) in McMinnville, Oregon. The proposed NSL is the renewal of an existing license that is set to expire on December 31, 2010. The applicant (WLR) and the destination facility (CTR) are both affiliated with K.B. Recycling, Inc. headquartered in Canby, Oregon.

BACKGROUND

On March 1, 2009, Metro and RLF entered into a designated facility agreement (Metro Contract No. 929082) which allows the landfill to accept certain types of waste from the Metro region (such as non-putrescible processing residual). Although RLF is a Metro-designated facility, an NSL is required to deliver Metro-area putrescible waste to the landfill because it is not designated, as provided in Metro Code Section 5.05.030(a) or under the agreement, to accept putrescible solid waste from the Metro region. These types of NSLs are important because they allow Metro to closely monitor and potentially guide waste flows as necessary to ensure compliance with its obligations under the disposal contract.

In December 2008, WLR was granted an NSL to deliver a maximum of 9,000 tons per calendar year of putrescible waste, collected from its routes located inside the Metro region, to CTR for the purpose of transfer to the RLF for disposal. The term of this NSL commenced on January 1, 2009 and is set to expire on December 31, 2010. The applicant delivered 7,139 tons of solid waste to CTR under authority of this existing NSL during calendar year 2009 and 4,135 tons between January 1 and July 31, 2010.

On August 18, 2010, WLR submitted to Metro an application requesting that Metro renew this NSL with a tonnage authorization of 9,000 tons per calendar year. This is the same annual tonnage limit that WLR is currently authorized to transport under its existing NSL. The proposed NSL is a renewal of an existing license. The proposed license renews the existing authorization that WLR has held under NSLs since 2005.

ANALYSIS/INFORMATION

1. Known Opposition

Although the waste subject to the proposed NSL will be delivered to CTR, ultimate disposal of such waste will be at the RLF. Within Yamhill County, there is known local public opposition to the expansion of RLF. The expansion decision continues to play itself out through the county and state land use process. In the past, local opponents of landfill expansion have expressed objections to the disposal of

any waste generated outside of the County that may contribute to Waste Management's need to expand capacity at the landfill.

Metro staff notified Yamhill County of the applicant's request and the County's solid waste staff indicated by letter that the landfill was in compliance with local requirements.

2. Legal Antecedents

Section 5.05.035(c) 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 transfer station rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. CTR began operations in 1996 and services only affiliated hauling companies including WLR and Hoodview Disposal located in the Metro region. Staff is not aware of any wastes collected by WLR accepted at CTR that could pose a risk of environmental contamination.

Ultimate disposal of the waste covered under the proposed NSL will be at the RLF. The RLF first came into use during the mid-eighties. When RLF became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the environmental controls required by the Oregon Department of Environmental Quality (DEQ). During the term of the existing NSL, Metro staff has not found any evidence that the landfill has accepted waste that it was not permitted by DEQ to accept. It appears that the future risk of environmental contamination is likely to be minimal, provided that the synthetic liner system remains intact, leachate is collected and properly treated, groundwater is monitored for contamination migration, and the DEQ is diligent in its oversight of the facility.

- (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;*

The RLF is owned and operated by Waste Management of Oregon, Inc. (WMO). The landfill and CTR are permitted by the DEQ. Metro staff received verbal confirmation from the DEQ and local jurisdictions (Clackamas and Yamhill Counties respectively) that both CTR and RLF are in compliance with federal, state, and local requirements. Staff has also received confirmation that these facilities have good compliance records 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;*

Metro and DEQ staff considers the operational practices and management controls in place at CTR to be adequate and consistent with other similar facilities. In addition, the RLF uses operational practices and

management controls that are typical of Subtitle D landfills and 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. Thus, approval of the proposed license renewal is not expected to impact the region's recycling and waste reduction efforts.

(5) *The consistency of the designation 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 putrescible solid waste covered under the proposed NSL is to be delivered to RLF, which is 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*

The applicant owns and operates KB Recycling, Inc. (KB), a Metro-licensed material recovery facility, as well as CTR. On September 1, 2010, Metro issued a notice of violation (No. NOV-260-10) to KB and imposed a penalty of \$100 for the facility accepting a load of putrescible waste in violation of its solid waste facility license (No. L-007-07A). KB has since paid its penalty and the matter has been resolved. The above referenced violation is associated with the applicant; however, it is not directly related to the activities performed by the applicant's hauling operations.

The applicant is currently in compliance with its Metro-issued NSL. With the exception of the above referenced violation, the applicant has not had any significant compliance issues with regard to Metro regulations within the last two years. Additionally, WLR 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. WLR has requested no change in the NSL tonnage authorization.

3. Anticipated Effects

The effect of Resolution No. 10-4190 will be to issue a two-year NSL authorizing WLR to deliver up to 9,000 tons per calendar year of putrescible waste to CTR for the purpose of transfer to the RLF for disposal.

4. Budget Impacts

RLF is 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 CTR under the authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-119-09). The financial impact of this NSL has already been factored into the budget.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 10-4190, finding that the proposed license satisfies the requirements of Metro Code Section 5.05.035, and renewal of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

TG/WJ:bjl
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Agenda Item Number 4.4

Resolution No. 10-4191, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Pride Recycling Company for Delivery of Putrescible Waste to the Riverbend Landfill for Disposal.

Consent Agenda

Metro Council Meeting
Thursday, Nov. 4, 2010
Metro Council Chambers

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A) RESOLUTION NO. 10-4191
RENEWED NON-SYSTEM LICENSE TO PRIDE RECYCLING)
COMPANY FOR DELIVERY OF PUTRESCIBLE WASTE TO THE) Introduced by Michael Jordan,
RIVERBEND LANDFILL) Chief Operating Officer, with the
) concurrence of Carlotta Collette,
) Acting Council President

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, Pride Recycling Company ("Pride") holds Metro Solid Waste Facility Non-System License No. N-002-09, which expires on December 31, 2010; and

WHEREAS, Pride has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to the 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 Pride 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 Pride a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2010.

Carlotta Collette, Acting Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Resolution No. 10-4191



METRO

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

No. N-002-11

LICENSEE:
Pride Recycling Company 13910 SW Tualatin-Sherwood Road Sherwood, OR 97140
CONTACT PERSON:
Mike Leichner Phone: (503) 625-0725 Fax: (503) 625-6179 E-mail: mikel@priderecycling.com
MAILING ADDRESS:
Pride Recycling Company P.O. Box 1150 Sherwood, OR 97140

ISSUED BY METRO:

Michael Jordan, Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste generated within the Metro boundary and received at Pride Recycling Company in accordance with Metro Solid Waste Facility Franchise No. F-002-08.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility described in Section 3 of this license up to 70,000 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-002-08.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder is authorized to deliver the waste described above in Section 1 to the following non-system facility:</p> <p style="text-align: center;">Riverbend Landfill 13469 SW Highway 18 McMinnville, OR 97128</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 or local regulatory authority 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>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2011 and expire at midnight on December 31, 2012, unless terminated sooner under Section 7 of this license.



5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall 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 shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none">i. Ticket or weight slip number from the non-system facility;ii. Material category designating the type of material transferred to the non-system facility;iii. Date the load was transferred to the non-system facility;iv. Time the load was transferred to the non-system facility;v. Net weight of the load; andvi. Fee charged by the non-system facility <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 shall:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro 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 Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall 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 shall, 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>



7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.(b) This license shall be subject to amendment, modification, or termination by Metro's Chief Operating Officer (the "COO") 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 Waste Management Disposal Services of Oregon, Inc., dba 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 of this license be transferred 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 Solid Waste Facility Franchise No. F-002-08. In the event that the tonnage authorization provided under the franchise is increased as the result of a growth allowance, the COO may amend Section 2 of this license to increase the calendar year tonnage limitation up to the same tonnage amount stipulated in the franchise.(c) This license shall, in addition to subsections (b)(i) through (b)(iv), above, be subject to amendment, modification, suspension, or termination pursuant to the Metro Code.(d) The Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.(e) This license shall 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.(f) This license authorizes the delivery of solid waste to the facility listed in Section 3. Transfer 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.



8	COMPLIANCE WITH LAW
	<p>Licensee shall 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 shall be deemed part of this license as if specifically set forth herein.</p>
9	INDEMNIFICATION
	<p>Licensee shall 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. 10-4191 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO PRIDE RECYCLING COMPANY FOR DELIVERY OF PUTRESCIBLE WASTE TO THE RIVERBEND LANDFILL

October 4, 2010

Prepared by: Warren Johnson

Approval of Resolution No. 10-4191 will authorize the Chief Operating Officer (COO) to issue a two-year non-system license (NSL) to Pride Recycling Company (Pride) to annually deliver up to 70,000 tons of putrescible waste from the Metro region to the Riverbend Landfill (RLF) in McMinnville, Oregon. The proposed NSL is the renewal of an existing license that is set to expire on December 31, 2010.

BACKGROUND

On March 1, 2009, Metro and RLF entered into a designated facility agreement (Metro Contract No. 929082) which allows the landfill to accept certain types of waste from the Metro region (such as non-putrescible processing residual). Although RLF is a Metro-designated facility, an NSL is required to deliver Metro-area putrescible waste to the landfill because it is not designated, as provided in Metro Code Section 5.05.030(a) or under the agreement, to accept putrescible solid waste from the Metro region. These types of NSLs are important because they allow Metro to closely monitor and potentially guide waste flows as necessary to ensure compliance with its obligations under the disposal contract.

In December 2008, Pride was granted an NSL (No. N-002-09) to deliver a maximum of 70,000 tons per calendar year of putrescible waste to the RLF for disposal. The term of this NSL commenced on January 1, 2009 and is set to expire on December 31, 2010. The applicant delivered 46,836 tons of solid waste to RLF under authority of this existing NSL during calendar year 2009 and 33,104 tons between January and July 2010.

On September 7, 2010, Pride submitted to Metro an application requesting that Metro renew this NSL with a tonnage authorization of 70,000 tons per calendar year. This is the same annual tonnage limit that Pride is currently authorized to transport under its existing NSL. The proposed NSL is a renewal of an existing license. The proposed license renews the existing authorization that Pride has held under NSLs since 1990.

ANALYSIS/INFORMATION

1. Known Opposition

Within Yamhill County, there is known local public opposition to the expansion of RLF. The expansion decision continues to play itself out through the county and state land use process. In the past, local opponents of landfill expansion have expressed objections to the disposal of any waste generated outside of the County that may contribute to Waste Management's need to expand capacity at the landfill.

Metro staff notified Yamhill County of the applicant's request and the County's solid waste staff indicated by letter that the landfill was in compliance with local requirements.

Metro staff notified Yamhill County of the applicant's request and the County's solid waste staff indicated by letter that the landfill was in compliance with local requirements.

2. Legal Antecedents

Section 5.05.035(c) 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 RLF first came into use during the mid-eighties. When RLF became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the environmental controls required by the Oregon Department of Environmental Quality (DEQ). During the term of the existing NSL, Metro staff has not found any evidence that the landfill has accepted waste that it was not permitted by DEQ to accept. It appears that the future risk of environmental contamination is likely to be minimal, provided that the synthetic liner system remains intact, leachate is collected and properly treated, groundwater is monitored for contamination migration, and the DEQ is diligent in its oversight of the facility.

- (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;*

The RLF is owned and operated by Waste Management of Oregon, Inc. (WMO). The landfill is permitted by the DEQ. Metro staff received verbal confirmation from the DEQ and Yamhill County that RLF is in compliance with federal, state, and local requirements. Staff has also received confirmation that the landfill 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;*

The RLF uses operational practices and management controls that are typical of Subtitle D landfills and 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. Thus, approval of the proposed license renewal is not expected to impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation 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 putrescible solid waste covered under the proposed NSL is to be delivered to RLF, which is 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*

Pride is currently in compliance with its Metro-issued franchise and NSL and it has not had any significant compliance issues with regard to Metro regulations within the last two years. Additionally, Pride 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 putrescible solid waste to RLF. The NSL includes a 70,000-ton limit in order to match the tonnage limit stipulated in Pride's Solid Waste Facility Franchise No. F-002-08 (Franchise). Section 4.3 of the Franchise provides that, effective January 1, 2011, the COO may increase the Franchise tonnage authorization based on a growth allowance established by Metro Code. However, the decision on this upcoming action item has not yet been made so the facility's tonnage limit for 2010 and 2011 is not known at this point.

Based on the information provided above, the COO recommends that the Metro Council approve an NSL renewal for Pride with a growth allowance provision stipulating that the COO may increase the tonnage limit of the proposed NSL as necessary to align it with that of the facility's Franchise tonnage limit—this provision would be implemented in the event that the Franchise is subsequently amended for a growth allowance as described above.

Specifically, Section 7(b)(iv) of the proposed license allows the COO to increase the yearly tonnage limit of the NSL by the amount necessary to match the tonnage authorization stipulated in the applicant's Franchise. This means that the COO is authorized to increase the yearly tonnage limit of the proposed license up to the amount of the facility's Franchise limit without seeking further Council action. This proposed NSL does not increase the total tonnage that Pride is authorized to accept under the terms of its Franchise.

3. Anticipated Effects

The effect of Resolution No. 10-4191 will be to issue a two-year NSL authorizing Pride to deliver up to 70,000 tons per calendar year of putrescible waste to the RLF for disposal.

4. Budget Impacts

RLF is 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 RLF under the authority of the proposed NSL. The application under consideration is the

renewal of an existing NSL (No. N-002-09). The financial impact of this NSL has already been factored into the budget.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 10-4191, finding that the license renewal satisfies the requirements of Metro Code Section 5.05.035, and issuance of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

TG/WJ:bjj
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Agenda Item Number 4.5

Resolution No. 10-4192, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Gray and Company for Delivery of Putrescible Waste to the Riverbend Landfill for Disposal.

Consent Agenda

Metro Council Meeting
Thursday, Nov. 4, 2010
Metro Council Chambers

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A) RESOLUTION NO. 10-4192
RENEWED NON-SYSTEM LICENSE TO GRAY & COMPANY)
FOR DELIVERY OF PUTRESCIBLE WASTE TO THE RIVERBEND) Introduced by Michael Jordan,
LANDFILL) Chief Operating Officer, with the
) concurrence of Carlotta Collette,
) Acting Council President

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, Gray & Company ("Gray") holds Metro Solid Waste Facility Non-System License No. N-011-09, which expires on December 31, 2010; and

WHEREAS, Gray has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to the 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 Gray 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 Gray a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2010.

Carlotta Collette, Acting Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Resolution No. 10-4192



METRO

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

No. N-011-11

LICENSEE:
Gray and Company 2331 23 rd Avenue Forest Grove, OR 97116
CONTACT PERSON:
Chad Dewhurst Phone: (503) 359-7103 Fax: (503) 359-7149 E-mail: cmdewhurst@cherryman.com
MAILING ADDRESS:
Gray and Company P.O. Box 218 Forest Grove, OR 97116

ISSUED BY METRO:

Michael Jordan, Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste generated at the Gray and Company site located at 2331 23 rd Avenue in Forest Grove, Oregon.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility listed in Section 3 of this license up to 260 tons per calendar year of the waste described in Section 1 of this license.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder is authorized to deliver the waste described above in Section 1 to the following non-system facility:</p> <p style="text-align: center;">Riverbend Landfill 13469 SW Highway 18 McMinnville, OR 97128</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 or local regulatory authority 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>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2011 and expire at midnight on December 31, 2012, unless terminated sooner under Section 7 of this license.
5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall 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 shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none"> i. Ticket or weight slip number from the non-system facility; ii. Material category designating the type of material transferred to the non-system facility; iii. Date the load was transferred to the non-system facility; iv. Time the load was transferred to the non-system facility; v. Net weight of the load; and vi. Fee charged by the non-system facility <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 shall:</p> <ul style="list-style-type: none"> i. Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro; ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; and 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. <p>(c) Licensee shall 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 shall, 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>

7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <p>(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be 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 shall be 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"> i. There has been sufficient change in any circumstances under which



	<p>Metro issued this license;</p> <ul style="list-style-type: none"> ii. The provisions of this license are actually or potentially in conflict with any provision in Metro’s disposal contract with Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.; or 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 described in Section 3. <p>(c) This license shall, in addition to subsections (b)(i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.</p> <p>(d) Licensee shall 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 shall 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.</p> <p>(f) This license authorizes delivery of solid waste to the facility listed in Section 3. Transfer 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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8	COMPLIANCE WITH LAW
	<p>Licensee shall 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 shall be deemed part of this license as if specifically set forth herein.</p>

9	INDEMNIFICATION
	<p>Licensee shall 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. 10-4192 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO GRAY & COMPANY FOR DELIVERY OF PUTRESCIBLE WASTE TO THE RIVERBEND LANDFILL

October 4, 2010

Prepared by: Warren Johnson

Approval of Resolution No. 10-4192 will authorize the Chief Operating Officer (COO) to issue a two-year non-system license (NSL) to Gray & Company (Gray) to annually deliver up to 260 tons of putrescible waste from the Metro region to the Riverbend Landfill (RLF) in McMinnville, Oregon. The proposed NSL is the renewal of an existing license that is set to expire on December 31, 2010.

BACKGROUND

Gray is a food processing facility located in Forest Grove, Oregon (Metro District 4). Gray routinely generates solid waste that consists primarily of fruit wastes, residual fruit syrups, containers contaminated with food residue, and a small quantity of miscellaneous waste from the facility's offices, restrooms, and cafeteria.

On March 1, 2009, Metro and RLF entered into a designated facility agreement (Metro Contract No. 929082) which allows the landfill to accept certain types of waste from the Metro region (such as non-putrescible processing residual). Although RLF is a Metro-designated facility, an NSL is required to deliver Metro-area putrescible waste to the landfill because it is not designated, as provided in Metro Code Section 5.05.030(a) or under the agreement, to accept putrescible solid waste from the Metro region. These types of NSLs are important because they allow Metro to closely monitor and potentially guide waste flows as necessary to ensure compliance with its obligations under the disposal contract.

In December 2008, Gray was granted an NSL (No. N-011-09) to deliver a maximum of 500 tons per calendar year of putrescible waste to the RLF for disposal. The term of this NSL commenced on January 1, 2009 and is set to expire on December 31, 2010. The applicant delivered 337 tons of solid waste to RLF under authority of this existing NSL during calendar year 2009 and 183 tons between January 1 and July, 31 2010.

On September 17, 2010, Gray submitted to Metro an application requesting that Metro renew this NSL with a tonnage authorization of 260 tons per calendar year. The requested amount is 240 tons less than the tonnage authorization included in Gray's existing NSL. Gray requested the tonnage reduction because the Forest Grove facility is expected to generate less waste in the next few years due to the shifting of some production activities to out-of-state facilities.

The proposed NSL is a renewal of an existing license. The proposed license renews the existing authorization that Gray has held under NSLs since 1996.

ANALYSIS/INFORMATION

1. Known Opposition

Within Yamhill County, there is known local public opposition to the expansion of RLF. The expansion decision continues to play itself out through the county and state land use process. In the past, local opponents of landfill expansion have expressed objections to the disposal of any waste generated outside of the County that may contribute to Waste Management's need to expand capacity at the landfill.

Metro staff notified Yamhill County of the applicant's request and the County's solid waste staff indicated by letter that the landfill was in compliance with local requirements.

2. Legal Antecedents

Section 5.05.035(c) 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 RLF first came into use during the mid-eighties. When RLF became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the environmental controls required by the Oregon Department of Environmental Quality (DEQ). During the term of the existing NSL, Metro staff has not found any evidence that the landfill has accepted waste that it was not permitted by DEQ to accept. It appears that the future risk of environmental contamination is likely to be minimal, provided that the synthetic liner system remains intact, leachate is collected and properly treated, groundwater is monitored for contamination migration, and the DEQ is diligent in its oversight of the facility.

- (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;*

The RLF is owned and operated by Waste Management of Oregon, Inc. (WMO). The landfill is permitted by the DEQ. Metro staff received verbal confirmation from the DEQ and Yamhill County that RLF is in compliance with federal, state, and local requirements. Staff has also received confirmation that the landfill 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;*

The RLF uses operational practices and management controls that are typical of Subtitle D landfills and 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. Thus, approval of the proposed license renewal is not expected to impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation 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 putrescible solid waste covered under the proposed NSL is to be delivered to RLF, which is 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*

Gray is currently in compliance with its Metro-issued NSL and it has not had any compliance issues with regard to Metro regulations within the last two years. Additionally, to staff's knowledge, Gray 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 RLF is located near one of Gray's other facilities located in Dayton, Oregon (near McMinnville). Gray routinely transports fruit to Forest Grove from its Dayton facility. The proposed NSL allows the company to backhaul its waste directly to RLF after making fruit deliveries to its Forest Grove facility. The proposed NSL is a renewal of an existing license.

3. Anticipated Effects

The effect of Resolution No. 10-4192 will be to issue a two-year NSL to Gray to deliver up to 260 tons per calendar year of putrescible waste to the RLF for disposal.

4. Budget Impacts

RLF is 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 RLF under the authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-011-09). The financial impact of this NSL has already been factored into the budget.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 10-4192, finding that the license renewal satisfies the requirements of Metro Code Section 5.05.035, and issuance of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

TG/WJ:bjl
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Agenda Item Number 4.6

Resolution No. 10-4193, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Forest Grove Transfer Station for Delivery of Putrescible Waste to the Riverbend Landfill for Disposal.

Consent Agenda

Metro Council Meeting
Thursday, Nov. 4, 2010
Metro Council Chambers

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A) RESOLUTION NO. 10-4193
RENEWED NON-SYSTEM LICENSE TO FOREST GROVE)
TRANSFER STATION FOR DELIVERY OF PUTRESCIBLE WASTE) Introduced by Michael Jordan,
TO THE RIVERBEND LANDFILL) Chief Operating Officer, with the
) concurrence of Carlotta Collette,
) Acting Council President

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-010-09, which expires on December 31, 2010; and

WHEREAS, FGTS has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to the 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 FGTS 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 FGTS a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2010.

Carlotta Collette, Acting Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Resolution No. 10-4193

TG/WJ:bjl

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METRO

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

No. N-010-11

LICENSEE:
Forest Grove Transfer Station 1525 B Street Forest Grove, OR 97116
CONTACT PERSON:
Kurt Duncan Phone: (503) 992-3015 Fax: (503) 357-4822 E-mail: kduncan2@wm.com
MAILING ADDRESS:
Forest Grove Transfer Station 1525 B Street Forest Grove, OR 97116

ISSUED BY METRO:

Michael Jordan, Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste generated within the Metro boundary and received at Forest Grove Transfer Station in accordance with Metro Solid Waste Facility Franchise No. F-004-08.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility described in Section 3 of this license up to 183,000 tons per calendar year of the waste described in Section 1 of this license.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder is authorized to deliver the waste described above in Section 1 to the following non-system facility:</p> <p style="text-align: center;">Riverbend Landfill 13469 SW Highway 18 McMinnville, OR 97128</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 or local regulatory authority 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>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2011 and expire at midnight on December 31, 2012, unless terminated sooner under Section 7 of this license.
5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall 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 shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none">i. Ticket or weight slip number from the non-system facility;ii. Material category designating the type of material transferred to the non-system facility;iii. Date the load was transferred to the non-system facility;iv. Time the load was transferred to the non-system facility;v. Net weight of the load; andvi. Fee charged by the non-system facility <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 shall:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro 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 Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall 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 shall, 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>

7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.(b) This license shall be subject to amendment, modification, or termination



	<p>by Metro’s Chief Operating Officer (the “COO”) in the event that the COO determines that:</p> <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 Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.; or 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 facilities listed in Section 3. <p>(c) This license shall, in addition to subsections (b)(i) through (b)(iii), above, be subject to amendment, modification, suspension, or termination pursuant to the Metro Code.</p> <p>(d) The Licensee shall 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 shall 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.</p> <p>(f) This license authorizes the delivery of solid waste to the facility listed in Section 3. Transfer 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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8	COMPLIANCE WITH LAW
	<p>Licensee shall 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 shall be deemed part of this license as if specifically set forth herein.</p>

9	INDEMNIFICATION
	<p>Licensee shall 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</p>



	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.
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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4193 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO FOREST GROVE TRANSFER STATION FOR DELIVERY OF PUTRESCIBLE WASTE TO THE RIVERBEND LANDFILL

October 4, 2010

Prepared by: Warren Johnson

Approval of Resolution No. 10-4193 will authorize the Chief Operating Officer (COO) to issue a two-year non-system license (NSL) to Forest Grove Transfer Station (FGTS) to annually deliver up to 183,000 tons of putrescible waste from the Metro region to the Riverbend Landfill (RLF) in McMinnville, Oregon. The proposed NSL is the renewal of an existing license that is set to expire on December 31, 2010. The applicant (FGTS) and the disposal site (RLF) are both owned and operated by Waste Management of Oregon, Inc. (WMO).

BACKGROUND

On March 1, 2009, Metro and RLF entered into a designated facility agreement (Metro Contract No. 929082) which allows the landfill to accept certain types of waste from the Metro region (such as non-putrescible processing residual). Although RLF is a Metro-designated facility, an NSL is required to deliver Metro-area putrescible waste to the landfill because it is not designated, as provided in Metro Code Section 5.05.030(a) or under the agreement, to accept putrescible solid waste from the Metro region. These types of NSLs are important because they allow Metro to closely monitor and potentially guide waste flows as necessary to ensure compliance with its obligations under the disposal contract.

In December 2008, FGTS was granted an NSL (No. N-010-09) to deliver a maximum of 183,000 tons per calendar year of putrescible waste to the RLF for disposal. The term of this NSL commenced on January 1, 2009 and is set to expire on December 31, 2010. The applicant delivered 127,415 tons of solid waste to RLF under authority of this existing NSL during calendar year 2009 and 87,583 tons between January 1 and July, 31 2010.

On September 7, 2010, FGTS submitted to Metro an application requesting that Metro renew this NSL with a tonnage authorization of 183,000 tons per calendar year. This is the same annual tonnage limit that FGTS is currently authorized to transport under its existing NSL. The applicant's Solid Waste Facility Franchise (No. F-004-08) does not limit the amount of waste that the FGTS may receive on an annual basis. Therefore, the tonnage limit established under the proposed NSL is intended to include sufficient authorization to cover the total amount of solid waste that could be delivered to FGTS annually (which has been approximately 183,000 tons in that past). The proposed NSL is a renewal of an existing license. The proposed license renews the existing authorization that FGTS has held under NSLs since 1990.

ANALYSIS/INFORMATION

1. Known Opposition

Within Yamhill County, there is known local public opposition to the expansion of RLF. The expansion decision continues to play itself out through the county and state land use process. In the past, local

opponents of landfill expansion have expressed objections to the disposal of any waste generated outside of the County that may contribute to WMO's need to expand capacity at the landfill.

Metro staff notified Yamhill County of the applicant's request and the County's solid waste staff indicated by letter that the landfill was in compliance with local requirements.

2. Legal Antecedents

Section 5.05.035(c) 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 RLF first came into use during the mid-eighties. When RLF became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the environmental controls required by the Oregon Department of Environmental Quality (DEQ). During the term of the existing NSL, Metro staff has not found any evidence that the landfill has accepted waste that it was not permitted by DEQ to accept. It appears that the future risk of environmental contamination is likely to be minimal, provided that the synthetic liner system remains intact, leachate is collected and properly treated, groundwater is monitored for contamination migration, and the DEQ is diligent in its oversight of the facility.

- (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;*

RLF is permitted by the DEQ. Metro staff received verbal confirmation from the DEQ and Yamhill County that RLF is in compliance with federal, state, and local requirements. Staff has also received confirmation that the landfill 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;*

The RLF uses operational practices and management controls that are typical of Subtitle D landfills and 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. Thus, approval of the proposed license renewal is not expected to impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation 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 putrescible solid waste covered under the proposed NSL is to be delivered to RLF, which is 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*

FGTS is currently in compliance with its Metro-issued franchise and NSL and it has not had any significant 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 FGTS to deliver up to 183,000 tons of putrescible waste to RLF per calendar year. The NSL authorization is intended to cover all of the putrescible waste that the facility is authorized to accept under Metro Solid Waste Facility Franchise No. F-004-08. The proposed NSL is a renewal of an existing license. FGTS has requested no change in the NSL tonnage authorization.

3. Anticipated Effects

The effect of Resolution No. 10-4193 will be to issue a two-year NSL authorizing FGTS to deliver up to 183,000 tons per calendar year of putrescible waste to the RLF for disposal.

4. Budget Impacts

RLF is 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 RLF under the authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-010-09). The financial impact of this NSL has already been factored into the budget.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 10-4193, finding that the license renewal satisfies the requirements of Metro Code Section 5.05.035, and issuance of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

Agenda Item Number 4.7

Resolution No. 10-4194, For the Purpose of Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Hoodview Disposal & Recycling, Inc. for Delivery of Putrescible Waste to Canby Transfer & Recycling Inc. for the Purpose of Transfer to the Riverbend Landfill for Disposal.

Consent Agenda

Metro Council Meeting
Thursday, Nov. 4, 2010
Metro Council Chambers

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A) RESOLUTION NO. 10-4194
RENEWED NON-SYSTEM LICENSE TO HOODVIEW)
DISPOSAL & RECYCLING, INC. FOR DELIVERY OF) Introduced by Michael Jordan,
PUTRESCIBLE WASTE TO CANBY TRANSFER & RECYCLING,) Chief Operating Officer, with the
INC. FOR THE PURPOSE OF TRANSFER TO THE RIVERBEND) concurrence of Carlotta Collette,
LANDFILL) Acting Council President

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, Hoodview Disposal & Recycling, Inc. ("HDR") holds Metro Solid Waste Facility Non-System License No. N-118-09, which expires on December 31, 2010; and

WHEREAS, HDR has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to Canby Transfer & Recycling, Inc. for the purpose of transfer to the 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 HDR 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 HDR a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2010.

Carlotta Collette, Acting Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Resolution No. 10-4194



METRO

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

No. N-118-11

LICENSEE:
Hoodview Disposal & Recycling, Inc., 1600 SE 4 th Avenue Canby, OR 97013
CONTACT PERSON:
Andy Kahut Phone: (503) 663-4778 Fax: (503) 263-6477 E-mail: akahut@kahutwasteservices.com
MAILING ADDRESS:
Hoodview Disposal & Recycling, Inc. P.O. Box 550 Canby, OR 97013

ISSUED BY METRO:

Michael Jordan, Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste that is generated by residential and commercial customers within the Metro region and collected by Hoodview Disposal & Recycling, Inc.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility listed in Section 3 of this license up to 5,500 tons per calendar year of the waste described in Section 1 of this license.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the waste described in Section 1, above, only to the following non-system facility for the purpose of transfer to the Riverbend Landfill for disposal:</p> <p style="text-align: center;">Canby Transfer & Recycling, Inc. 1600 SE 4th Avenue Canby, OR 97013</p> <p>This license is issued on condition that the non-system facility and disposal site 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 or local regulatory authority that the non-system facility or disposal site are not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2011 and expire at midnight on December 31, 2012, unless terminated sooner under Section 7 of this license.
5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall 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 shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none">i. Ticket or weight slip number from the non-system facility;ii. Material category designating the type of material transferred to the non-system facility;iii. Date the load was transferred to the non-system facility;iv. Time the load was transferred to the non-system facility;v. Net weight of the load; andvi. Fee charged by the non-system facility <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 shall:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro 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 Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall 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 shall, 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>

7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <p>(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be 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 shall be 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">i. There has been sufficient change in any circumstances under which Metro issued this license;



	<ul style="list-style-type: none"> ii. The provisions of this license are actually or potentially in conflict with any provision in Metro’s disposal contract with Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.; or 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 described in Section 3. <p>(c) This license shall, in addition to subsections (b)(i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.</p> <p>(d) Licensee shall 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 shall 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.</p> <p>(f) This license authorizes delivery of solid waste to the facility listed in Section 3. Transfer 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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8	COMPLIANCE WITH LAW
	<p>Licensee shall 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 shall be deemed part of this license as if specifically set forth herein.</p>

9	INDEMNIFICATION
	<p>Licensee shall 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. 10-4194 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO HOODVIEW DISPOSAL & RECYCLING, INC. FOR DELIVERY OF PUTRESCIBLE WASTE TO CANBY TRANSFER & RECYCLING, INC. FOR THE PURPOSE OF TRANSFER TO THE RIVERBEND LANDFILL

October 4, 2010

Prepared by: Warren Johnson

Approval of Resolution No. 10-4194 will authorize the Chief Operating Officer (COO) to issue a two-year non-system license (NSL) to Hoodview Disposal and Recycling, Inc. (HDR) to annually deliver up to 5,500 tons of putrescible waste from the Metro region to Canby Transfer & Recycling, Inc. (CTR) for the purpose of transfer to the Riverbend Landfill (RLF) in McMinnville, Oregon. The proposed NSL is the renewal of an existing license that is set to expire on December 31, 2010. The applicant (HDR) and the destination facility (CTR) are both affiliated with K.B. Recycling, Inc. headquartered in Canby, Oregon.

BACKGROUND

On March 1, 2009, Metro and RLF entered into a designated facility agreement (Metro Contract No. 929082) which allows the landfill to accept certain types of waste from the Metro region (such as non-putrescible processing residual). Although RLF is a Metro-designated facility, an NSL is required to deliver Metro-area putrescible waste to the landfill because it is not designated, as provided in Metro Code Section 5.05.030(a) or under the agreement, to accept putrescible solid waste from the Metro region. These types of NSLs are important because they allow Metro to closely monitor and potentially guide waste flows as necessary to ensure compliance with its obligations under the disposal contract.

In December 2008, HDR was granted an NSL (No. N-118-09) to deliver a maximum of 5,500 tons per calendar year of putrescible waste, collected from its routes located inside the Metro region, to CTR for the purpose of transfer to the RLF for disposal. The term of this NSL commenced on January 1, 2009 and is set to expire on December 31, 2010. The applicant delivered 4,562 tons of solid waste to CTR under authority of this existing NSL during calendar year 2009 and 2,576 tons between January 1 and July 31, 2010.

On August 19, 2010, HDR 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 HDR is currently authorized to transport under its existing NSL. The proposed NSL is a renewal of an existing license. The proposed license renews the existing authorization that HDR has held under NSLs since 2005.

ANALYSIS/INFORMATION

1. Known Opposition

Although the waste subject to the proposed NSL will be delivered to CTR, ultimate disposal of such waste will be at the RLF. Within Yamhill County, there is known local public opposition to the expansion of RLF. The expansion decision continues to play itself out through the county and state land use process. In the past, local opponents of landfill expansion have expressed objections to the disposal of

any waste generated outside of the County that may contribute to Waste Management's need to expand capacity at the landfill.

Metro staff notified Yamhill County of the applicant's request and the County's solid waste staff indicated by letter that the landfill was in compliance with local requirements.

2. Legal Antecedents

Section 5.05.035(c) 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 transfer station rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. CTR began operations in 1996 and services only affiliated hauling companies including HDR and West Linn Refuse located in the Metro region. Staff is not aware of any wastes collected by HDR accepted at CTR that could pose a risk of environmental contamination.

Ultimate disposal of the waste covered under the proposed NSL will be at the RLF. The RLF first came into use during the mid-eighties. When RLF became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the environmental controls required by the Oregon Department of Environmental Quality (DEQ). During the term of the existing NSL, Metro staff has not found any evidence that the landfill has accepted waste that it was not permitted by DEQ to accept. It appears that the future risk of environmental contamination is likely to be minimal, provided that the synthetic liner system remains intact, leachate is collected and properly treated, groundwater is monitored for contamination migration, and the DEQ is diligent in its oversight of the facility.

- (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;*

The RLF is owned and operated by Waste Management of Oregon, Inc. (WMO). The landfill and CTR are permitted by the DEQ. Metro staff received verbal confirmation from the DEQ and local jurisdictions (Clackamas and Yamhill Counties respectively) that both CTR and RLF are in compliance with federal, state, and local requirements. Staff has also received confirmation that these facilities have good compliance records 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;*

Metro and DEQ staff considers the operational practices and management controls in place at CTR to be adequate and consistent with other similar facilities. In addition, the RLF uses operational practices and

management controls that are typical of Subtitle D landfills and 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. Thus, approval of the proposed license renewal is not expected to impact the region's recycling and waste reduction efforts.

(5) *The consistency of the designation 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 putrescible solid waste covered under the proposed NSL is to be delivered to RLF, which is 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*

The applicant owns and operates KB Recycling, Inc. (KB), a Metro-licensed material recovery facility, as well as CTR. On September 1, 2010, Metro issued a notice of violation (No. NOV-260-10) to KB and imposed a penalty of \$100 for the facility accepting a load of putrescible waste in violation of its solid waste facility license (No. L-007-07A). KB has since paid its penalty and the matter has been resolved. The above referenced violation is associated with the applicant; however, it is not directly related to the activities performed by the applicant's hauling operations.

The applicant is currently in compliance with its Metro-issued NSL. With the exception of the above referenced violation, the applicant has not had any significant compliance issues with regard to Metro regulations within the last two years. Additionally, HDR 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. HDR has requested no change in the NSL tonnage authorization.

3. Anticipated Effects

The effect of Resolution No. 10-4194 will be to issue a two-year NSL authorizing HDR to deliver up to 5,500 tons per calendar year of putrescible waste to CTR for the purpose of transfer to the RLF for disposal.

4. Budget Impacts

RLF is 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 CTR under the authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-118-09). The financial impact of this NSL has already been factored into the budget.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 10-4194, finding that the license renewal satisfies the requirements of Metro Code Section 5.05.035, and issuance of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

TG/WJ:bjl
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Agenda Item Number 4.8

Resolution No. 10-4202, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License Jointly to Willamette Resources Inc and Allied Waste of Clackamas and Washington Counties for Delivery of Putrescible Waste to the Covanta Waste-to-Energy Facility.

Consent Agenda

Metro Council Meeting
Thursday, Nov. 4, 2010
Metro Council Chambers

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A) RESOLUTION NO. 10-4202
RENEWED NON-SYSTEM LICENSE JOINTLY TO WILLAMETTE)
RESOURCES, INC. AND ALLIED WASTE OF CLACKAMAS AND) Introduced by Michael Jordan,
WASHINGTON COUNTIES FOR DELIVERY OF PUTRESCIBLE) Chief Operating Officer, with the
WASTE TO THE COVANTA WASTE-TO-ENERGY FACILITY) concurrence of Carlotta Collette,
) Acting Council President

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, Willamette Resources, Inc. ("WRI") and Allied Waste of Clackamas and Washington Counties ("Allied") holds Metro Solid Waste Facility Non-System License No. N-005-08(2), which expires on December 31, 2010; and

WHEREAS, WRI and Allied have filed a completed application seeking renewal of the non-system license to deliver putrescible waste to the Covanta Waste-To-Energy Facility 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 WRI and Allied 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 Allied a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2010.

Carlotta Collette, Acting Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Resolution No. 10-4202

TG/WJ:bjl

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METRO

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

No. N-005-11(2)

LICENSEE:		
Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, OR 97070	Allied Waste of Clackamas and Washington Counties 10295 SW Ridder Road Wilsonville, OR 97070	
CONTACT PERSON:		
Carol Dion Phone: (503) 570-0625 Fax: (503) 570-0523 E-mail: cdion@republicservices.com	Ray Phelps Phone: (503) 570-0625 Fax: (503) 570-0523 E-mail: rphelps@republicservices.com	Frank Lonergan Phone: (503) 570-0625 Fax: (503) 570-0523 E-mail: flonergan@republicservices.com
MAILING ADDRESS:		
Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, OR 97070	Allied Waste of Clackamas and Washington Counties 10295 SW Ridder Road Wilsonville, OR 97070	

ISSUED BY METRO:

Michael Jordan, Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	<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-005-08; and</p> <p>(b) Confidential records of customers generated within the Metro boundary and collected by Allied Waste of Clackamas and Washington Counties and delivered directly to the non-system facility described in Section 3 of this license.</p>
2	CALENDAR YEAR TONNAGE LIMITATION
	<p>Licensee is jointly authorized to deliver 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-005-08</p>
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder is authorized to deliver 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>
4	TERM OF LICENSE
	<p>The term of this license will commence on January 1, 2011 and expire at midnight on December 31, 2012, unless terminated sooner under Section 7 of this license.</p>



5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall 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 shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none">i. Ticket or weight slip number from the non-system facility;ii. Material category designating the type of material transferred to the non-system facility;iii. Date the load was transferred to the non-system facility;iv. Time the load was transferred to the non-system facility;v. Net weight of the load; andvi. Fee charged by the non-system facility <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 shall:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro 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 Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall 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 shall, 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>



7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.(b) This license shall be subject to amendment, modification, or termination by Metro's Chief Operating Officer (the "COO") 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.; oriii. 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.(c) This license shall, in addition to subsections (b)(i) through (b)(iii), above, be subject to amendment, modification, suspension, or termination pursuant to the Metro Code.(d) The Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.(e) This license shall 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.(f) This license authorizes the delivery of solid waste to the facility listed in Section 3. Transfer 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.

8	COMPLIANCE WITH LAW
	<p>Licensee shall 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 shall be deemed part of this license</p>



	as if specifically set forth herein.
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9	INDEMNIFICATION
	Licensee shall 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.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4202 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE JOINTLY TO WILLETTE RESOURCES, INC. AND ALLIED WASTE OF CLACKAMAS AND WASHINGTON COUNTIES FOR DELIVERY OF PUTRESCIBLE WASTE TO THE COVANTA WASTE-TO-ENERGY FACILITY

October 7, 2010

Prepared by: Warren Johnson

Approval of Resolution No. 10-4202 will authorize the Chief Operating Officer (COO) to issue a two-year non-system license (NSL) jointly to Willamette Resources, Inc. (WRI) and Allied Waste of Clackamas and Washington Counties (Allied) to annually deliver 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 applicants are owned and operated by Allied Waste Industries, Inc., a wholly owned subsidiary of Republic Waste Systems, Inc. headquartered in Phoenix, Arizona.

BACKGROUND

In November 2008, WRI and Allied were jointly granted an NSL (No. N-005-08(2)) to deliver 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 Allied to Covanta. The term of this NSL commenced on January 1, 2009 and is set to expire on December 31, 2010. The applicants delivered 3,765 tons of solid waste to Covanta under authority of this existing NSL during calendar year 2009 and 3,728 tons between January 1 and July 31, 2010.

In addition to the above, WRI currently holds NSL No. N-005-10(3) authorizing the annual delivery of up to 32,845 tons per calendar year of putrescible solid waste to Coffin Butte Landfill and NSL No. N-005-09 authorizing the annual delivery of up to 70,000 tons per calendar year of putrescible solid waste to Riverbend Landfill. These two NSLs are also set to expire on December 31, 2010 and are in the process of being renewed. 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-005-08 (Franchise).

On August 24, 2010, WRI and Allied 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 Allied have held under NSLs since 1999.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed NSL.

2. Legal Antecedents

Section 5.05.035(c) 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. A baghouse system minimizes emissions to the air and ash is 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 the DEQ. Metro staff received verbal confirmation from the 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;*

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. Thus, approval of the proposed license renewal is not expected to impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation 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.

In addition, Metro has a contract with Marion County for the delivery of solid waste from Metro's transfer stations to Covanta. Renewal of this NSL is not inconsistent with this existing contractual arrangement.

- (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*

WRI is currently in compliance with its Metro-issued Franchise and NSLs and it has not had any significant compliance issues with regard to Metro regulations within the last two years. Additionally, WRI 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.*

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 stipulates that the facility shall not accept more than 70,000 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 70,000-ton limit stipulated in WRI's Franchise.

3. Anticipated Effects

The effect of Resolution No. 10-4202 will be to issue a two-year NSL authorizing WRI and Allied to deliver up to 5,500 tons per calendar year of putrescible waste and certain confidential records to Covanta for disposal.

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 application under consideration is the renewal of an existing NSL (No. N-005-08(2)). The financial impact of this NSL has already been factored into the budget.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 10-4202, finding that the license renewal satisfies the requirements of Metro Code Section 5.05.035, and issuance of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

Agenda Item Number 4.9

Resolution No. 10-4203, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Waste Management of Oregon, Inc. for Delivery of Putrescible Waste from the Troutdale Transfer Station to the Columbia Ridge Landfill and Riverbend Landfill.

Consent Agenda

Metro Council Meeting
Thursday, Nov. 4, 2010
Metro Council Chambers

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A) RESOLUTION NO. 10-4203
RENEWED NON-SYSTEM LICENSE TO WASTE)
MANAGEMENT OF OREGON, INC. FOR DELIVERY OF) Introduced by Michael Jordan,
PUTRESCIBLE WASTE FROM THE TROUTDALE TRANSFER) Chief Operating Officer, with the
STATION TO THE COLUMBIA RIDGE LANDFILL AND) concurrence of Carlotta Collette,
RIVERBEND LANDFILL) Acting Council President

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, Waste Management of Oregon, Inc. (“WMO”) holds Metro Solid Waste Facility Non-System License No. N-001-08, which expires on December 31, 2010; and

WHEREAS, WMO has filed a completed application seeking renewal of the non-system license to deliver 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 ____ day of _____, 2010.

Carlotta Collette, Acting Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

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



METRO

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

No. N-001-11

LICENSEE:
Waste Management of Oregon, Inc. dba Troutdale Transfer Station 869 NW Eastwind Drive Troutdale, OR 97060
CONTACT PERSON:
Dan Wilson Phone: (503) 667-5264 Fax: (503) 667-6237 E-mail: danwilson@wm.com
MAILING ADDRESS:
Troutdale Transfer Station 869 NW Eastwind Drive Troutdale, OR 97060

ISSUED BY METRO:

Michael Jordan, Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste generated within the Metro boundary and received at Troutdale Transfer Station in accordance with Metro Solid Waste Facility Franchise No. F-001-08A.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facilities described in Section 3 of this license up to 70,000 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-001-08A.
3	NON-SYSTEM FACILITIES
	<p>The Licensee hereunder is authorized to deliver 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 of this license, the Licensee is authorized to deliver 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 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2011 and expire at midnight on December 31, 2012, unless terminated sooner under Section 7 of this license.



5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall 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 shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facilities described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facilities:</p> <ul style="list-style-type: none">i. Ticket or weight slip number from the non-system facility;ii. Material category designating the type of material transferred to the non-system facility;iii. Date the load was transferred to the non-system facility;iv. Time the load was transferred to the non-system facility;v. Net weight of the load; andvi. Fee charged by the non-system facility <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 shall:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro 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 Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall 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 shall, 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, above.</p>



7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The Licensee is authorized to deliver 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 delivering such waste to the Columbia Ridge Landfill.(b) If the Licensee delivers putrescible waste to the Riverbend Landfill as provided above in Section 7(a), the Licensee shall:<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 delivery of waste to the Riverbend Landfill continues for more than three consecutive business days. The written notification required by this section shall include a detailed description of the particular circumstance resulting in such deliveries and its expected duration.(c) The permissive transfer of solid waste to the non-system facilities, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.(d) This license shall be subject to amendment, modification, or termination by Metro's Chief Operating Officer (the "COO") 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 of this license be transferred 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 Solid Waste Facility Franchise No. F-001-08A. In the event that the tonnage authorization provided under the franchise is increased as the result of a growth allowance, the COO may amend Section 2 of this license to increase the calendar year tonnage limitation up to the same tonnage amount stipulated in the franchise.(e) This license shall, in addition to subsections (d)(i) through (d)(iv),



	<p>above, be subject to amendment, modification, suspension, or termination pursuant to the Metro Code.</p> <ul style="list-style-type: none">(f) The Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.(g) This license shall terminate upon the execution of designated facility agreements with the facilities listed in Section 3 that authorizes those facilities to accept the waste described in Section 1 of this license.(h) This license authorizes the delivery of solid waste to the facilities listed in Section 3. Transfer 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.
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8	COMPLIANCE WITH LAW
	<p>Licensee shall 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 shall be deemed part of this license as if specifically set forth herein.</p>

9	INDEMNIFICATION
	<p>Licensee shall 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. 10-4203 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO WASTE MANAGEMENT OF OREGON, INC. FOR DELIVERY OF PUTRESCIBLE WASTE FROM THE TROUTDALE TRANSFER STATION TO THE COLUMBIA RIDGE LANDFILL AND RIVERBEND LANDFILL

October 4, 2010

Prepared by: Warren Johnson

Approval of Resolution No. 10-4203 will authorize the Chief Operating Officer (COO) to issue a two-year non-system license (NSL) to Waste Management of Oregon, Inc. (WMO) to annually deliver up to 70,000 tons of putrescible waste from the Troutdale Transfer Station (TTS) to the Columbia Ridge Landfill (CRLF) in Arlington, Oregon and under certain unusual circumstances and emergency conditions, to Riverbend Landfill (RLF) in McMinnville, Oregon. The proposed NSL is the renewal of an existing license that is set to expire on December 31, 2010.

BACKGROUND

Metro entered into designated facility agreements with CRLF (Metro Contract No. 928982) on December 11, 2008, and RLF (Metro Contract No. 929082) on March 1, 2009. These agreements allow the landfills to accept certain types of waste from the Metro region (such as non-putrescible processing residual). Although these landfills are Metro-designated facilities, NSLs are required to deliver Metro-area putrescible waste to these landfills because they are not designated, as provided in Metro Code Section 5.05.030(a) or under the agreements, to accept putrescible solid waste from the Metro region. These types of NSLs are important because they allow Metro to closely monitor and potentially guide waste flows as necessary to ensure compliance with its obligations under the disposal contract.

In December 2008, WMO was granted an NSL (No. N-001-08) to deliver a maximum of 70,000 tons per calendar year of putrescible waste, from the TTS, to the CRLF and RLF for disposal. The term of this NSL commenced on January 1, 2009 and is set to expire on December 31, 2010. The applicant delivered 68,896 tons of solid waste to CRLF and RLF under authority of this existing NSL during calendar year 2009 and 39,184 tons between January and July 2010.

The existing NSL authorizes the delivery of solid waste primarily to CRLF with an allowance to also deliver waste to RLF under certain unusual circumstances and emergency situations that would prevent the delivery of waste to CRLF, such as the closure of Interstate 84.

On August 27, 2010, WMO submitted to Metro an application requesting that Metro renew this NSL with a tonnage authorization of 70,000 tons per calendar year. This is the same annual tonnage limit that WMO is currently authorized to transport under its existing NSL. The proposed license renews the existing authorization that WMO has held under NSLs since 2003.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the issuance of NSL authorizing the delivery of waste to CRLF. However, within Yamhill County, there is known local public opposition to the expansion of RLF. The

expansion decision continues to play itself out through the county and state land use process. In the past, local opponents of landfill expansion have expressed objections to the disposal of any waste generated outside of Yamhill County that may contribute to WMO's need to expand capacity at RLF.

Metro staff notified Yamhill County of the applicant's request and the County's solid waste staff indicated by letter that the landfill was in compliance with local requirements.

2. Legal Antecedents

Section 5.05.035(c) 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 CRLF is a general-purpose landfill that began accepting waste in January 1990. The landfill has synthetic and clay liner systems that are consistent with federal Subtitle D landfill regulations. Since beginning operation, the landfill has been only filling lined cells and operating with the environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill has no known history of landfilling waste that poses a risk of environmental contamination.

The RLF first came into use during the mid-eighties. When RLF became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the environmental controls required by the Oregon Department of Environmental Quality (DEQ). During the term of the existing NSL, Metro staff has not found any evidence that the landfill has accepted waste that it was not permitted by DEQ to accept. It appears that the future risk of environmental contamination is likely to be minimal, provided that the synthetic liner system remains intact, leachate is collected and properly treated, groundwater is monitored for contamination migration, and the DEQ is diligent in its oversight of the facility.

- (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;*

CRLF and RLF are permitted by the DEQ. Metro staff received verbal confirmation from the DEQ and local jurisdictions that both CRLF and RLF are in compliance with federal, state, and local requirements. Staff has also received confirmation that both landfills have good compliance records 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;*

Both CRLF and RLF use operational practices and management controls that are typical of Subtitle D landfills and 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. Thus, approval of the proposed license renewal is not expected to impact the region's recycling and waste reduction efforts.

(5) *The consistency of the designation 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 putrescible solid waste covered under the proposed NSL is to be delivered to CRLF and RLF, 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 and it has not had any significant 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 putrescible solid waste to CRLF and RLF. The NSL includes a 70,000-ton limit in order to match the tonnage limit stipulated in TTS' Solid Waste Facility Franchise No. F-001-08A (Franchise). Section 4.3 of the Franchise provides that, effective January 1, 2011, the COO may increase the Franchise tonnage authorization based on a growth allowance established by Metro Code. However, the decision on this upcoming action item has not yet been made so the facility's tonnage limit for 2010 and 2011 is not known at this point.

Based on the information provided above, the COO recommends that the Metro Council approve an NSL renewal for TTS with a growth allowance provision stipulating that the COO may increase the tonnage limit of the proposed NSL as necessary to align it with that of the facility's Franchise tonnage limit—this provision would be implemented in the event that the Franchise is subsequently amended for a growth allowance as described above.

Specifically, Section 7(d)(iv) of the proposed license allows the COO to increase the yearly tonnage limit of the NSL by the amount necessary to match the tonnage authorization stipulated in the applicant's Franchise. This means that the COO is authorized to increase the yearly tonnage limit of the proposed license up to the amount of the facility's Franchise limit 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. 10-4203 will be to issue a two-year NSL authorizing TTS to deliver up to 70,000 tons per calendar year of putrescible waste to the CRLF and, under certain unusual circumstances and emergency conditions, RLF for disposal.

4. Budget Impacts

CRLF and RLF 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 CRLF and RLF under the authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-001-08). The financial impact of this NSL has already been factored into the budget.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 10-4203, finding that the license renewal satisfies the requirements of Metro Code Section 5.05.035, and issuance of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

TG/WJ:bjj
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Agenda Item Number 4.10

Resolution No. 10-4204, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Epson Portland, Inc. for Delivery of Industrial Solid Waste and Putrescible Waste to the Covanta Waste-to-Energy Facility.

Consent Agenda

Metro Council Meeting
Thursday, Nov. 4, 2010
Metro Council Chambers

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A) RESOLUTION NO. 10-4204
RENEWED NON-SYSTEM LICENSE TO EPSON PORTLAND,)
INC. FOR DELIVERY OF INDUSTRIAL SOLID WASTE AND) Introduced by Michael Jordan,
PUTRESCIBLE WASTE TO THE COVANTA WASTE-TO-ENERGY) Chief Operating Officer, with the
FACILITY) concurrence of Carlotta Collette,
) Acting Council President

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, Epson Portland, Inc. ("Epson") holds Metro Solid Waste Facility Non-System License No. N-028-08, which expires on December 31, 2010; and

WHEREAS, Epson has filed a completed application seeking renewal of the non-system license to deliver industrial solid waste and putrescible waste to the Covanta Waste-to-Energy Facility 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 Epson 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 Epson a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2010.

Carlotta Collette, Acting Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Resolution No. 10-4204

TG/WJ:bjl

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METRO

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

No. N-028-11

LICENSEE:
Epson Portland, Inc. 3950 NW Aloclek Place Hillsboro, OR 97124
CONTACT PERSON:
Kimberley Sackman Phone: (503) 617-5462 Fax: (503) 617-6746 E-mail: kimberley.sackman@epi.epson.com
MAILING ADDRESS:
Epson Portland, Inc. 3950 NW Aloclek Place Hillsboro, OR 97124

ISSUED BY METRO:

Michael Jordan, Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Industrial solid waste, consisting primarily of non-recoverable plastics, commingled with up to ten percent putrescible waste, including restroom and food waste, generated at the Epson Portland, Inc. site located at 3950 NW Alcolek Place in Hillsboro, Oregon.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility described in Section 3 of this license up to 125 tons per calendar year of the waste described in Section 1 of this license.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder is authorized to deliver 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 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2011 and expire at midnight on December 31, 2012, unless terminated sooner under Section 7 of this license.
5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of the solid waste on behalf of the Licensee.



6	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none">i. Ticket or weight slip number from the non-system facility;ii. Material category designating the type of material transferred to the non-system facility;iii. Date the load was transferred to the non-system facility;iv. Time the load was transferred to the non-system facility;v. Net weight of the load; andvi. Fee charged by the non-system facility <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 shall:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro 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 Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall 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 shall, 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>

7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <p>(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be 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 shall be subject to amendment, modification, or termination</p>



	<p>by Metro’s Chief Operating Officer (the “COO”) in the event that the COO determines that:</p> <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.; or 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. <p>(c) This license shall, in addition to subsections (b)(i) through (b)(iii), above, be subject to amendment, modification, suspension, or termination pursuant to the Metro Code.</p> <p>(d) The Licensee shall 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 shall 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.</p> <p>(f) This license authorizes the delivery of solid waste to the facility listed in Section 3. Transfer 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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8	COMPLIANCE WITH LAW
	<p>Licensee shall 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 shall be deemed part of this license as if specifically set forth herein.</p>

9	INDEMNIFICATION
	<p>Licensee shall 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</p>



	administration of this non-system license or the transport and disposal of the solid waste covered by this license.
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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4204 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO EPSON PORTLAND, INC. FOR DELIVERY OF INDUSTRIAL SOLID WASTE AND PUTRESCIBLE WASTE TO THE COVANTA WASTE-TO-ENERGY FACILITY

October 7, 2010

Prepared by: Warren Johnson

Approval of Resolution No. 10-4204 will authorize the Chief Operating Officer (COO) to issue a two-year non-system license (NSL) to Epson Portland, Inc. (Epson) to annually deliver up to 125 tons of industrial solid waste and putrescible solid waste from its facility within the Metro region to the Covanta Waste-to-Energy Facility (Covanta) in Brooks, Oregon. The proposed NSL is the renewal of an existing license that is set to expire on December 31, 2010.

BACKGROUND

Epson is a manufacturing facility located in Hillsboro, Oregon (Metro District 4). Epson routinely generates manufacturing wastes that consists primarily of non-recoverable industrial plastics and off-spec ink cartridges commingled with other non-recoverable waste from the facility's offices, restrooms, and lunchrooms.

In November 2008, Epson was granted an NSL (No. N-028-08) to deliver a maximum of 125 tons per calendar year of solid waste, including putrescible waste, generated at its facility to Covanta. The term of this NSL commenced on January 1, 2009 and is set to expire on December 31, 2010. The applicant delivered 100 tons of solid waste to Covanta under authority of this existing NSL during calendar year 2009 and 90 tons between January 1 and August 31, 2010.

On August 9, 2010, Epson submitted to Metro an application requesting that Metro renew this NSL with a tonnage authorization of 125 tons per calendar year. This is the same annual tonnage limit that Epson is currently authorized to transport under its existing NSL. The proposed license renews the existing authorization that Epson has held under NSLs since 2000.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed NSL.

2. Legal Antecedents

Section 5.05.035(c) of the Metro Code 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 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. A baghouse system minimizes emissions to the air and ash is 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 the DEQ. Metro staff received verbal confirmation from the 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;*

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;*

Epson has an aggressive internal recycling program and tracks its recycling and disposal percentages by material. Epson is seeking to deliver only its non-recyclable waste, including putrescible solid waste, to Covanta as it has done under authority of previous NSLs since 2000. Thus, approval of this NSL renewal is not expected to impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation 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.

In addition, Metro has a contract with Marion County for the delivery of solid waste from Metro's transfer stations to Covanta. Renewal of this NSL is not inconsistent with this existing contractual arrangement.

- (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*

In September 2010, Metro staff discovered that the applicant had been delivering small amounts of off-spec and counterfeit ink cartridges to Covanta for several years without reporting the tonnage or

remitting the appropriate regional system fee and excise tax to Metro as required by its NSL. The applicant stated that the reason that it had not reported or paid fees and taxes on these particular ink cartridges was that Epson considered the material to be “product” rather than “waste.” Metro has since notified Epson that the above referenced material is waste that is subject to fees and taxes. Epson has agreed to report and pay fees and taxes on the unreported tonnage that it had delivered to Covanta since January 1, 2009 and continue such reporting on a going-forward basis.

With the exception of the above matter, Epson has not had any compliance issues regarding other Metro requirements within the last five years. To staff's knowledge, Epson has had no violations related to public health, safety or environmental regulations.

(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.

3. Anticipated Effects

The effect of Resolution No. 10-4204 will be to issue a two-year NSL authorizing Epson to deliver up to 125 tons per calendar year of industrial solid waste and putrescible solid waste to Covanta for disposal.

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 application under consideration is the renewal of an existing NSL (No. N-028-08). The financial impact of this NSL has already been factored into the budget.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 10-4204, finding that the license renewal satisfies the requirements of Metro Code Section 5.05.035, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

TG/WJ:bjl
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Agenda Item Number 4.11

Resolution No. 10-4205, For the Purpose of Authorizing the Chief Operating Officer to Issue a Non-System License to AGG Recology, Inc. for Delivery of Food Waste to the Nature's Needs Facility for Composting During the Washington County Non-Green Feedstock Demonstration Project.

Consent Agenda

Metro Council Meeting
Thursday, Nov. 4, 2010
Metro Council Chambers

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE) RESOLUTION NO. 10-4205
A NON-SYSTEM LICENSE TO AGG RECOLOGY, INC. FOR)
DELIVERY OF FOOD WASTE TO THE NATURE'S NEEDS)
FACILITY FOR COMPOSTING DURING THE WASHINGTON) Introduced by Michael Jordan,
COUNTY NON-GREEN FEEDSTOCK DEMONSTRATION) Chief Operating Officer, with the concurrence
PROJECT) of Carlotta Collette, Acting Council President

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, AGG Recology, Inc. has filed a completed application seeking a non-system license to deliver pre-and post-consumer food waste including meat and dairy products to the Nature's Needs composting facility under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, such food waste will include source-separated pre-and post-consumer food waste generated by commercial customers of AGG Recology, Inc.; and

WHEREAS, the Nature's Needs composting facility is participating in a demonstration project with Washington County to assess the feasibility of accepting and composting non-green feedstock i.e., source-separated post-consumer food waste that includes meat and dairy; 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 issued 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 application of AGG Recology, Inc. 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 AGG Recology, Inc. a Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2010.

Carlotta Collette, Acting Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

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



METRO

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

No. N-131-10

LICENSEE:

AGG Recology, Inc.
9345 North Harbortgate
Portland, OR 97203

CONTACT PERSON:

Blaine Polendy
Phone: (503) 283-2015
Fax : (503) 226-4902
E-mail: bpolendey@recology.com

MAILING ADDRESS:

9345 North Harbortgate
Portland, OR 97203

ISSUED BY METRO:

Margo Norton,
Finance and Regulatory Services Director

Date

1	NATURE OF WASTE COVERED BY LICENSE
	Source-separated, pre-and post-consumer food waste (including meat and dairy products) generated by commercial customers of AGG Recology, Inc. within the Metro region.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility listed in Section 3 of this license up to 3,400 tons per calendar year of the waste described in Section 1 of this license.
3	NON-SYSTEM FACILITY
	<p>The licensee hereunder may deliver the waste described in section 1, above, only to the following non-system facility for the purpose of processing and composting:</p> <p style="text-align: center;">Nature's Needs 9570 NW 307th Avenue North Plains, Oregon 97133</p> <p>This license is issued on the condition that the non-system facility listed 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 or from Washington County that this non-system facility is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 10 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on November 15, 2010 and expire at midnight on December 31, 2011, unless terminated sooner under Section 10 of this license.

5	COVERED LOADS
	Licensee shall suitably contain and cover, on all sides, all loads of source-separated pre-and post-consumer food that is delivered under authority of this license to prevent spillage of waste while in transit to the non-system facility in Section 3 of this license.

6	MATERIAL MANAGEMENT
	<p>The Licensee is authorized to deliver the waste described in Section 1 of this license to the non-system facility listed in Section 3 under the following conditions:</p> <ul style="list-style-type: none">a) The non-system facility shall accept all solid waste that is delivered under authority of this license for the sole purpose of processing and composting on-site. The Licensee shall not dispose of any source-separated recyclable material, except as provided in Section 7; andb) The non-system facility shall receive, manage, process and compost all solid waste that is delivered under authority of this license in accordance with all applicable local, state and federal laws, rules, regulations, ordinances, orders, and permits.

7	REGIONAL SYSTEM FEE AND EXCISE TAX
	<p>The Licensee shall be subject to the following conditions:</p> <ul style="list-style-type: none">a) Source-separated, pre-and post-consumer food waste that is delivered under authority of this license and is accepted and composted, in accordance with all applicable regulations, at the non-system facility listed in Section 3 is exempt from Regional System Fees and Excise Tax.b) If the Licensee delivers waste under this license to the non-system facility but the material does not meet the facility's acceptance criteria (e.g., too contaminated for processing or composting) or the non-system facility fails to process and compost the material as required as a condition of this license, the Licensee shall pay to Metro an amount equal to the Regional System Fee, as provided in Metro Code Section 5.02.045, for each ton of waste delivered to the non-system facility that is ultimately disposed of at a solid waste disposal facility.c) If the Licensee delivers waste under this license to the non-system facility but the material does not meet the facility's acceptance criteria (e.g., too contaminated for processing or composting) or the non-system facility

	<p>fails to process and compost the material as required as a condition of this license, the Licensee shall pay to Metro an amount equal to the Excise Tax, as provided in Metro Code Section 7.01.020, for each ton of waste delivered to the non-system facility that is ultimately disposed of at a solid waste disposal facility.</p>
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8	REPORTING OF ACCIDENTS AND CITATIONS
	<p>Licensee shall report to Metro any significant incidents (such as fires, off-site odor complaints), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the licensee.</p>

9	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all solid wastes that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none"> (i) Ticket or weight slip number from the non-system facility, (ii) Material category designating the type of material transferred to the non-system facility; (iii) Date the load was transferred to the non-system facility; (iv) Time the load was transferred to the non-system facility; (v) Net weight of the load; and (vi) Fee charged by the non-system facility. <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 shall transmit the records required under Section 9(a) above, that covers the preceding month, to Metro's Finance and Regulatory Services Department in an electronic format prescribed by Metro.</p> <p>(c) Licensee shall make all records from which Section 9(a) 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</p>

	shall, 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.
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10	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.(b) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer (the "COO") 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 of this license be transferred to, and disposed of at, a facility other than the facility described in Section 3; or(iv) The non-system facility listed in Section 3 fails to manage the waste subject to this license in accordance with the material management requirements described in Section 6.(v) The non-system facility listed in Section 3 generates malodors that are detectable off-site.(c) This license shall, in addition to subsections (b)(i) through (iv), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.(d) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.(e) This license shall 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.

	<p>(f) This license authorizes delivery of solid waste only to the facility listed in Section 3. Transfer 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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11	COMPLIANCE WITH LAW
	<p>Licensee shall 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 shall be deemed part of this license as if specifically set forth herein.</p>

12	INDEMNIFICATION
	<p>Licensee shall 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. 10-4205 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO AGG RECOLOGY, INC. FOR DELIVERY OF FOOD WASTE TO THE NATURE'S NEEDS FACILITY FOR COMPOSTING DURING THE WASHINGTON COUNTY NON-GREEN FEEDSTOCK DEMONSTRATION PROJECT

October 13, 2010

Prepared by: Bill Metzler
503-797-1666

BACKGROUND

Description of the Resolution

Approval of Resolution No. 10-4205 will authorize the Chief Operating Officer to issue a new non-system license ("NSL") to AGG Recology, Inc. ("AGG"), a solid waste hauling company, to annually deliver a maximum of 3,400 tons of source-separated, pre-and post-consumer food waste that will include meat and dairy products ("mixed food waste") to the Nature's Needs composting facility located at 9570 NW 307th Avenue in North Plains, Oregon. Nature's Needs is located outside the Metro boundary, in unincorporated Washington County and is an established yard debris and vegetative food waste composting facility. Recology, Inc. owns and operates the Nature's Needs composting facility (Recology Oregon Compost, Inc.) and AGG.

Nature's Needs will accept and compost the mixed food waste as part of a Washington County Non-Green Feedstock Demonstration Project authorized by Washington County and approved by the Oregon Department of Environmental Quality (DEQ). The non-green feedstock refers to source-separated food waste that includes post-consumer meat and dairy products (mixed food waste). The demonstration project with Washington County could last until December 31, 2011. If the demonstration project is successful, Nature's Needs intends to continue its mixed food waste operations on a regular basis pending approval by Washington County and the DEQ. AGG will collect and deliver mixed food waste from its commercial customer accounts that generate source-separated food waste and transport this mixed food waste directly to the Nature's Needs composting facility for processing.

The term of the proposed NSL is through December 31, 2011, which will coincide with the completion of the Washington County demonstration project with Nature's Needs. In the longer term, Nature's Needs intends to apply to Metro to become a designated facility of the system and operate under a Metro Designated Facility Agreement.

During the demonstration project, Nature's Needs will be making improvements to its compost facility site in anticipation of receiving up to 80,000 tons per year of yard debris and mixed food waste. Recology indicated that the site redevelopment work is scheduled in three phases:

- Phase 1 includes re-grading and winterizing sections of the site. It is scheduled to be completed in October 2010.
- Phase 2 consists of constructing a permanent aeration system in the central portion of the facility. The system will have seven asphalt composting pads encompassing about five acres.

Each pad will have its own blower, aeration piping, biofilter, leachate and condensate collection system. Phase 2 will also include construction of five storm water treatment ponds. Phase 2 is scheduled for completion in the next 6 to 9 months, pending local permitting. Permits for this phase will be submitted to Washington County in October 2010.

- Phase 3 of the site redevelopment consists of constructing a 10,000 square foot, three-sided receiving building. The building will be used to contain and control odors from the receipt of the mixed food waste. Odor control features will include a negative aeration system in the floor and an air exhaust system in the roof that captures odors and discharges to a biofilter for treatment. Phase 3 will be completed in the next 9 to 12 months, pending local permitting. Permits for this phase will be submitted to Washington County in October 2010.

Because Nature's Needs is a composting facility, the waste covered under this proposed NSL will not impact Metro's obligations under its disposal contract and the waste is currently exempt from Metro fees and taxes.

ANALYSIS/INFORMATION

1. Known Opposition

There has been some local opposition to the Nature's Needs facility in the past due to malodors. Should malodors continue, the NSL provides that the Director may amend, modify or terminate the NSL if the non-system generates malodors detectable off-site. In addition, Washington County can take enforcement action at the Nature's Needs composting facility under the provisions of the demonstration project.

2. Legal Antecedents

Metro Code Section 5.05.035 provides that a waste hauler may transport solid waste generated within Metro to any non-system facility only by obtaining an NSL. Metro Code further provides that applications for NSL's for putrescible waste (such as food waste) shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council. Under Metro Code Subsection 5.05.035(c), the Council shall consider the following factors when determining whether to approve an NSL application:

- (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 non-system facility identified in this proposed license is an established yard debris and vegetative food waste composting facility rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. Since the facility has accepted only wood waste, yard debris, and limited amounts of vegetative food waste for composting, staff is not aware of any other wastes accepted at Nature's Needs that could pose a risk of environmental contamination.

- (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;*

Nature's Needs is the non-system facility and is owned and operated by Recology, Inc., headquartered at 50 California Street, 24th Floor, in San Francisco California. Recology, Inc. is the contract operator for the Metro Central Transfer Station.

Recology, Inc. is also the parent company that owns Recology Oregon Material Recovery, Inc. which owns and operates three non-putrescible waste recovery facilities in the region that are licensed by Metro: 1) Suttle Road Recovery Facility, 2) Foster Road Recovery Facility, and 3) Oregon City Recovery Facility. On June 24, 2010, Metro issued a Notice of Violation ("NOV") to Oregon City Recovery Facility for failure to properly maintain required documents and this NOV has been resolved. On June 28, 2010 Metro issued a NOV to the Suttle Road Recovery Facility for failure to inspect loads in accordance with the operating plan. This NOV is in the process of being resolved.

Based on communication with the DEQ and Washington County, the Nature's Needs composting facility operates in compliance with all federal, state, and local requirements, rules and regulations and has had no violations related to public health, safety or environmental regulations in the past three years. However, based on communication from the DEQ and Washington County, neighboring businesses and local residents have identified odors at the Nature's Needs facility, under previous owners, as a concern.

Accordingly, Nature's Needs is required by Washington County and DEQ to implement reasonable and practical measures to control and minimize odors through site design and operations. The odor control measures during the demonstration project include processing incoming mixed food waste feedstock in a timely manner (i.e., within 30-minutes of receipt) blending of feedstocks, good housekeeping, and monitoring moisture and temperatures of composting feedstock. The use of a forced aeration system and a biofilter system will help control and minimize odors. The system will pull air through the composting piles and direct the air to a biofilter consisting of organic material such as wood chips or compost overs. Biofilters are commonly used at composting facilities due to their success in effectively treating odors associated with composting. The phased facility improvements will address these issues on a permanent basis.

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

Nature's Needs will accept and compost the mixed food waste under the auspices of the Washington County Non-Green Feedstock Demonstration Project that includes a franchise agreement, and under authority of a Solid Waste Letter of Authorization ("SWLA") issued by the Oregon DEQ. The DEQ SWLA is valid until October 22, 2010 and is being renewed for an additional six months (until about April 22, 2011). Further, Nature's Needs has applied for a standard DEQ composting permit that would authorize acceptance and composting of the mixed food waste on a regular basis.

Demonstration project overview

Washington County has issued Nature's Needs a franchise for accepting and processing the mixed food waste as part of its Non-Green Feedstock Demonstration Project. The demonstration project is authorized through December 31, 2011 and will evaluate the feasibility of composting the mixed food waste. If Washington County revokes or does not renew the franchise for Nature's Needs, the Metro NSL issued to AGG to haul mixed food waste to Nature's Needs may be immediately terminated. More detailed information on the Nature's Needs composting pilot study, the DEQ Letter of Authorization,

and the Washington County franchise for Nature's Needs is on file with Metro's Finance and Regulatory Services Department.

During the demonstration project, Nature's Needs intends to receive about 200 tons per week of mixed food waste (an equivalent of about 10,000 tons per year). This NSL will authorize AGG to deliver up to 3,400 tons of food waste per year. Other non-affiliated haulers may participate in the demonstration project by obtaining an NSL from Metro for delivery of source-separated mixed food waste within the tonnage limits established by the County. All weights will be recorded at the existing scale house. Loads will be inspected for contaminants at the scale house and again as they are unloaded. A paved tipping area will be dedicated to the mixed food waste. The mixed food waste is then mixed with processed yard trimmings to get an optimal carbon-nitrogen ratio. This mixture of materials is then used to construct compost piles which will be covered and aerated within 30 minutes of delivery.

Nature's Needs is using an aerated static pile technology for the pilot project. The mixed material is placed in a windrow approximately 20-feet wide, 80-feet long and 10 to 12-feet tall. Two 8-inch diameter perforated pipes are embedded in the windrow to act as conduits for the purpose of drawing air through the compost windrows. Each of the conduit pipes is connected to a 1-horse power blower that pulls air through the compost windrow. Exhaust air is distributed through a biofilter for odor treatment.

The composting material resides in the aerated windrows for 28 to 30 days, and then is removed for curing. The aerated windrows will also be covered with plastic tarps to help maintain moisture levels and shed stormwater. Temperature monitoring for meeting pathogen reduction requirements will be performed during the third or fourth week of the active aeration stage. Finished screened compost will be sampled for laboratory testing to document compliance with pathogen reduction criteria. Materials that do not meet the pathogen reduction standards must be composted again or disposed.

Metro staff will monitor the progress and results of the food waste demonstration study throughout completion. If the mixed food waste delivered to the non-system facility does not meet the facility's acceptance criteria or the non-system facility fails to process and compost the material, then the proposed non-system license will require the licensee to pay Metro the Regional System Fee and Excise Tax on each ton of waste delivered to the non-system facility that is ultimately disposed.

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

Approval of the proposed NSL is likely to have a positive impact on the region's recycling and waste reduction efforts. If the food waste demonstration project is successful, and Nature's Needs obtains a Metro designated facility agreement to accept mixed food waste from the region for composting, it would result in additional organics processing capacity for the region, providing a benefit to the regional organics recovery program. This NSL is important to the Washington County demonstration project, as it will permit deliveries of food waste in sufficient quantity and quality to the facility for assessment of the composting odor controls and feedstock management practices.

(5) The consistency of the designation with Metro's existing contractual arrangements;

The waste subject to the proposed license will be delivered to a composting facility rather than disposed at a general-purpose landfill. Thus, approval of the requested license does not impact Metro's disposal contract or any other of its existing contractual arrangements. Recology, as the contract operator for

Metro Central Transfer Station, has assumed a contract with Metro for delivery of food waste to the Cedar Grove Composting Facility in Washington. This NSL does not authorize delivery of food waste from Metro Central to Nature's Needs.

- (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*

AGG is a solid waste hauler and has not received any written warnings or citations from Metro under the new Recology ownership. As a solid waste hauling company, AGG does not have a history regarding Metro ordinance or agreement compliance.

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

If the Nature's Needs food waste demonstration project with Washington County is successful, it would result in additional organics processing capacity for the region, providing a benefit to the regional organics recovery program. Further, when all the site improvements are completed and all approvals are obtained, Nature's Needs will provide a closer alternative for food waste composting to the region. For example, mixed food waste collected for composting from the Metro region is currently transported 167 miles to the Cedar Grove composting facility in Maple Valley, Washington. In contrast, the Nature's Needs composting facility is located at the edge of North Plains (unincorporated Washington County), about seven miles outside the Metro boundary.

Conclusion

The Chief Operating Officer finds that the NSL application satisfies the requirements of Metro Code Section 5.05.035, License to Use Non-System Facility.

3. Anticipated Effects

The effect of Resolution No. 10-4205 will be to issue an NSL for delivery of up to 3,400 tons per calendar year of mixed food waste from certain commercial food retail or wholesale outlets delivered directly to the Nature's Needs facility by AGG.

4. Budget Impacts

The waste delivered under authority of the proposed NSL is exempt from regional system fee and excise tax. Therefore, the budget impact, to the extent that it is discernable for 3,400 tons annually, has already been factored into the budget.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 10-4205, and issuance of an NSL substantially similar to the NSL attached to the Resolution as Exhibit A.

BM:bjl
S:\REM\metzlerb\AGG Recology NSL to Natures Needs\AGG_NSL_NN_staffrpt.docx

Agenda Item Number 5.1

Ordinance No. 10-1249, For the Purpose of Amending the FY 2010-11 Budget and Appropriations Schedule and the FY 2010-11 Through 2014-15 Capital Improvement Plan, and Declaring an Emergency.

First Reading

Metro Council Meeting
Thursday, Nov. 4, 2010
Metro Council Chambers

BEFORE THE METRO COUNCIL

AMENDING THE FY 2010-11 BUDGET AND) ORDINANCE NO. 10-1249
APPROPRIATIONS SCHEDULE AND THE FY)
2010-11 THROUGH 2014-15 CAPITAL) Introduced by Michael Jordan, Chief
IMPROVEMENT PLAN, AND DECLARING AN) Operating Officer, with the concurrence of
EMERGENCY) Council President David Bragdon

WHEREAS, the Metro Council has reviewed and considered the need to increase appropriations within the FY 2010-11 Budget; and

WHEREAS, Oregon Budget Law ORS 294.326 allows for the expenditure in the year of receipt of grants, gifts, bequests, and other devices received by a municipal corporation in trust for a specific purpose; and

WHEREAS, the need for the increase of appropriation has been justified; and

WHEREAS, adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

- 1. That the FY 2010-11 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of recognizing new government contributions and transferring appropriations to provide for a change in operations.
- 2. That the FY 2010-11 through FY 2014-15 Capital Improvement Plan is hereby amended to include the projects shown in Exhibit C to this Ordinance.
- 3. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this _____ day of _____ 2010.

David Bragdon, Council President

Attest:

Approved as to Form:

Anthony Andersen, Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A
Ordinance No. 10-1249

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Total Resources							
Resources							
BEGBAL	<i>Beginning Fund Balance</i>						
3500	Beginning Fund Balance						
	* Undesignated		5,706,490		0		5,706,490
	* Prior period adjustment: TOD		4,758,727		0		4,758,727
	* Project Carryover		1,299,085		0		1,299,085
	* Reserved for Local Gov't Grants (CET)		2,840,000		0		2,840,000
	* Reserve for Future Debt Service		2,846,099		0		2,846,099
	* Tibbets Flower Account		212		0		212
	* Reserved for Climate Change Project		47,500		0		47,500
	* Reserved for Regional Investment Strategy		2,821,907		0		2,821,907
	* Restricted Parks Reserve (Multnomah County)		44,000		0		44,000
	* Reserved for Future Planning Needs		565,306		0		565,306
	* Reserved for Future Election Costs		183,411		0		183,411
	* Reserved for Nature in Neighborhood Grants		501,660		0		501,660
	* Reserved for Active Transportation Partnerships		176,100		0		176,100
	* Reserve for Future Natural Areas Operations		804,460		0		804,460
	* Prior year PERS Reserve		3,759,384		0		3,759,384
	<i>Subtotal Beginning Fund Balance</i>		<i>26,354,341</i>		<i>0</i>		<i>26,354,341</i>
General Revenues							
EXCISE	<i>Excise Tax</i>						
4050	Excise Taxes		14,903,937		0		14,903,937
4055	Construction Excise Tax		1,300,000		0		1,300,000
RPTAX	<i>Real Property Taxes</i>						
4010	Real Property Taxes-Current Yr		11,040,190		0		11,040,190
4015	Real Property Taxes-Prior Yrs		254,000		0		254,000
INTRST	<i>Interest Earnings</i>						
4700	Interest on Investments		235,000		0		235,000
	<i>Subtotal General Revenues</i>		<i>27,733,127</i>		<i>0</i>		<i>27,733,127</i>
Department Revenues							
GRANTS	<i>Grants</i>						
4100	Federal Grants - Direct		2,409,736		0		2,409,736
4105	Federal Grants - Indirect		8,665,816		0		8,665,816
4110	State Grants - Direct		278,582		0		278,582
4120	Local Grants - Direct		351,580		0		351,580
LGSHRE	<i>Local Gov't Share Revenues</i>						
4135	Marine Board Fuel Tax		114,000		0		114,000
4139	Other Local Govt Shared Rev.		457,000		0		457,000
GVCNTB	<i>Contributions from Governments</i>						
4145	Government Contributions		1,604,464		185,863		1,790,327
LICPER	<i>Licenses and Permits</i>						
4150	Contractor's Business License		406,000		0		406,000
CHGSVC	<i>Charges for Service</i>						
4165	Boat Launch Fees		154,272		0		154,272
4180	Contract & Professional Service		374,733		0		374,733
4230	Product Sales		81,664		0		81,664
4280	Grave Openings		175,000		0		175,000

**Exhibit A
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Total Resources							
4285	Grave Sales		134,000		0		134,000
4500	Admission Fees		8,590,338		0		8,590,338
4501	Conservation Surcharge		146,726		0		146,726
4510	Rentals		815,000		0		815,000
4550	Food Service Revenue		5,459,700		0		5,459,700
4560	Retail Sales		2,272,300		0		2,272,300
4580	Utility Services		2,000		0		2,000
4610	Contract Revenue		902,163		0		902,163
4620	Parking Fees		879,000		0		879,000
4630	Tuition and Lectures		1,111,955		0		1,111,955
4635	Exhibit Shows		636,400		0		636,400
4640	Railroad Rides		960,000		0		960,000
4645	Reimbursed Services		198,000		0		198,000
4650	Miscellaneous Charges for Service		14,662		0		14,662
4760	Sponsorships		10,000		0		10,000
<i>DONAT</i>	<i>Contributions from Private Sources</i>						
4750	Donations and Bequests		1,054,600		0		1,054,600
<i>MISCRV</i>	<i>Miscellaneous Revenue</i>						
4170	Fines and Forfeits		25,000		0		25,000
4890	Miscellaneous Revenue		113,500		0		113,500
4891	Reimbursements		1,414,472		0		1,414,472
<i>EQTREV</i>	<i>Fund Equity Transfers</i>						
4970	Transfer of Resources						
	* from Renewal & Replacement Fund		128,000		0		128,000
<i>INDTRV</i>	<i>Interfund Reimbursements</i>						
4975	Transfer for Indirect Costs						
	* from MERC Operating Fund		1,993,186		0		1,993,186
	* from Zoo Bond Fund		188,084		0		188,084
	* from Natural Areas Fund		877,851		0		877,851
	* from Solid Waste Revenue Fund		4,212,029		0		4,212,029
<i>INTSRV</i>	<i>Internal Service Transfers</i>						
4980	Transfer for Direct Costs						
	* from Zoo Bond Fund		104,637		0		104,637
	* from Natural Areas Fund		618,595		0		618,595
	* from Smith & Bybee Lakes Fund		111,379		0		111,379
	* from Solid Waste Revenue Fund		2,194,243		0		2,194,243
	<i>Subtotal Department Revenues</i>		<i>50,240,667</i>		<i>185,863</i>		<i>50,426,530</i>
TOTAL RESOURCES			\$104,328,135		\$185,863		\$104,513,998

**Exhibit A
Ordinance No. 10-1249**

ACCT	DESCRIPTION	<u>Current Budget</u>		<u>Revision</u>		<u>Amended Budget</u>	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Communications							
Total Personal Services		22.00	\$2,220,057	0.00	\$0	22.00	\$2,220,057
<u>Materials & Services</u>							
<i>GOODS Goods</i>							
	5201 Office Supplies		25,302		0		25,302
	5205 Operating Supplies		4,458		0		4,458
	5210 Subscriptions and Dues		2,834		0		2,834
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		169,564		0		169,564
	5246 Sponsorships		22,054		0		22,054
	5251 Utility Services		2,866		0		2,866
	5260 Maintenance & Repair Services		5,501		0		5,501
	5280 Other Purchased Services		44,889		1,121		46,010
<i>OTHEXP Other Expenditures</i>							
	5450 Travel		2,000		0		2,000
	5455 Staff Development		7,617		0		7,617
	5490 Miscellaneous Expenditures		7,533		0		7,533
Total Materials & Services			\$294,618		\$1,121		\$295,739
TOTAL REQUIREMENTS		22.00	\$2,514,675	0.00	\$1,121	22.00	\$2,515,796

**Exhibit A
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Council Office							
<i>Personal Services</i>							
<i>SALWGE</i>	<i>Salaries & Wages</i>						
5000	Elected Official Salaries						
	Council President	1.00	114,468	-	0	1.00	114,468
	Councilor	6.00	228,936	-	0	6.00	228,936
5010	Reg Employees-Full Time-Exempt						
	Assistant to the Council President	1.00	86,832	-	0	1.00	86,832
	Chief Operating Officer	1.00	174,239	-	0	1.00	174,239
	Council President Policy Coordinator	1.00	48,657	-	0	1.00	48,657
	Council Policy Analyst	3.00	162,037	-	0	3.00	162,037
	CRC Project Director	0.25	48,750	0.75	146,250	1.00	195,000
	Deputy Chief Operating Officer	1.00	155,652	-	0	1.00	155,652
	Policy Advisor II	2.00	264,270	-	0	2.00	264,270
	Program Analyst I	3.25	164,080	-	0	3.25	164,080
	Program Analyst II	2.00	104,678	-	0	2.00	104,678
	Program Analyst IV	1.00	66,305	-	0	1.00	66,305
	Program Analyst V	1.00	83,600	-	0	1.00	83,600
	Program Director	1.00	102,294	-	0	1.00	102,294
5030	Temporary Employees		91,229		0		91,229
5080	Overtime		5,000		0		5,000
5089	Salary Adjustments						
	Merit Adjustment Pool (non-represented)		43,842		0		43,842
	Other Adjustments (non-represented)		7,307		0		7,307
<i>FRINGE</i>	<i>Fringe Benefits</i>						
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		638,382		35,225		673,607
5190	PERS Bond Recovery		55,828		4,388		60,216
Total Personal Services		24.50	\$2,646,386	0.75	\$185,863	25.25	\$2,832,249
<i>Materials & Services</i>							
<i>GOODS</i>	<i>Goods</i>						
5201	Office Supplies		123,222		0		123,222
5205	Operating Supplies		2,119		0		2,119
5210	Subscriptions and Dues		2,638		0		2,638
<i>SVCS</i>	<i>Services</i>						
5240	Contracted Professional Svcs		645,500		0		645,500
5251	Utility Services		7,043		0		7,043
5260	Maintenance & Repair Services		1,091		0		1,091
5265	Rentals		848		0		848
5280	Other Purchased Services		11,297		18,348		29,645
<i>OTHEXP</i>	<i>Other Expenditures</i>						
5450	Travel		19,766		0		19,766
5455	Staff Development		11,547		0		11,547
5470	Council Costs		21,000		0		21,000
5490	Miscellaneous Expenditures		4,456		0		4,456
Total Materials & Services			\$850,527		\$18,348		\$868,875
TOTAL REQUIREMENTS		24.50	\$3,496,913	0.75	\$204,211	25.25	\$3,701,124

**Exhibit A
Ordinance No. 10-1249**

ACCT	DESCRIPTION	<u>Current Budget</u>		<u>Revision</u>		<u>Amended Budget</u>	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Finance & Regulatory Services							
Total Personal Services		27.90	\$2,844,146	0.00	\$0	27.90	\$2,844,146
<i>Materials & Services</i>							
<i>GOODS Goods</i>							
	5201 Office Supplies		23,609		0		23,609
	5210 Subscriptions and Dues		10,835		0		10,835
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		19,603		0		19,603
	5246 Sponsorships		7,000		0		7,000
	5260 Maintenance & Repair Services		1,377		0		1,377
	5280 Other Purchased Services		78,493		5,920		84,413
<i>IGEXP Intergov't Expenditures</i>							
	5300 Payments to Other Agencies		317,000		0		317,000
<i>OTHEXP Other Expenditures</i>							
	5450 Travel		27,638		0		27,638
	5455 Staff Development		25,450		0		25,450
	5490 Miscellaneous Expenditures		3,266		0		3,266
Total Materials & Services			\$514,271		\$5,920		\$520,191
TOTAL REQUIREMENTS		27.90	\$3,358,417	0.00	\$5,920	27.90	\$3,364,337

**Exhibit A
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Human Resources							
Total Personal Services		16.50	\$1,505,090	0.00	\$0	16.50	\$1,505,090
<i>Materials & Services</i>							
<i>GOODS Goods</i>							
	5201 Office Supplies		17,680		0		17,680
	5205 Operating Supplies		9,238		0		9,238
	5210 Subscriptions and Dues		5,318		0		5,318
	5215 Maintenance & Repairs Supplies		667		0		667
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		57,822		0		57,822
	5260 Maintenance & Repair Services		4,746		0		4,746
	5280 Other Purchased Services		45,327		6,081		51,408
<i>OTHEXP Other Expenditures</i>							
	5440 Program Purchases		149,740		0		149,740
	5455 Staff Development		33,614		0		33,614
Total Materials & Services			\$331,717		\$6,081		\$337,798
TOTAL REQUIREMENTS		16.50	\$1,836,807	0.00	\$6,081	16.50	\$1,842,888

**Exhibit A
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Information Services							
Total Personal Services		23.50	\$2,306,829	0.00	\$0	23.50	\$2,306,829
<i>Materials & Services</i>							
<i>GOODS Goods</i>							
	5201 Office Supplies		48,427		0		48,427
	5210 Subscriptions and Dues		762		0		762
	5215 Maintenance & Repairs Supplies		14,500		0		14,500
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		160,398		0		160,398
	5251 Utility Services		16,142		0		16,142
	5260 Maintenance & Repair Services		445,459		0		445,459
	5280 Other Purchased Services		0		214		214
<i>OTHEXP Other Expenditures</i>							
	5450 Travel		19,632		0		19,632
	5455 Staff Development		46,231		0		46,231
Total Materials & Services			\$751,551		\$214		\$751,765
TOTAL REQUIREMENTS		23.50	\$3,058,380	0.00	\$214	23.50	\$3,058,594

**Exhibit A
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Office of Metro Attorney							
Total Personal Services		15.50	\$1,951,684	0.00	\$0	15.50	\$1,951,684
<i>Materials & Services</i>							
<i>GOODS Goods</i>							
	5201 Office Supplies		12,207		0		12,207
	5205 Operating Supplies		4,873		0		4,873
	5210 Subscriptions and Dues		27,278		0		27,278
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		423		0		423
	5280 Other Purchased Services		7,099		939		8,038
<i>OTHEXP Other Expenditures</i>							
	5450 Travel		529		0		529
	5455 Staff Development		6,568		0		6,568
	5490 Miscellaneous Expenditures		2,225		0		2,225
Total Materials & Services			\$61,202		\$939		\$62,141
TOTAL REQUIREMENTS		15.50	\$2,012,886	0.00	\$939	15.50	\$2,013,825

**Exhibit A
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Office of the Auditor							
Total Personal Services		6.00	\$632,082	0.00	\$0	6.00	\$632,082
<i>Materials & Services</i>							
<i>GOODS Goods</i>							
	5201 Office Supplies		9,960		0		9,960
	5205 Operating Supplies		1,650		0		1,650
	5210 Subscriptions and Dues		2,000		0		2,000
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		15,000		0		15,000
	5251 Utility Services		350		0		350
	5280 Other Purchased Services		0		645		645
<i>OTHEXP Other Expenditures</i>							
	5450 Travel		5,559		0		5,559
	5455 Staff Development		4,832		0		4,832
Total Materials & Services			\$39,351		\$645		\$39,996
TOTAL REQUIREMENTS		6.00	\$671,433	0.00	\$645	6.00	\$672,078

**Exhibit A
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Oregon Zoo							
Total Personal Services		149.73	\$16,255,128	0.00	\$0	149.73	\$16,255,128
Materials & Services							
<i>GOODS Goods</i>							
	5201 Office Supplies		114,288		0		114,288
	5205 Operating Supplies		1,409,242		0		1,409,242
	5210 Subscriptions and Dues		56,154		0		56,154
	5214 Fuels and Lubricants		133,000		0		133,000
	5215 Maintenance & Repairs Supplies		388,100		0		388,100
	5220 Food		1,333,720		0		1,333,720
<i>SVCS Services</i>							
	5245 Marketing		6,125		0		6,125
	5240 Contracted Professional Svcs		1,370,952		0		1,370,952
	5251 Utility Services		2,262,620		0		2,262,620
	5255 Cleaning Services		39,600		0		39,600
	5260 Maintenance & Repair Services		243,125		0		243,125
	5265 Rentals		197,930		0		197,930
	5280 Other Purchased Services		904,809		19,989		924,798
	5290 Operations Contracts		1,835,709		0		1,835,709
<i>CAPMNT Capital Maintenance</i>							
	5262 Capital Maintenance - Non-CIP		327,000		0		327,000
<i>IGEXP Intergov't Expenditures</i>							
	5300 Payments to Other Agencies		83,535		0		83,535
	5315 Grants to Other Governments		26,000		0		26,000
<i>OTHEXP Other Expenditures</i>							
	5445 Grants		20,000		0		20,000
	5450 Travel		91,185		0		91,185
	5455 Staff Development		43,020		0		43,020
	5490 Miscellaneous Expenditures		62,950		0		62,950
Total Materials & Services			\$10,949,064		\$19,989		\$10,969,053
TOTAL REQUIREMENTS		149.73	\$27,204,192	0.00	\$19,989	149.73	\$27,224,181

**Exhibit A
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Planning & Development							
<i>Personal Services</i>							
SALWGE	<i>Salaries & Wages</i>						
5010	Reg Employees-Full Time-Exempt						
	Administrative Specialist IV	1.00	44,773	-	0	1.00	44,773
	Assistant Management Analyst	1.00	57,096	-	0	1.00	57,096
	Assistant Regional Planner	2.00	110,670	-	0	2.00	110,670
	Associate Public Affairs Specialist	1.00	57,096	-	0	1.00	57,096
	Associate Regional Planner	3.00	195,953	-	0	3.00	195,953
	Associate Trans. Planner	4.00	258,307	-	0	4.00	258,307
	Director I	1.00	140,969	-	0	1.00	140,969
	Deputy Director	2.00	236,216	-	0	2.00	236,216
	Manager I	2.00	190,022	-	0	2.00	190,022
	Manager II	3.00	295,521	-	0	3.00	295,521
	Principal Regional Planner	5.00	437,901	-	0	5.00	437,901
	Principal Transportation Planner	6.00	514,342	-	0	6.00	514,342
	Program Supervisor I	1.00	64,792	-	0	1.00	64,792
	Senior Management Analyst	5.00	337,566	-	0	5.00	337,566
	Senior Regional Planner	2.00	142,497	-	0	2.00	142,497
	Senior Transportation Planner	7.00	536,990	-	0	7.00	536,990
	Transit Project Manager I	1.00	99,603	-	0	1.00	99,603
	Transit Project Manager II	1.00	100,472	-	0	1.00	100,472
	Transportation Engineer	1.00	88,419	-	0	1.00	88,419
5015	Reg Empl-Full Time-Non-Exempt						
	Administrative Specialist II	3.00	120,206	-	0	3.00	120,206
	Administrative Specialist III	1.00	44,767	-	0	1.00	44,767
	Program Assistant 3	2.00	103,585	-	0	2.00	103,585
	Principal Regional Planner	0.80	70,735	-	0	0.80	70,735
	Program Analyst IV	-	0	0.90	65,165	0.90	65,165
	Records & Information Analyst	0.50	23,510	-	0	0.50	23,510
5025	Reg Employees-Part Time-Non-Exempt						
5030	Temporary Employees	-	88,721		0	-	88,721
5089	Salary Adjustments						
	Merit Adjustment Pool (non-represented)		33,828		0		33,828
	Step Increases (AFSCME)		34,917		0		34,917
	COLA (represented employees)		47,614		0		47,614
	Other Adjustments (non-represented)		5,638		0		5,638
	Other Adjustments (AFSCME)		15,871		0		15,871
FRINGE	<i>Fringe Benefits</i>						
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		1,453,624		19,871		1,473,495
5190	PERS Bond Recovery		134,958		1,970		136,928
Total Personal Services		56.30	\$6,087,179	0.90	\$87,006	57.20	\$6,174,185
<i>Materials & Services</i>							
GOODS	<i>Goods</i>						
	5201 Office Supplies		132,490		0		132,490
	5205 Operating Supplies		83,100		0		83,100
	5210 Subscriptions and Dues		25,450		0		25,450
SVCS	<i>Services</i>						
	5240 Contracted Professional Svcs		1,740,520		9,337		1,749,857
	5251 Utility Services		7,100		0		7,100
	5260 Maintenance & Repair Services		39,167		0		39,167
	5265 Rentals		7,500		0		7,500
	5280 Other Purchased Services		299,840		51,916		351,756

**Exhibit A
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Planning & Development							
<i>IGEXP</i>	<i>Intergov't Expenditures</i>						
	5300 Payments to Other Agencies		683,346		0		683,346
<i>OTHEXP</i>	<i>Other Expenditures</i>						
	5440 Program Purchases		5,500,000		0		5,500,000
	5445 Grants and Loans		714,377		0		714,377
	5450 Travel		84,860		0		84,860
	5455 Staff Development		9,300		0		9,300
	Total Materials & Services		\$9,327,050		\$61,253		\$9,388,303
TOTAL REQUIREMENTS		56.30	\$15,414,229	0.90	\$148,259	57.20	\$15,562,488

**Exhibit A
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Research Center (formerly budgeted in Planning & Development)							
<i>Personal Services</i>							
SALWGE	<i>Salaries & Wages</i>						
5010	Reg Employees-Full Time-Exempt						
	Assistant GIS Specialist	1.00	49,329	-	0	1.00	49,329
	Administrative Specialist IV	1.00	47,021	-	0	1.00	47,021
	Assistant Regional Planner	1.00	54,419	-	0	1.00	54,419
	Associate GIS Specialist	1.00	72,800	-	0	1.00	72,800
	Associate Transportation Modeler	5.00	306,867	-	0	5.00	306,867
	Manager I	1.00	90,593	-	0	1.00	90,593
	Manager II	2.00	180,333	-	0	2.00	180,333
	Principal GIS Specialist	2.00	176,838	-	0	2.00	176,838
	Principal Regional Planner	1.00	88,419	-	0	1.00	88,419
	Principal Transportation Modeler	3.00	265,257	-	0	3.00	265,257
	Program Director II	1.00	131,785	-	0	1.00	131,785
	Program Supervisor II	2.00	180,511	-	0	2.00	180,511
	Senior GIS Specialist	6.00	435,957	-	0	6.00	435,957
	Senior Transportation Modeler	2.00	168,450	-	0	2.00	168,450
5020	Reg Emp-Part Time-Exempt						
	Assistant GIS Specialist	0.60	35,397	-	0	0.60	35,397
	Associate GIS Specialist	0.50	36,400	-	0	0.50	36,400
	Principal Regional Planner	0.47	41,557	0.33	29,616	0.80	71,173
5025	Reg Employees-Part Time-Non-Exempt						
	GIS Technician	1.34	54,420	-	0	1.34	54,420
5030	Temporary Employees	-	30,224		0	-	30,224
5089	Salary Adjustments						
	Merit Adjustment Pool (non-represented)		17,497		0		17,497
	Step Increases (AFSCME)		20,107		0		20,107
	COLA (represented employees)		27,419		0		27,419
	Other Adjustments (non-represented)		2,916		0		2,916
	Other Adjustments (AFSCME)		9,140		0		9,140
FRINGE	<i>Fringe Benefits</i>						
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		827,268		9,803		837,071
5190	PERS Bond Recovery		74,648		888		75,536
Total Personal Services		31.91	\$3,425,572	0.33	\$40,307	32.24	\$3,465,879
Total Materials & Services			\$1,206,173		\$0		\$1,206,173
TOTAL REQUIREMENTS		31.91	\$4,631,745	0.33	\$40,307	32.24	\$4,672,052

**Exhibit A
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Parks & Environmental Services							
<i>Personal Services</i>							
<i>SALWGE Salaries & Wages</i>							
5010	Reg Employees-Full Time-Exempt	-	0	-	0	-	0
	Administrative Specialist IV	1.00	49,130	-	0	1.00	49,130
	Assistant Management Analyst	6.00	340,933	-	0	6.00	340,933
	Director	1.00	123,773	-	0	1.00	123,773
	Manager I	5.00	431,779	-	0	5.00	431,779
	Principal Regional Planner	1.00	88,419	-	0	1.00	88,419
	Program Director	1.00	102,294	-	0	1.00	102,294
	Program Supervisor I	1.00	60,838	-	0	1.00	60,838
	Property Management Specialist	0.80	58,240	-	0	0.80	58,240
	Senior Management Analyst	1.00	72,800	-	0	1.00	72,800
	Service Supervisor III	1.00	52,000	-	0	1.00	52,000
5015	Reg Empl-Full Time-Non-Exempt						
	Administrative Specialist II	2.00	79,020	-	0	2.00	79,020
	Arborist	1.00	55,660	-	0	1.00	55,660
	Building Service Worker	1.00	44,595	-	0	1.00	44,595
	Building Services Technician	1.00	59,732	-	0	1.00	59,732
	Maintenance Worker 2	1.00	52,208	-	0	1.00	52,208
	Park Ranger	7.00	336,779	1.00	49,088	8.00	385,867
	Park Ranger Lead	1.00	55,660	-	0	1.00	55,660
	Printing/Mail Services Clerk	1.00	42,536	-	0	1.00	42,536
	Program Assistant 3	1.00	46,862	-	0	1.00	46,862
	Safety and Security Officer	2.00	80,912	-	0	2.00	80,912
	Assistant Management Analyst	0.75	37,029	-	0	0.75	37,029
5025	Reg Employees-Part Time-Non-Exempt						
	Administrative Specialist I	1.00	38,577	-	0	1.00	38,577
	Program Assistant 1	1.05	45,682	-	0	1.05	45,682
5030	Temporary Employees		305,716		0		305,716
5080	Overtime		31,953		0		31,953
	Merit Adjustment Pool (non-represented)		23,122		0		23,122
	Merit Adjustment Pool (LIUNA)		3,001		0		3,001
	Step Increases (AFSCME)		15,643		0		15,643
	COLA (represented employees)		26,337		0		26,337
	Other Adjustments (non-represented)		3,854		0		3,854
	Other Adjustments (AFSCME)		7,109		0		7,109
	Other Adjustments (Class & Comp Study)		17,515		0		17,515
<i>FRINGE Fringe Benefits</i>							
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		1,017,644		24,964		1,042,608
5190	PERS Bond Recovery		74,520		1,548		76,068
Total Personal Services		39.60	\$3,881,872	1.00	\$75,600	40.60	\$3,957,472
<i>Materials & Services</i>							
<i>GOODS Goods</i>							
5201	Office Supplies		76,715		(3,659)		73,056
5205	Operating Supplies		117,781		(21,257)		96,524
5210	Subscriptions and Dues		5,701		(107)		5,594
5214	Fuels and Lubricants		2,135		0		2,135
5215	Maintenance & Repairs Supplies		203,983		(7,966)		196,017
5225	Retail		9,316		0		9,316
<i>SVCS Services</i>							
5240	Contracted Professional Svcs		480,151		(68,288)		411,863
5250	Contracted Property Services		181,213		(32,932)		148,281

**Exhibit A
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Parks & Environmental Services							
	5251 Utility Services		443,898		(4,375)		439,523
	5255 Cleaning Services		197,281		0		197,281
	5260 Maintenance & Repair Services		357,930		(51,253)		306,677
	5265 Rentals		51,238		(283)		50,955
	5280 Other Purchased Services		24,052		20,296		44,348
	<i>CAPMNT Capital Maintenance</i>						
	5261 Capital Maintenance - CIP		160,000		0		160,000
	<i>IGEXP Intergov't Expenditures</i>						
	5300 Payments to Other Agencies		452,677		(44,311)		408,366
	5310 Taxes (Non-Payroll)		259,779		(2,231)		257,548
	<i>OTHEXP Other Expenditures</i>						
	5450 Travel		5,839		(549)		5,290
	5455 Staff Development		30,744		(1,576)		29,168
	Total Materials & Services		\$3,060,433		(\$218,491)		\$2,841,942
	TOTAL REQUIREMENTS	39.60	\$6,942,305	1.00	(\$142,891)	40.60	\$6,799,414

Exhibit A
Ordinance No. 10-1249

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Sustainability Center							
<i>Personal Services</i>							
<i>SALWGE Salaries & Wages</i>							
5010	Reg Employees-Full Time-Exempt						
	Administrative Specialist IV	1.00	51,804	-	0	1.00	51,804
	Director	1.00	140,970	-	0	1.00	140,970
	Education Coordinator II	1.00	59,938	-	0	1.00	59,938
	Manager I	0.70	54,461	-	0	0.70	54,461
	Manager II	1.70	161,457	-	0	1.70	161,457
	Policy Advisor II	1.00	123,771	-	0	1.00	123,771
	Principal Regional Planner	3.00	248,903	-	0	3.00	248,903
	Program Analyst IV	0.90	65,165	(0.90)	(65,165)	-	0
	Program Supervisor II	2.10	159,087	-	0	2.10	159,087
	Senior Management Analyst	1.00	57,096	-	0	1.00	57,096
	Senior Natural Resource Scientist	4.00	322,043	-	0	4.00	322,043
	Senior Public Affairs Specialist	0.20	12,590	-	0	0.20	12,590
	Senior Regional Planner	3.00	225,912	-	0	3.00	225,912
5015	Reg Empl-Full Time-Non-Exempt						
	Administrative Specialist II	1.00	44,663	-	0	1.00	44,663
	Natural Resource Technician	5.00	245,440	(1.00)	(49,088)	4.00	196,352
	Program Assistant 2	2.00	89,341	-	0	2.00	89,341
	Program Assistant 3	3.00	133,921	-	0	3.00	133,921
	Volunteer Coordinator I	0.80	41,251	-	0	0.80	41,251
5020	Reg Emp-Part Time-Exempt						
	Education Coordinator II	0.80	39,498	-	0	0.80	39,498
	Senior Regional Planner	1.00	80,337	-	0	1.00	80,337
5025	Reg Employees-Part Time-Non-Exempt						
	Volunteer Coordinator I	1.00	51,586	-	0	1.00	51,586
5030	Temporary Employees		50,469		0		50,469
5080	Overtime		3,530		0		3,530
	Merit Adjustment Pool (non-represented)		21,148		0		21,148
	Merit Adjustment Pool (LIUNA)		1,475		0		1,475
	Step Increases (AFSCME)		16,639		0		16,639
	COLA (represented employees)		25,145		0		25,145
	Other Adjustments (non-represented)		3,524		0		3,524
	Other Adjustments (AFSCME)		7,559		0		7,559
	Other Adjustments (Class & Comp Study)		8,590		0		8,590
<i>FRINGE Fringe Benefits</i>							
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		870,494		(44,835)		825,659
5190	PERS Bond Recovery		74,905		(3,518)		71,387
Total Personal Services		35.20	\$3,492,712	(1.90)	(\$162,606)	33.30	\$3,330,106
<i>Materials & Services</i>							
<i>GOODS Goods</i>							
5201	Office Supplies		51,704		1,823		53,527
5205	Operating Supplies		34,429		2,757		37,186
5210	Subscriptions and Dues		5,492		0		5,492
5214	Fuels and Lubricants		200		0		200
5215	Maintenance & Repairs Supplies		10,782		7,966		18,748
<i>SVCS Services</i>							
5240	Contracted Professional Svcs		985,350		(4,419)		980,931
5246	Sponsorships		10,500		0		10,500
5250	Contracted Property Services		647,287		32,932		680,219
5251	Utility Services		7,441		4,375		11,816

**Exhibit A
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Sustainability Center							
	5260 Maintenance & Repair Services		1,108		1,139		2,247
	5265 Rentals		1,570		283		1,853
	5280 Other Purchased Services		46,318		6,086		52,404
	<i>IGEXP Intergov't Expenditures</i>						
	5300 Payments to Other Agencies		51,423		44,311		95,734
	5310 Taxes (Non-Payroll)		0		2,231		2,231
	5315 Grants to Other Governments		95,000		0		95,000
	<i>OTHEXP Other Expenditures</i>						
	5450 Travel		8,037		0		8,037
	5455 Staff Development		21,441		1,576		23,017
	Total Materials & Services		\$1,978,082		\$101,060		\$2,079,142
	TOTAL REQUIREMENTS	35.20	\$5,470,794	(1.90)	(\$61,546)	33.30	\$5,409,248

Exhibit A
Ordinance No. 10-1249

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
General Expenses							
Total Interfund Transfers			\$4,313,554		\$0		\$4,313,554
<i>Contingency & Unappropriated Balance</i>							
CONT	Contingency						
5999	Contingency						
	* Contingency		3,086,261		(37,386)		3,048,875
	* Reserved for Nature in Neigh Grants		326,660		0		326,660
	* Reserved for Active Transportation Partnerships		65,725		0		65,725
UNAPP	Unappropriated Fund Balance						
5990	Unappropriated Fund Balance						
	* Stabilization Reserve		2,400,000		0		2,400,000
	* PERS Reserve		4,738,650		0		4,738,650
	* Computer Replacement Reserve (Planning)		90,000		0		90,000
	* Tibbets Flower Account		62		0		62
	* Recovery Rate Stabilization reserve		802,918		0		802,918
	* Reserved for Regional Investment Strategy		1,846,000		0		1,846,000
	* Reserved for Future Natural Areas Operations		504,460		0		504,460
	* Reserved for Future Planning Needs		22,761		0		22,761
	* Reserve for Future Debt Service		2,787,099		0		2,787,099
Total Contingency & Unappropriated Balance			\$16,670,596		(\$37,386)		\$16,633,210
TOTAL REQUIREMENTS		448.64	\$104,328,135	1.08	\$185,863	449.72	\$104,513,998

Exhibit A
Ordinance No. 10-1249

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
Metro Exposition Recreation Commission Fund							
MERC Fund							
<i>Resources</i>							
<i>BEGBAL</i>	<i>Beginning Fund Balance</i>						
	* Undesignated		17,513,857		0		17,513,857
	* Renewal & Replacement Reserve		2,255,000		0		2,255,000
	* Transient Lodging Tax Capital Reserve		640,310		0		640,310
	* Aramark Contract Capital Investment Reserve		1,625,000		0		1,625,000
	* PERS Reserve		1,631,545		0		1,631,545
	* Expo Phase 3 Reserve		1,185,232		0		1,185,232
<i>GRANTS</i>	<i>Grants</i>						
4105	Federal Grants - Indirect		235,063		0		235,063
4110	State Grant - Direct		259,500		0		259,500
4115	State Grant - Indirect		131,728		26,301		158,029
4120	Local Grant - Direct		26,925		0		26,925
<i>LGSHRE</i>	<i>Local Gov't Share Revenues</i>						
4130	Hotel/Motel Tax		10,558,553		0		10,558,553
4142	Intergovernment Misc. Revenue		43,955		0		43,955
<i>GVCNTB</i>	<i>Contributions from Governments</i>						
4145	Government Contributions		756,907		0		756,907
<i>CHGSVC</i>	<i>Charges for Service</i>						
4500	Admission Fees		1,700,500		0		1,700,500
4510	Rentals		7,420,586		0		7,420,586
4550	Food Service Revenue		11,813,716		0		11,813,716
4560	Retail Sales		5,000		0		5,000
4570	Merchandising		13,000		0		13,000
4575	Advertising		15,000		0		15,000
4580	Utility Services		1,598,360		0		1,598,360
4590	Commissions		1,135,000		0		1,135,000
4620	Parking Fees		2,838,899		0		2,838,899
4645	Reimbursed Services		2,688,825		0		2,688,825
4647	Reimbursed Services - Contract		486,142		0		486,142
4650	Miscellaneous Charges for Svc		302,230		0		302,230
<i>INTRST</i>	<i>Interest Earnings</i>						
4700	Interest on Investments		235,523		0		235,523
<i>DONAT</i>	<i>Contributions from Private Sources</i>						
4750	Donations and Bequests		442,000		0		442,000
4760	Sponsorship Revenue		143,500		0		143,500
<i>MISCRV</i>	<i>Miscellaneous Revenue</i>						
4170	Fine & Forfeitures		2,000		0		2,000
4805	Financing Transaction		82,372		0		82,372
4890	Miscellaneous Revenue		34,825		0		34,825
4891	Refunds and Reimbursements		4,000		0		4,000
<i>EQTREV</i>	<i>Fund Equity Transfers</i>						
4970	Transfer of Resources						
	* from General Fund		475,000		0		475,000
TOTAL RESOURCES			\$68,300,053		\$26,301		\$68,326,354

**Exhibit A
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
Metro Exposition Recreation Commission Fund							
MERC Fund							
Total Personal Services		190.00	\$17,989,676	0.00	\$0	190.00	\$17,989,676
Total Materials & Services			\$20,580,326		\$0		\$20,580,326
<u>Capital Outlay</u>							
<i>CAPCIP</i>	<i>Capital Outlay (CIP Projects)</i>						
5710	Improve-Oth thn Bldg		690,000		0		690,000
5720	Buildings & Related		3,881,105		200,000		4,081,105
5740	Equipment & Vehicles		426,000		0		426,000
5750	Office Furniture & Equip		102,000		0		102,000
Total Capital Outlay			\$5,099,105		\$200,000		\$5,299,105
<u>Interfund Transfers</u>							
<i>INDTEX</i>	<i>Interfund Reimbursements</i>						
5800	Transfer for Indirect Costs						
	* to General Fund-Support Services		1,870,208		0		1,870,208
	* to General Fund		122,978		0		122,978
	* to Risk Management Fund - Liability		386,429		0		386,429
	* to Risk Management Fund - Workers Comp.		112,883		0		112,883
<i>EQTCHG</i>	<i>Fund Equity Transfers</i>						
5810	Transfer of Resources						
	* to General Revenue Bond Fund		1,189,132		0		1,189,132
Total Interfund Transfers			\$3,681,630	0.00	\$0		\$3,681,630
<u>Contingency and Ending Balance</u>							
<i>CONT</i>	<i>Contingency</i>						
5999	Contingency						
	* General Contingency		1,913,463		0		1,913,463
	* Renewal and Replacement		470,000		(200,000)		270,000
	* Contingency for Capital (TL TAX)		269,310		0		269,310
<i>UNAPP</i>	<i>Unappropriated Fund Balance</i>						
5990	Unappropriated Fund Balance						
	* Restricted Fund Balance (User Fees)		1,237,232		0		1,237,232
	* Ending Balance		13,282,489		26,301		13,308,790
	* Renewal & Replacement		1,785,000		0		1,785,000
	* Current Year PERS Reserve		360,277		0		360,277
	* Prior Year PERS Reserve		1,631,545		0		1,631,545
Total Contingency and Ending Balance			\$20,949,316		(\$173,699)		\$20,775,617
TOTAL REQUIREMENTS		190.00	\$68,300,053	0.00	\$26,301	190.00	\$68,326,354

Exhibit B
Ordinance 10-1249
Schedule of Appropriations

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Revised</u> <u>Appropriation</u>
GENERAL FUND			
Communications	2,514,675	1,121	2,515,796
Council Office (includes COO & Strategy Center)	3,496,913	204,211	3,701,124
Finance & Regulatory Services	3,358,417	5,920	3,364,337
Human Resources	1,836,807	6,081	1,842,888
Information Services	3,058,380	214	3,058,594
Metro Auditor	671,433	645	672,078
Office of Metro Attorney	2,012,886	939	2,013,825
Oregon Zoo	27,204,192	19,989	27,224,181
Parks & Environmental Services	6,942,305	(142,891)	6,799,414
Planning and Development	15,414,229	148,259	15,562,488
Research Center	4,631,745	40,307	4,672,052
Sustainability Center	5,470,794	(61,546)	5,409,248
Former ORS 197.352 Claims & Judgments	100	0	100
Special Appropriations	5,201,637	0	5,201,637
Non-Departmental			
Debt Service	1,529,472	0	1,529,472
Interfund Transfers	4,313,554	0	4,313,554
Contingency	3,478,646	(37,386)	3,441,260
Unappropriated Balance	13,191,950	0	13,191,950
Total Fund Requirements	\$104,328,135	\$185,863	\$104,513,998
MERC FUND			
MERC	43,669,107	200,000	43,869,107
Non-Departmental			
Debt Service	0	0	0
Interfund Transfers	3,681,630	0	3,681,630
Contingency	2,652,773	(200,000)	2,452,773
Unappropriated Balance	18,296,543	26,301	18,322,844
Total Fund Requirements	\$68,300,053	\$26,301	\$68,326,354

All other appropriations remain as previously adopted

EXHIBIT C
Ordinance 10-1249

Capital Project Request - Project Detail

Project Title: **Fund:**
Project Status: **Funding Status:** **FY First Authorized:** **Department:**
Project Number: **Active:** **Dept. Priority:** **Facility:** **Division:**
Source Of Estimat **Source:** **Start Date:** **Date:** **Cost Type:**
Type of Project: **Request Type** **Completion Date:** **Prepared By:**

Project Estimates	Actual	Budget/Est	Prior						
Capital Cost:	Expend	2009-2010	Years	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	Total
Equipment/Furnishings	\$0	\$0	\$0	\$289,000	\$0	\$0	\$0	\$0	\$289,000
Total:	\$0	\$0	\$0	\$289,000	\$0	\$0	\$0	\$0	\$289,000

Funding Source:	Actual	Budget/Est	Prior						
Capital Cost:	Expend	2009-2010	Years	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	Total
Friends of PCPA	\$0	\$0	\$0	\$289,000	\$0	\$0	\$0	\$0	\$289,000
Total:	\$0	\$0	\$0	\$289,000	\$0	\$0	\$0	\$0	\$289,000

Annual Operating Budget Impact

Project Description / Justification: _____ **Estimated Useful Life (yrs):** **First Full Fiscal Year of Operation:**

Purchase and Install a new Chiller at the Hatfile Hall The current chiller is experiencing failures with the potential that it may suffer a catastrophic failure during the summer event season. Chiller replacement is scheduled per the 20 Year Capital Plan.

**EXHIBIT D
Ordinance 10-1249**

METROPOLITAN EXPOSITION RECREATION COMMISSION

Resolution No. 10-18

For the purpose of approving Capital Projects for fiscal year 2010-2011 for the Portland Metropolitan Exposition Center (Expo) and Portland Center for Performing Arts (PCPA)

WHEREAS, Section III(a)(b) of the Metropolitan Exposition Recreation Commission (MERC) Capital Asset Management Policy requires Commission approval of capital projects \$100,000 and greater; and

WHEREAS, The MERC adopted budget capital improvement plan included \$325,000 for the Portland Expo Center and \$325,000 for the Portland Center for the Performing Arts but did not specifically describe the Capital Projects proposed for these expenditures; and

WHEREAS, Expo and PCPA in collaboration with Aramark/Giacometti Joint Venture Partnership (Aramark) have proposed capital projects for Expo and PCPA as described in the attached staff report and request that MERC approve these capital projects in accordance with the Capital Asset Management Policy.

BE IT THEREFORE RESOLVED, that the Metropolitan Exposition Recreation Commission approves the Capital Projects as described in the attached staff report for the fiscal year beginning July 1, 2010 and ending June 30, 2011.

Passed by the Commission on September 1, 2010.

Approved as to Form:
Daniel B. Cooper, Metro Attorney

By: _____
Nathan A. Schwartz Sykes, Senior Attorney



Chair



Secretary/Treasurer

**EXHIBIT D
Ordinance 10-1249**

MERC Staff Report

Agenda Item/Issue:

For the purpose of approving Capital Projects for fiscal year 2010-2011 for the Portland Metropolitan Exposition Center (Expo) and Portland Center for Performing Arts (PCPA)

Resolution No: 10-18

Presented By: Cynthia Hill

Date: September 1, 2010

Background and Analysis:

Upon signing a new food and beverage operations agreement, Aramark/Giacometti Joint Venture transferred to MERC Venues \$2,000,000 for capital investment.

Oregon Convention Center (OCC)	\$1,350,000
Portland Metropolitan Exposition Center (Expo)	325,000
<u>Portland Center for Performing Arts (PCPA)</u>	<u>325,000</u>
Total Capital Investment	\$2,000,000

Funds were received in FY 2009-10 and the estimated carry over was included in the FY 2010-11 budget planning process. The MERC Capital Improvement Plan includes the project detail for OCC, however the Expo Center and PCPA had not determined specific projects at the time the capital budget was submitted. The placeholder "Food & Beverage Capital Investment – New Contract" was listed on the Capital Improvement Plan for both projects.

MERC Capital Asset Management Policy requires the Commission approve all projects \$100,000 and greater. This resolution is requesting approval of the following proposed projects at the Expo Center and PCPA.

Expo Center – Convert Meeting Room D-103 into a lounge and café serving a selected menu featuring food, alcoholic and nonalcoholic beverages. The total estimated project cost is \$339,200. The additional \$14,200 is included in the adopted budget funded from food and beverage operating funds, referred to as the contract reserve for capital.

PCPA Keller Auditorium – Total renovation of south, orchestra level concession stand plus construction of two portable concession stands and realign the entrance to the women's restroom. The total estimated cost is \$325,000.

Fiscal Impact:

The capital contribution from Aramark/Giacometti Joint Venture at contract signing was received in FY 2009-10. \$325,000 for PCPA and \$325,000 for Expo is included in the FY 2010-11 adopted budget.

Attachments to Resolution and/or Staff Report:

Capital Project Requests

Recommendation:

Staff recommends that the Metropolitan Exposition Recreation Commission adopt Resolution 10-18.

**EXHIBIT D
Ordinance 10-1249**

Hall D Lounge

Project Cost \$339,200

Describe Project

Converting Meeting Room D-103 into a lounge and café serving a selected menu featuring food, alcoholic and non-alcoholic beverages.

Cost Justify the Investment

Food & Beverage revenue is strongly associated with the number of points of sale and the convenience of customer consumption (readily available tables/seating). Within this context, currently permanent points of sale are limited and customer seating can rarely be provided. Reflecting upon the success of PCPA's "Art Bar" and OCC's "Stir", the notion of advantaging Capital Investment funds provided by our Food & Beverage service provider toward adding a point of sale and providing customer seating is considered advantageous to growing food and beverage revenues. The additional point of sale and provision of customer seating will increase revenue as well as provide a comfortable, relaxing atmosphere for exhibitors and attendees.

Source of Funds

\$325,000 Food & Beverage Capital Investment provided by Food & Beverage Service provider.

\$14,200 Expo Center Food & Beverage Contract Reserve

The total budget of \$339,200 includes a 15% contingency in excess of \$44,000.

Impact on operating results (current year and future years)

The original Capital Investment of \$325,000 from Aramark proposed that these funds be allocated to enhancing the visual appeal of concession stands in Halls D & E, purchasing a new espresso kiosk, purchasing a new portable espresso machine, purchasing portable furniture and new uniforms. Two of these items can be considered revenue producing while the balance of items most likely would not. As suggested earlier, the notion of providing a lounge and cafe serves two primary purposes; 1) an additional point of sale and convenience for the customer. 2) It is anticipated that the ROI will generate approximately \$17,500 to \$20,000 in year one.

Risk or Consequence of not doing this project

Failing to advantage this timely revenue producing opportunity by adding a point of sale, increasing customer convenience and anticipated dissatisfaction by the funds provider in not moving forward with their investment.

EXHIBIT D
Ordinance 10-1249

Keller Concession Remodel

Project Cost \$325,000

Describe Project

Total renovation of south, orchestra level concession stand plus construction of two portable concession stands on orchestra level and realign entrance to women's restroom. This includes removing the existing counters and fixtures in the south lobby concession stand and replacing with a more easily accessible and attractive counter that will allow better and more efficient usage of the space.

Cost Justify the Investment

South stand has a very poor design and does not allow quick points of sale during intermission. Portable stands will replace very old, dated stands. Will improve access to points of sale, improve the appearance of this concession area and allow more seating for patrons to enjoy their food and beverages. This project is being done as a patron service amenity.

Source of Funds

\$325,000 Food & Beverage Capital Investment provided by Food & Beverage Service provider.

Impact on operating results (current year and future years)

Only slight increase in revenues through improved access to points of sale.

Risk or Consequence of not doing this project

Poor customer service to patrons wanting food and beverage during intermissions.

STAFF REPORT

FOR THE PURPOSE OF AMENDING THE FY 2010-11 BUDGET AND APPROPRIATIONS SCHEDULE AND THE FY 2010-11 THROUGH 2014-15 CAPITAL IMPROVEMENT PLAN, AND DECLARING AN EMERGENCY

Date: October 11, 2010

Presented by: Tim Collier, 503-797-1913
Diane Arakaki, 503-797-1812
Cynthia Hill, 503-731-7829
Reed Wagner, 503-797-1854

BACKGROUND

Since the adoption of the budget several items have been identified that necessitate amendment to the budget. Each action is discussed separately below.

Active Transportation Partnership

This amendment transfers the Active Transportation Program Analyst position (0.90 FTE) and related Materials and Services from the Sustainability Center to Planning and Development. The FY 2010-11 adopted budget implemented the transfer of this position from the Strategy Center to the Parks Planning and Development in the Sustainability Center. The transfer of this position to Planning and Development improves Metro's approach to multidisciplinary and collaborative efforts. With so much of the Active Transportation program needing to interface with corridor planning staff, the Regional Transportation Plan development, the Regional Transportation Options program and transportation funding, a closer tie to Planning and Development will create effective synergies. It also increases the support efforts to the Community Investment Strategy.

Natural Areas Management

In order to increase Metro's capacity to manage its growing portfolio of properties the FY 2010-11 adopted budget transferred 5.00 FTE Natural Resource Technicians from Parks and Environmental Services to the Natural Areas Management in the Sustainability Center. Due to an oversight, 1.00 FTE Park Ranger in Parks and Environmental Services was transferred to Natural Areas Management as a Natural Resource Technician. This amendment corrects this oversight and transfers this position back to Parks and Environmental Services as a Park Ranger. In addition, this amendment transfers Materials and Services associated with Natural Areas Management from Parks and Environmental Services to Natural Areas Management. These Materials & Services were not fully transferred in the FY 2010-11 adopted budget.

Regional Indicators

The Research Center is collaborating with the PSU Institute of Metropolitan Studies (IMS), local governments, and other agencies and organizations interested in triple bottom-line regional indicators. The Project timeline calls for a first set of indicators to be completed by June 2011. A five-year business and financial plan for maintaining the indicators will be presented along with the Regional Indicators. It's anticipated that long-term funding will include a combination of government, foundation, and private sources, including an anticipated share from Metro.

The Council initially approved a project manager position in November 2009 as a limited duration position in the General Fund through January 31, 2010. This ordinance would extend funding for the Metro project manager from February 1, 2011 through June 30, 2011. This would allow for the completion of the first set of indicators and the five-year business and financial strategies for maintaining the indicators.

The limited duration project manager, housed at Metro, will work through the end of the fiscal year to ensure project elements are delivered through a collaborative, open process. The project manager is solely assigned to the indicator's project and fills a 0.8 FTE position. The need for continuation of the position will be further reviewed through the FY 2011-12 budget process.

The approximate cost (salary and fringe) of the 0.8 FTE Principal Planner position for the five-month period would be \$40,307. Metro's total combined investment of just over \$150,000 for this project will leverage an additional \$300,000-plus of work outside Metro toward indicator research and development.

This position oversees a collaborative, comprehensive process to develop, populate, analyze and systematically report on a longitudinal set of indicators for the Metro region. This limited duration Principal Planner provides project management to the indicators effort, oversees project work teams, staff policy and steering committees, produce key reports and communications, ensures product delivery and maintains the project budget. The Principal Planner will report directly to the Metro Research Director and coordinate with PSU's Director of the Institute of Metropolitan Studies.

Columbia River Crossing Project Director

The loaned executive agreement between Metro and the Oregon Department of Transportation regarding the Columbia River Crossing Project Director has been extended from September 30, 2010 through September 30, 2011. The FY 2010-11 adopted budget currently shows this position as funded only through the first three months of this fiscal year. With the extension of the intergovernmental agreement the position will now be funded through the full fiscal year. This action increases the FTE for the position from .25 FTE to 1.0 FTE and increases salary and fringe benefits accordingly. The cost will be fully funded from governmental sources outside of Metro.

Infrastructure Finance Manager position status

During the development of the FY 2010-11 budget it was the intent of management to convert the Infrastructure Finance Manager position from a limited duration position to a position with regular status. Instead, it was inadvertently carried forward as a limited duration position with an expiration date of December 31, 2012. This amendment rectifies the oversight and reflects the understanding that a focus on investment will be critical to Metro's and the region's long-term success at realizing the vision of the 2040 Growth Concept.

Printing Costs

The materials & services expense for the costs of the print shop/copy center remained in the Parks and Environmental Services budget pending full implementation of the outside printing contract. With the completion of that agreement, centers are now paying directly for printing/copying jobs. This action reallocates the appropriation authority for printing/copying expenses formerly paid centrally by Parks and Environmental Services to the offices and centers, which are now paying directly. The final cost allocation plan for FY 2010-11, to be run in the fall of 2011 after audit completion, will also implement this change. Interfund transfers to central services will be reduced accordingly at that time. The net budgetary impact of this change is zero.

MERC Capital Projects

The adopted budget includes \$89,000 to replace the chiller at the Antoinette Hatfield Hall. The existing chiller, which was installed as part of the original building in 1984, has experienced many failures and has been repaired several times in the last few years, and has now come to the end of its useful life expectancy.

This budget amendment is requesting an additional \$200,000 from the Renewal and Replacement contingency in the MERC Fund to fund the project cost of \$287,500 based on the current low bid. The fiscal impact will be offset by an incentive offer rebate from the Energy Trust of Oregon (ETO) in the amount of \$26,301. Staff will apply for an energy rebate of \$26,301.

The original total project budget in the Capital Improvement Plan was \$426,000 and included \$89,000 for FY 2010-11. It appears that the \$89,000 cost came from using a document from the Energy Trust of Oregon (ETO) to calculate energy rebates. The ETO has a line item cost for a chiller replacement of \$89,000, however this cost does not include all system costs and labor for a complete chiller installation and is an “internal calculation” used by ETO to determine a rebate cost. The ETO analysis should not have been the only source document used in generating a project estimate.

Two bids were received for this project. In review of these bids, staff has determined that the low bid of \$287,500 is in line with current chiller replacement costs and considered accurate for the work involved. It should also be noted that MERC paid \$261,000 in 2005 for the same specified chiller at the Keller Auditorium.

The Capital Improvement Plan for the FY 2010-11 through FY 2014-15 will also be amended to reflect the revised budget (Exhibit C), eliminating \$377,000 planned in FY 2011-12 and increasing the FY 2010-11 amount by \$198,500 for a revised total project cost of \$287,500. In addition, MERC Resolution 10-18 approving capital projects for the Expo Center and PCPA has been attached for the Council’s information (Exhibit D). These projects were included as a placeholder in the FY 2010-11 through FY 2014-15 Capital Improvement Plan. The MERC action provides detail for each of the projects.

ANALYSIS/INFORMATION

1. **Known Opposition:** None known.
2. **Legal Antecedents:** ORS 294.450 provides for transfers of appropriations within a fund, including transfers from contingency, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction. Metro code chapter 2.02.040 requires the Metro Council to approve the addition of any position to the budget.
3. **Anticipated Effects:** This action provides for changes in operations as described above; recognizes new governmental contributions from the Oregon Department of Transportation; extends two limited duration positions through the remainder of the fiscal year; fully implements the closure of the print shop; and amends the FY 2010-11 through FY 2014-15 Capital Improvement Plan.
4. **Budget Impacts:** This action has the following impact on the FY 2010-11 budget:
 - Recognizes approximately \$186,000 in governmental contributions from the Oregon Department of Transportation to fund the extension of the Columbia River Crossing Project Director position (loaned executive) through the end of the fiscal year. An increase from 0.25 FTE to 1.0 FTE.

- Transfers 0.90 FTE Program Analyst IV from the Sustainability Center to Planning & Development to provide greater integration of the Active Transportation Partnership program with the Regional Transportation plan development and the Regional Transportation Options program.
- Corrects an error in the FY 2010-11 adopted budget and returns 1.0 FTE Natural Resource Technician from Natural Areas Management back to Parks and Environmental Services as a Park Ranger. Also, corrects an oversight in the FY 2010-11 adopted budget and transfers approximately \$106,000 in materials & services related to Natural Areas Management from Parks & Environmental Services to the Sustainability Center.
- Extends the 0.80 FTE limited duration Principal Regional Planner assigned to the Regional Indicators Project through the remainder of the fiscal year. The position was originally identified to end January 31, 2011. The increased cost of \$40,307 will be funded by a transfer of General Fund contingency pending discussions with our regional partners on shared funding opportunities.
- Increases a capital project for the Portland Center for the Performing Arts from \$89,000 to \$289,000. Funding will be provided by a transfer from the renewal & replacement contingency in the MERC Fund.
- Fully implements the closure of the print shop by reallocating \$137,688 in former print shop/copy center budget appropriation authority to the offices and centers, which are now paying directly for these services.
- Converts the status of the Infrastructure Finance Manager position from limited duration with an expiration date of 12/31/12 to regular.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of this Ordinance.

Materials following this page were distributed at the meeting.



METRO COUNCIL MEETING
Oct. 28, 2010
Metro Regional Center, Council Chamber

Councilors Present: Council President Carlotta Collette and Councilors Kathryn Harrington, Rex Burkholder, Robert Liberty and Rod Park

Councilors Absent: Councilor Carl Hosticka

Acting Council President Carlotta Collette convened the regular Council meeting at 2:03 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

Mr. Arthur Lewellan addressed Council on the Columbia River Crossing project's proposed "IPS Concept #1, Off-Island Access." He distributed renderings of the proposed concept and correspondence between him and CRC staff regarding the project. He asked Council to review the proposed concept and provide a written response.

3. TRAVEL PORTLAND'S YEAR-END UPDATE

Mr. Jeff Miller, President and CEO, provided Travel Portland's year-end update. His presentation included information on the Oregon Convention Center including projected future revenue, contract goals and media writings; and strategies to better market and message Portland that include enhanced public relations and values proposition. (Full presentation included as part of the meeting record.)

Council discussion included international and domestic travel, the comparison of current hotel occupancy levels and rates to prerecession, Portland International Airport's flight prices and fees, and the financial trade-offs considered by event planners (e.g. high flight costs vs. savings with no sales tax).

4. CONSENT AGENDA

Motion:	Councilor Kathryn Harrington moved to adopt the consent agenda: <ul style="list-style-type: none">• Consideration of the Minutes for October 7, 2010• Resolution No. 10-4195, For the Purpose of Granting an Easement to the City of Oregon City for Canemah Children's Park• Resolution No. 10-4196, For the Purpose of Confirming the Appointment of Mr. Frank "Haze" Moss and Reappointment of Mr. John Bradley to the Metro Central Station Community Enhancement Committee (MCSCEC)
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Vote:

Council President Collette and Councilors Harrington, Park, Liberty and Burkholder voted in support of the motion. The vote was 5 aye, the motion passed.

5. ORDINANCES – SECOND READING

5.1 **Ordinance No. 10-1247**, For the Purpose of Amending Metro Code Sections 2.04.500 through 2.04.580 to Establish Metro’s Sustainable Procurement Program.

Motion:	Councilor Rex Burkholder moved to adopt Ordinance No. 10-1247.
Seconded:	Councilor Rod Park seconded the motion.

Councilor Burkholder overviewed Ordinance No. 10-1247, which would amend Metro Code Sections 2.04.500 through 2.04.580. The revisions would bring Metro’s sustainable procurement code up-to-date and reflect Metro’s goals and priorities for sustainability.

Council President Collette opened Ordinance No. 10-1247 for public comment. Seeing none, the public hearing was closed.

Vote:

Council President Collette and Councilors Burkholder, Park and Liberty voted in support of the motion. The vote was 4 aye, the motion passed. (Councilor Harrington was excused.)

6. RESOLUTIONS

6.1 **Resolution No. 10-4197**, For the Purpose of Amending the 2010-11 Unified Planning Work Program and the 2010-13 Metropolitan Transportation Improvement Program (MTIP) to Delete the Multi-Use Path Master Plan: Lake Oswego to Milwaukie Project to Substitute a New Portland to Lake Oswego Trail Plan: Powers Marine Park to Fielding Rd. Project.

Council President Collette turned the gavel over to Councilor Liberty for Resolution No. 10-4497.

Motion:	Council President Collette moved to adopt Resolution No. 10-4197.
Seconded:	Councilor Park seconded the motion.

Council President Collette introduced Resolution No. 10-4197. In 2007, Metro’s Sustainability Center was awarded \$100,000 in MTIP funding to provide master planning work to evaluate the feasibility of the adding a multi-use path facility to the existing railroad bridge crossing of the Willamette River between Lake Oswego and Milwaukie. During planning, it was determined by Metro and agency partners that the project, “Multi-Use Path Master Plan: Lake Oswego to Milwaukie Project,” is currently not feasible due to concerns raised by Union Pacific Railroad regarding safety of potential users of a trail facility in proximity to freight train operations. A new replacement trail study project has been proposed by the local partners, titled “Portland to Lake Oswego Trail Plan: Powers Marine Park to Fielding Road”, which would be coordinated with the Portland to Lake Oswego Streetcar Project, and local, regional and state partners.

Vote:

Council President Collette and Councilors Park, Burkholder and Liberty voted in support of the motion. The vote was 4 aye, the motion passed. (Councilor Harrington was excused.)

6.2 **Resolution No. 10-4212**, For the Purpose of Appointing a Replacement to Fill the Office of the Metro Council President.

(Council considered Resolution No. 10-4212 following Agenda Item 2.0, Citizen Communication.)

Acting Council President Collette turned the gavel over to Councilor Liberty for Resolution No. 10-4212.

Motion:	Councilor Park moved to adopt Resolution No. 10-4212.
Seconded:	Councilor Burkholder seconded the motion.

Councilor Park introduced Resolution No. 10-4212 which would appoint a replacement to fill the current vacancy in the Office of the Metro Council President caused David Bragdon's resignation in September 2010. The appointment would be for the remainder of the current Council Presidency term, scheduled to conclude on January 3, 2011.

One letter of interest, from Acting Council President Collette, was received for the vacant position.

Vote:

Councilors Harrington, Burkholder, Park and Liberty voted in support of the motion. Acting Council President Collette abstained. The vote was 4 aye and 1 abstained, the motion passed.

Mr. Karen Starin, Notary Public for Oregon, provided the Oath of Office and swore in Council President Collette.

7. **CHIEF OPERATING OFFICER COMMUNICATION**

Mr. Michael Jordan provided a brief update on Metro's internal cultural assessment survey, Oct. 28-29 Senior Leadership retreat, Metro's cemeteries program, and the Nov. 1 Community Development Planning Grant recipients' meeting.

8. **COUNCILOR COMMUNICATION**

Council discussed the recent EcoDistrict Summit and Rail~Volution conferences, Oct. 27 MPAC meeting, Greenlight Greater Portland Best Practices trip to Detroit, and Department of Land Conservation and Development meeting scheduled for Oct. 29.

9. **ADJOURN**

There being no further business, Council President Collette adjourned the meeting at 3:36 p.m. The Metro Council will reconvene the next regular council meeting on Nov. 4, 2010 at 2 p.m.

Prepared by,



Kelsey Newell, Regional Engagement Coordinator

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF OCTOBER 28, 2010

Item	Topic	Doc. Date	Document Description	Doc. Number
2.0	Testimony	N/A	Citizen testimony provided by Art Lewellan	102810c-01
3.0	PowerPoint	10/28/10	Travel Portland powerpoint presentation provided by Jeff Miller	102810c-02
3.0	Brochure	2010	Travel Portland: 2010 Convention and Meeting Planners Guide	102810c-03
3.0	Brochures	N/A	Portland Perks brochure	102810c-04
6.2	Resolution	10/28/10	Resolution No. 10-4212 - this version includes edits that reflect 10/28 Council action	102810c-05
6.2	Handout	10/28/10	State of Oregon, Metro Oath of Office signed	102810c-06
6.2	Letter	10/28/10	Councilor Carlotta Collette, District 2 resignation letter	102810c-07
6.2	Letter	10/27/10	Councilor Collette letter of interest for vacant Council President position	102810c-08



Community Investment Toolkit

- 3 Volumes
 - Financial Incentives
 - Innovative Design and Development Codes
 - Eco-efficient Employment
- On-the-ground success stories
- Implementation tips
- Resources



Eco-efficient Employment

...businesses realizing economic and ecological benefits by utilizing operations that produce more with less – less water, less energy, less capital, less land, less waste.

Photos courtesy of Gerding Edlen



Employment

...all types of businesses and locations...

- Institutional, manufacturing, industrial uses
- Mixed-use projects along transit corridors
- Small sites in urban areas to large employment sites

Photos courtesy of Gerding Edlen and Partners in Project Green



Vol. 3: Eco-efficient Employment

- Employment Coordination advisory committee
- Internal coordination team
- Regional employment trends
- Land use tools v. economic development

Photos courtesy of Gary Christensen, Partners in Project Green and Sequential Biofuels



Vol. 3: Eco-efficient Employment

- CH 1: High-performance infrastructure
 - SECTION ONE: Systems Approach
 - SECTION TWO: High-performance mechanisms
- CH 2: 21st century design
 - SECTION ONE: Innovative Design & Development Codes
 - SECTION TWO: Innovative Planning & Development
- CH 3: Redevelopment and reuse

Photos courtesy of City of Beaverton, Gerding Edlen and Port of Portland



Partners in Project Green

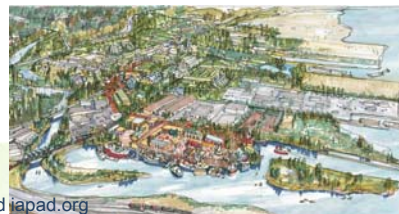
- Technical assistance
- Green building retrofits
- District energy feasibility analysis
- Municipal policy alignment
- Parking lot retrofits
- Green Job Corps
- Performance measures



Photos courtesy of Partners in Project Green

The Maplewood Project

- Integrated design process
- Resource mapping
- Public-private partnerships
- Recommendations:
 - Biomass cogeneration
 - Multi-modal connectivity
 - Stormwater recycling
 - Material exchanges



Images courtesy of The Maplewood Project, City of Beaverton and iapad.org

Seattle Green Factor

- Menu-based landscape requirements
- Flexible to site and development
- Increased ecological function of landscaping
- More efficient site design

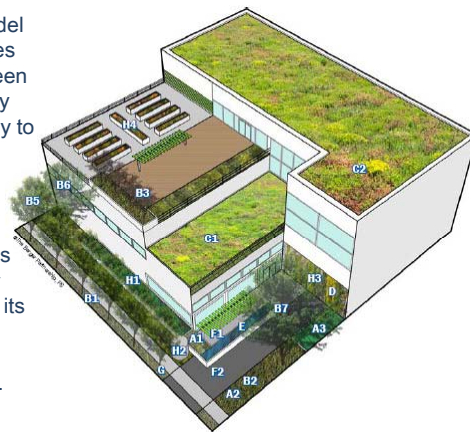
Illustration courtesy of The Berger Partnership



Seattle Green Factor

Green Factor Composite Model

This composite model graphically describes the elements of Green Factor and how they might relate spatially to a building and landscape in a conceptual project. Note: This model is designed to show as many Green Factor credits as possible, its actual score would greatly exceed required minimums.



- A1 - Landscaped Area <24" Soil Depth
- A2 - Landscaped Area >24" Soil Depth
- B1 - Rain Garden
- B2 - Groundcovers <2' Height
- B3 - Plants >2' Height
- B4 - Small Tree
- B5 - Medium Tree
- B6 - Large Tree
- B7 - Large Existing Tree
- C1 - Green Roof 2-4" Growth Medium
- C2 - Green Roof >4" Growth Medium
- D - Green Wall
- E - Water Feature
- F1 - Permeable Paving 6-24" Subgrade
- F2 - Permeable Paving >24" Subgrade
- G - Structural Soil Systems
- H1 - Drought Tolerant/Natives
- H2 - Rainwater Cistern
- H3 - Public Visibility
- H4 - Food Cultivation

Illustration courtesy of The Berger Partnership

Union 70

- Manufacturing → Industrial
- 160 acres, 2.2M s.f. vacant plant
- Hold-on-sale agreement
- \$400K in brownfield assessment
- Expedited city review and permitting
- Connected urban street grid
- Removal of 80+ acres surface parking
- Primarily bulk warehouse tenants
- 1.4M s.f. rehabbed multi-tenant, multi-story spaces



Illustrations courtesy of LMN Architects



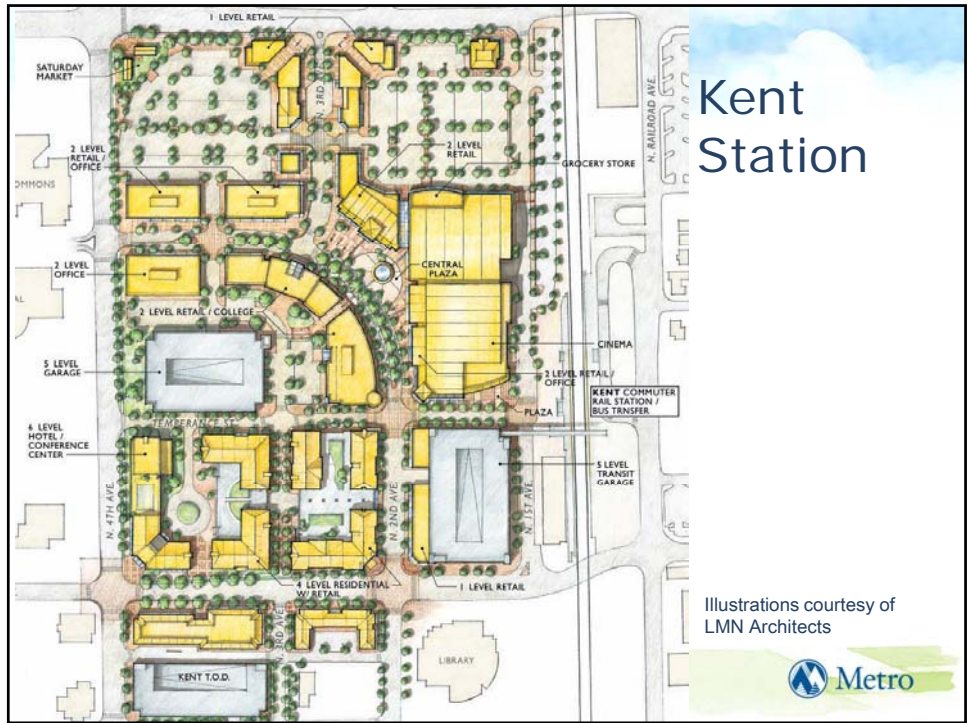
Kent Station

- Old glue factory to mixed-use employment along light rail
- City investments:
 - Finance gap for structured parking
 - Temporary ownership for environmental assessment and developer agreement
 - Infrastructure improvements
- 500+ jobs



Illustrations courtesy of LMN Architects





STAFF REPORT

FOR THE PURPOSE OF AMENDING THE FY 2010-11 BUDGET AND APPROPRIATIONS SCHEDULE AND THE FY 2010-11 THROUGH 2014-15 CAPITAL IMPROVEMENT PLAN, AND DECLARING AN EMERGENCY

Date: October 11, 2010

Presented by: Kathy Rutkowski, 503-797-1630

BACKGROUND

Since the adoption of the budget several items have been identified that necessitate amendment to the budget. Each action is discussed separately below.

Active Transportation Partnership

This amendment transfers the Active Transportation Program Analyst position (0.90 FTE) and related Materials and Services from the Sustainability Center to Planning and Development. The FY 2010-11 adopted budget implemented the transfer of this position from the Strategy Center to the Parks Planning and Development in the Sustainability Center. The transfer of this position to Planning and Development improves Metro's approach to multidisciplinary and collaborative efforts. With so much of the Active Transportation program needing to interface with corridor planning staff, the Regional Transportation Plan development, the Regional Transportation Options program and transportation funding, a closer tie to Planning and Development will create effective synergies. It also increases the support efforts to the Community Investment Strategy.

Natural Areas Management

In order to increase Metro's capacity to manage its growing portfolio of properties the FY 2010-11 adopted budget transferred 5.00 FTE Natural Resource Technicians from Parks and Environmental Services to the Natural Areas Management in the Sustainability Center. Due to an oversight, 1.00 FTE Park Ranger in Parks and Environmental Services was transferred to Natural Areas Management as a Natural Resource Technician. This amendment corrects this oversight and transfers this position back to Parks and Environmental Services as a Park Ranger. In addition, this amendment transfers Materials and Services associated with Natural Areas Management from Parks and Environmental Services to Natural Areas Management. These Materials & Services were not fully transferred in the FY 2010-11 adopted budget.

Regional Indicators

The Research Center is collaborating with the PSU Institute of Metropolitan Studies (IMS), local governments, and other agencies and organizations interested in triple bottom-line regional indicators. The Project timeline calls for a first set of indicators to be completed by June 2011. A five-year business and financial plan for maintaining the indicators will be presented along with the Regional Indicators. It's anticipated that long-term funding will include a combination of government, foundation, and private sources, including an anticipated share from Metro.

The Council initially approved a project manager position in November 2009 as a limited duration position in the General Fund through January 31, 2011. This ordinance would extend funding for the Metro project manager from February 1, 2011 through June 30, 2011. This would allow for the

completion of the first set of indicators and the five-year business and financial strategies for maintaining the indicators.

The limited duration project manager, housed at Metro, will work through the end of the fiscal year to ensure project elements are delivered through a collaborative, open process. The project manager is be solely assigned to the indicator's project and fills a 0.8 FTE position. The need for continuation of the position will be further reviewed through the FY 2011-12 budget process.

The approximate cost (salary and fringe) of the 0.8 FTE Principal Planner position for the five-month period would be \$40,307. Metro's total combined investment of just over \$150,000 for this project will leverage an additional \$300,000-plus of work outside Metro toward indicator research and development.

This position oversees a collaborative, comprehensive process to develop, populate, analyze and systematically report on a longitudinal set of indicators for the Metro region. This limited duration Principal Planner provides project management to the indicators effort, oversees project work teams, staff policy and steering committees, produce key reports and communications, ensures product delivery and maintains the project budget. The Principal Planner will report directly to the Metro Research Director and coordinate with PSU's Director of the Institute of Metropolitan Studies.

Columbia River Crossing Project Director

The loaned executive agreement between Metro and the Oregon Department of Transportation regarding the Columbia River Crossing Project Director has been extended from September 30, 2010 through September 30, 2011. The FY 2010-11 adopted budget currently shows this position as funded only through the first three months of this fiscal year. With the extension of the intergovernmental agreement the position will now be funded through the full fiscal year. This action increases the FTE for the position from .25 FTE to 1.0 FTE and increases salary and fringe benefits accordingly. The cost will be fully funded from governmental sources outside of Metro.

Infrastructure Finance Manager position status

During the development of the FY 2010-11 budget it was the intent of management to convert the Infrastructure Finance Manager position from a limited duration position to a position with regular status. Instead, it was inadvertently carried forward as a limited duration position with an expiration date of December 31, 2012. This amendment rectifies the oversight and reflects the understanding that a focus on investment will be critical to Metro's and the region's long-term success at realizing the vision of the 2040 Growth Concept. The impact of this action is to add a permanent, full-time position to the budget beyond the original December 31, 2012 expiration date at an estimated annual cost of approximately \$142,000.

Printing Costs

The materials & services expense for the costs of the print shop/copy center remained in the Parks and Environmental Services budget pending full implementation of the outside printing contract. With the completion of that agreement, centers are now paying directly for printing/copying jobs. This action reallocates the appropriation authority for printing/copying expenses formerly paid centrally by Parks and Environmental Services to the offices and centers, which are now paying directly. The final cost allocation plan for FY 2010-11, to be run in the fall of 2011 after audit completion, will also implement this change. Interfund transfers to central services will be reduced accordingly at that time. The net budgetary impact of this change is zero.

MERC Capital Projects

The adopted budget includes \$89,000 to replace the chiller at the Antoinette Hatfield Hall. The existing chiller, which was installed as part of the original building in 1984, has experienced many failures and has been repaired several times in the last few years, and has now come to the end of its useful life expectancy.

This budget amendment is requesting an additional \$200,000 from the Renewal and Replacement contingency in the MERC Fund to fund the project cost of \$287,500 based on the current low bid. The fiscal impact will be offset by an incentive offer rebate from the Energy Trust of Oregon (ETO) in the amount of \$26,301. Staff will apply for an energy rebate of \$26,301.

The original total project budget in the Capital Improvement Plan was \$426,000 and included \$89,000 for FY 2010-11. It appears that the \$89,000 cost came from using a document from the Energy Trust of Oregon (ETO) to calculate energy rebates. The ETO has a line item cost for a chiller replacement of \$89,000, however this cost does not include all system costs and labor for a complete chiller installation and is an "internal calculation" used by ETO to determine a rebate cost. The ETO analysis should not have been the only source document used in generating a project estimate.

Two bids were received for this project. In review of these bids, staff has determined that the low bid of \$287,500 is in line with current chiller replacement costs and considered accurate for the work involved. It should also be noted that MERC paid \$261,000 in 2005 for the same specified chiller at the Keller Auditorium.

The Capital Improvement Plan for the FY 2010-11 through FY 2014-15 will also be amended to reflect the revised budget (Exhibit C), eliminating \$377,000 planned in FY 2011-12 and increasing the FY 2010-11 amount by \$198,500 for a revised total project cost of \$287,500. In addition, MERC Resolution 10-18 approving capital projects for the Expo Center and PCPA has been attached for the Council's information (Exhibit D). These projects were included as a placeholder in the FY 2010-11 through FY 2014-15 Capital Improvement Plan. The MERC action provides detail for each of the projects.

ANALYSIS/INFORMATION

1. **Known Opposition:** None known.
2. **Legal Antecedents:** ORS 294.450 provides for transfers of appropriations within a fund, including transfers from contingency, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction. Metro code chapter 2.02.040 requires the Metro Council to approve the addition of any position to the budget.
3. **Anticipated Effects:** This action provides for changes in operations as described above; recognizes new governmental contributions from the Oregon Department of Transportation; extends two limited duration positions through the remainder of the fiscal year; fully implements the closure of the print shop; and amends the FY 2010-11 through FY 2014-15 Capital Improvement Plan.
4. **Budget Impacts:** This action has the following impact on the FY 2010-11 budget:
 - Recognizes approximately \$186,000 in governmental contributions from the Oregon Department of Transportation to fund the extension of the Columbia River Crossing Project Director position (loaned executive) through the end of the fiscal year. An increase from 0.25 FTE to 1.0 FTE.

- Transfers 0.90 FTE Program Analyst IV from the Sustainability Center to Planning & Development to provide greater integration of the Active Transportation Partnership program with the Regional Transportation plan development and the Regional Transportation Options program.
- Corrects an error in the FY 2010-11 adopted budget and returns 1.0 FTE Natural Resource Technician from Natural Areas Management back to Parks and Environmental Services as a Park Ranger. Also, corrects an oversight in the FY 2010-11 adopted budget and transfers approximately \$106,000 in materials & services related to Natural Areas Management from Parks & Environmental Services to the Sustainability Center.
- Extends the 0.80 FTE limited duration Principal Regional Planner assigned to the Regional Indicators Project through the remainder of the fiscal year. The position was originally identified to end January 31, 2011. The increased cost of \$40,307 will be funded by a transfer of General Fund contingency pending discussions with our regional partners on shared funding opportunities.
- Increases a capital project for the Portland Center for the Performing Arts from \$89,000 to \$289,000. Funding will be provided by a transfer from the renewal & replacement contingency in the MERC Fund.
- Fully implements the closure of the print shop by reallocating \$137,688 in former print shop/copy center budget appropriation authority to the offices and centers, which are now paying directly for these services.
- Converts the status of the Infrastructure Finance Manager position from limited duration with an expiration date of 12/31/12 to regular. The impact of this action is to add a permanent, full-time position to the budget beyond the original expiration date. The estimated additional annual cost of this position (salary and benefits) in FY 2012-13 is approximately \$142,000.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of this Ordinance.