

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,  
 ) 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,

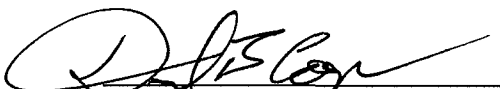
THE METRO COUNCIL RESOLVES AS FOLLOWS:

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 4 day of NOV, 2010.

  
Carlotta Collette, Council President

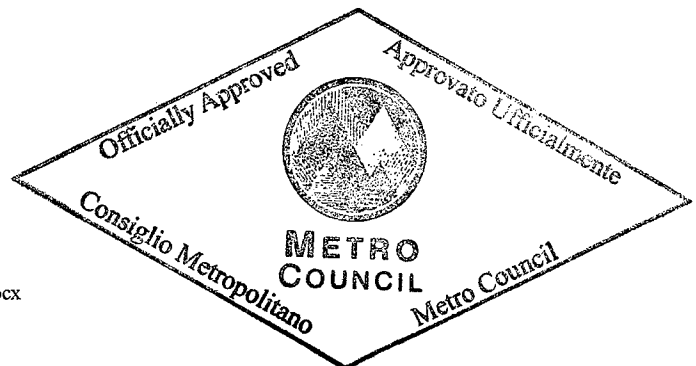
Approved as to Form:

  
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**

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

**ISSUED BY METRO:**

\_\_\_\_\_  
Michael Jordan, Chief Operating Officer

\_\_\_\_\_  
Date



<b>1</b>	<b>NATURE OF WASTE COVERED BY LICENSE</b>
	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 Aloclek Place in Hillsboro, Oregon.
<b>2</b>	<b>CALENDAR YEAR TONNAGE LIMITATION</b>
	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.
<b>3</b>	<b>NON-SYSTEM FACILITY</b>
	<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>
<b>4</b>	<b>TERM OF LICENSE</b>
	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.
<b>5</b>	<b>REPORTING OF ACCIDENTS AND CITATIONS</b>
	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.



<b>6</b>	<b>RECORD KEEPING AND REPORTING</b>
	<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"><li>i. Ticket or weight slip number from the non-system facility;</li><li>ii. Material category designating the type of material transferred to the non-system facility;</li><li>iii. Date the load was transferred to the non-system facility;</li><li>iv. Time the load was transferred to the non-system facility;</li><li>v. Net weight of the load; and</li><li>vi. Fee charged by the non-system facility</li></ul> <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"><li>i. Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro;</li><li>ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; and</li><li>iii. Remit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.</li></ul> <p>(c) Licensee 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>

<b>7</b>	<b>ADDITIONAL LICENSE CONDITIONS</b>
	<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"> <li>i. There has been sufficient change in any circumstances under which Metro issued this license;</li> <li>ii. The provisions of this license are actually or potentially in conflict with any provision in Metro’s disposal contract with Oregon Waste Systems, Inc.; or</li> <li>iii. Metro’s solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facility listed in Section 3.</li> </ul> <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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<b>8</b>	<b>COMPLIANCE WITH LAW</b>
	<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>

<b>9</b>	<b>INDEMNIFICATION</b>
	<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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