

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF) RESOLUTION NO. 04-3414
OPERATING OFFICER TO ISSUE A NON-SYSTEM)
LICENSE TO EPSON PORTLAND, INC., FOR) Introduced by Michael Jordan,
DELIVERY OF PUTRESCIBLE SOLID WASTE TO) Chief Operating Officer, with the
THE COVANTA WASTE-TO-ENERGY FACILITY) concurrence of David Bragdon,
) Council President

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

WHEREAS, Epson Portland, Inc., (Epson) currently has a non-system license to deliver mixed solid waste, including putrescible waste, to the Covanta Waste-to-Energy facility, which license will expire on February 1, 2004; and,

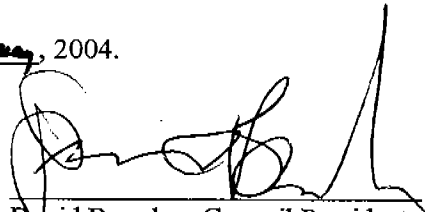
WHEREAS, Epson has applied for a new non-system license under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control"; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; now therefore,

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to issue a non-system license to Epson in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this 5th day of February, 2004.

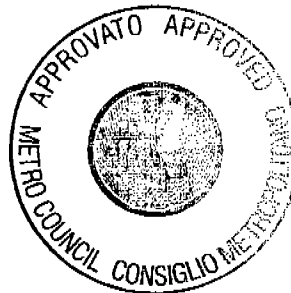


David Bragdon, Council President

Approved as to Form:



Daniel B. Cooper, Metro Attorney





METRO

LICENSE NO. N-028-04

SOLID WASTE NON-SYSTEM LICENSE

Issued pursuant to Metro Code § 5.05.035.

1. Licensee:

Epson Portland, Inc.
3950 NW Aloclek Place
Hillsboro, OR 97124

Contact person: George Lundberg

Phone: (503) 617-5607
Fax: (503) 690-5453
E-mail: george.lundberg@epi.epson.com

The Parent Company of Epson Portland, Inc., is:

Seiko Epson Corporation
3-3-5, OWA, SUWA-SHI
Nagano-Ken, 392-8502, Japan

2. Nature of Waste Covered by License:

Non-hazardous industrial solid waste (primarily mixed plastics) generated at the Epson Portland site listed below. Up to 10 percent may consist of restroom or food waste.

3950 NW Aloclek Place
Hillsboro, OR 97214

3. Calendar Year Tonnage Limitation:

This license grants the licensee the authority to dispose of up to 200 tons per calendar year of the waste described in section 2 of this license.

4. Non-System Facility:

The licensee hereunder may deliver the waste described in section 2, above, only to the following non-system facility:

Covanta Waste-to-Energy Facility
4850 Brooklake Road N.E.
Brooks, OR

5. Term of License:

The term of this license will commence on January 1, 2004 and expire on December 31, 2005. This license replaces license No. N-028-02.

6. 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 solid waste on behalf of the licensee.

7. Additional License Conditions:

This non-system license shall be subject to the following conditions:

- (a) The permissive transfer of solid waste to the Covanta Waste-to-Energy facility authorized by this license will be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to another facility.
- (b) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines, at his or her sole discretion, that:
 - (i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,
 - (ii) the provisions of this license are actually or potentially in conflict with any of Metro's contractual obligations under the terms of a contract that became effective before the effective date of this license, 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 2 of this license be transferred to, and disposed of at, a facility other than the facility described in section 4, above.
- (c) This license shall, in addition to subsections (i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.

- (d) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:
 - (i) submit to Metro’s Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and
 - (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.
- (e) Licensees shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.
- (f) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 4.

8. Compliance with Law:

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.

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.

Signed:

Acknowledgement & Acceptance of the Terms and Conditions of this License:

Signature

Signature of Licensee

MICHAEL JORDAN, CHIEF OPERATING OFFICER

Print name and title

Print name and title

Date

Date

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3414 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO EPSON PORTLAND, INC., FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE COVANTA WASTE-TO-ENERGY FACILITY

January 13, 2004

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 04-3414 will authorize the Chief Operating Officer to renew a non-system license (NSL) issued to Epson Portland, Inc., (Epson) to annually deliver mixed solid waste, including putrescible waste, to the Covanta Waste-to-Energy facility located in Brooks, Oregon. Though Epson is presently authorized to deliver 300 tons annually, its new application requests authority for only 200 tons per year. Epson reported sending 256 tons of waste to the Covanta facility during the last fiscal year. Such waste was largely comprised of industrial mixed plastics with up to 25 percent cafeteria and restroom waste. With the closure of its cafeteria, the applicant estimates that putrescible waste will henceforth comprise about ten percent of the waste. Although more costly, Epson has sought to send its non-recyclable solid waste to energy recovery rather than landfilling in keeping with its corporate policy to manage its waste in the most environmentally sound manner. Because this waste goes to energy recovery and not to a general purpose landfill, it does not count against Metro's disposal contract. Epson is a manufacturing facility located in Hillsboro, Oregon (Metro District 4). The existing license will expire on February 1, 2004.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license renewal.

2. Legal Antecedents

Changes to Code Chapter 5.05 approved by the Council with an emergency clause on October 9, 2003, made the issuance of NSLs for putrescible waste subject to approval by the Council rather than subject to approval by the Chief Operating Officer as was previously the case. 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 (WTE) facility rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. A baghouse system minimizes emissions to the air and ash is disposed at a permitted monofill.

- (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 Covanta WTE facility is permitted by the Oregon Department of Environmental Quality (DEQ). As part of the process of evaluating this application, both Gil Hargreaves, Solid Waste Manager with DEQ's Salem Office and Jim Sears with Marion County's Department of Public Works were contacted. Mr. Hargreaves confirmed that the facility has remained in compliance with federal and state requirements and has a good compliance record with public health, safety and environmental rules and regulations. Mr. Sears confirmed that the facility also has a good compliance record with local requirements.

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

The Covanta WTE facility thoroughly 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.

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

Epson Portland, Inc., has an aggressive internal recycling program and tracks its recycling and disposal percentages by material. Epson is seeking to utilize the Covanta WTE facility only for its non-recyclable wastes. Approval of the proposed license will not impact the region's recycling and waste reduction efforts.

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

Metro has committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management. However, the waste subject to the proposed license is proposed to be delivered to a waste-to-energy facility rather than disposed at a general purpose landfill. Thus, approval of the requested license 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 requested license is a renewal of its previous two-year license. During the first term of its license, the applicant submitted its required Metro reports in a timely fashion and remained in compliance with its license. In response to an inquiry from Metro made as part of the process of evaluating this application, representatives of the DEQ and Marion County confirmed that the facility has been in compliance with federal, state, and local requirements and has a good compliance record with public health, safety and environmental rules and regulations.

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

Epson is seeking to utilize the Covanta WTE facility because energy recovery is higher on the state waste management hierarchy than landfilling.

Conclusion

The Chief Operating Officer finds that the proposed license satisfies the requirements of Metro Code Section 5.05.035 for the requested Solid Waste Facility License.

3. Anticipated Effects

The effect of Resolution No. 04-3414 will be to issue an NSL for delivery of up to 200 tons per calendar year of solid waste, including putrescible waste, to the Covanta Waste-to-Energy facility.

4. Budget Impacts

The regional system fee and excise tax will continue to be collected on waste delivered under authority of the proposed NSL. Since the proposed NSL is a renewal, the budget impact, exceedingly small for 200 tons annually, has already been factored into budget projections and approval of the license will maintain the status quo. Though it does not impact Metro's obligation under the disposal contract, the proposed new license has nevertheless been put on a calendar year basis, consistent with other putrescible waste NSLs.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 04-3414, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

S:\REM\kraten\Facilities\Epson\staffrept2004.doc