

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF ) RESOLUTION NO. 04-3484  
OPERATING OFFICER TO ISSUE A NON-SYSTEM )  
LICENSE TO NEWBERG GARBAGE SERVICE, INC., ) Introduced by Michael Jordan,  
FOR DELIVERY OF SOLID WASTE TO THE ) Chief Operating Officer, with the  
NEWBERG TRANSFER STATION ) 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,

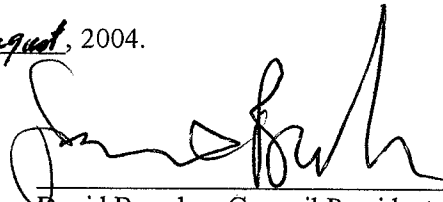
WHEREAS, Newberg Garbage Service, Inc., has applied for a new non-system license under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control"; and,

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

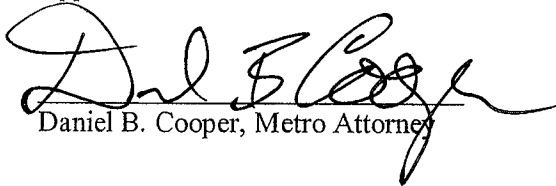
WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; now therefore,

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

ADOPTED by the Metro Council this 19<sup>th</sup> day of August, 2004.

  
David Bragdon, Council President

Approved as to Form:

  
Daniel B. Cooper, Metro Attorney





**METRO**

LICENSE NO. N-113-04

**SOLID WASTE NON-SYSTEM LICENSE**

Issued pursuant to Metro Code § 5.05.035.

**1. Licensee:**

Newberg Garbage Service, Inc.  
2904 Wynooski Rd.  
PO Box 1000  
Newberg, OR 97132

Contact person: Merlin LaJoie  
Phone: (503) 538-1388  
Fax: (503) 538-1383  
e-mail: newberggarbage@hotmail.com

**2. Nature of Waste Covered by License:**

This license authorizes delivery to the non-system facility listed in section 4, below, of residential and commercial solid waste generated within the Metro region, including putrescible waste collected by the Licensee.

**3. Fiscal Year Tonnage Limitation:**

This license grants the licensee the authority to dispose of up to 160 tons per fiscal year of the waste described in section 2, above. A fiscal year shall run from July 1 through June 30 of the following year.

**4. Non-System Facility:**

The licensee hereunder may deliver the waste described in section 2, above, to the following non-system facility for the purpose of transfer to the Riverbend Landfill only:

Newberg Transfer Station  
2904 Wynooski Rd.  
Newberg, OR 97132

**5. Term of License:**

The term of this license will commence on August 1, 2004 and expire at midnight on June 30, 2006.

**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 Newberg Transfer Station 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) The Licensee's authority to deliver drop box loads of non-putrescible waste under this license shall be terminated if Metro adopts a requirement that such loads must undergo recovery at a Metro-authorized facility prior to delivery for disposal.
- (c) 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 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 provision in Metro's disposal contract with Oregon Waste Systems, 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.
- (d) This license shall, in addition to subsections (c)(i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.
- (e) 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.
  - (iii) submit to the Director of Metro Solid Waste and Recycling Department a copy of the procedures it proposes to use to estimate the tonnage reported on the Regional System Fee and Excise Tax Report. The method of estimating tonnage shall be subject to the Director's approval.
- (f) Licensee shall make all records from which (e) 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) calendar 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 4, above.
- (g) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.
- (h) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 4.
- (i) This license authorizes delivery of solid waste to the Newberg Transfer Station only for the purpose of subsequent transfer to the Riverbend Landfill. Transfer of waste generated from within the Metro boundary to any disposal site other than the Riverbend Landfill is prohibited unless authorized in writing by Metro.

**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,

**NEWBERG GARBAGE SERVICE, INC. NON-SYSTEM LICENSE # N-113-04**

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:

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Signature

**MICHAEL JORDAN,  
CHIEF OPERATING OFFICER**

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Print name and title

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Signature of Licensee

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Print name and title

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Date

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Date

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## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 04-3484 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO NEWBERG GARBAGE SERVICE, INC. FOR DELIVERY OF SOLID WASTE TO THE NEWBERG TRANSFER STATION

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July 28, 2004

Prepared by: Steve Kraten

## BACKGROUND

### Description of the Resolution

On July 13, 2004, Newberg Garbage Service, Inc., (NGS) was granted a new solid waste hauling franchise by the Sherwood City Council. Approval of Resolution No. 04-3484 will authorize the Chief Operating Officer to issue a new non-system license (NSL) to NGS to annually deliver a maximum of 160 tons of residential and commercial solid waste, including putrescible waste, collected from routes located inside the Metro region. The waste will be sent to the Newberg Transfer Station (NTS), a co-located affiliated facility. The waste will be transferred from NTS to the Riverbend Landfill for disposal as a condition of the NSL. Since the Riverbend Landfill is a Waste Management facility, this NSL will not implicate Metro's obligations under its disposal contract.

## ANALYSIS/INFORMATION

### 1. Known Opposition

There is no known opposition to issuance of the proposed non-system license.

### 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. NTS began operations in 1985. The site was previously a filbert orchard. Staff is not aware of any wastes accepted at NTS that could pose a risk of environmental contamination.

Ultimate disposal will be at the Riverbend Landfill. The Riverbend Landfill first came into use during the mid-eighties. When Riverbend 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 required environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill has no known history of landfilling wastes that pose a future 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;*

The owner of NTS is regulated by both the DEQ and Yamhill County (for the transfer station) and by the City of Sherwood (for the hauling company) and has a good compliance record with all applicable requirements. The Riverbend Landfill is permitted by the DEQ. The DEQ considers the landfill to be a well run facility that is in compliance with federal, state and local requirements. The facility has a good compliance record with public health, safety and environmental rules and regulations.

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

NTS' operational practices and management controls are judged by Metro and DEQ staff to be adequate and consistent with the other similar facilities. The Riverbend Landfill uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment.

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

The applicant has applied to deliver 160 tons annually of waste that is presently being delivered to Pride Recycling Company's local transfer station, where it is transferred for disposal at the Riverbend Landfill. The majority of the waste is putrescible waste from the applicant's residential collection routes and has little or no recycling potential. However, it will also include an occasional drop box that may contain recoverable materials. NTS' practice is to tip such loads on the floor and sort through them as time allows. When traffic through the transfer station is heavy, such loads may be transferred without processing. For this reason, the proposed license has been written to terminate the authorization for drop box loads of non-putrescible waste to be delivered to NTS at such time as Metro requires all such loads to undergo recovery prior to delivery to a disposal site.

- (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 of Oregon (WMO). The waste subject to the proposed license is proposed to be delivered from NTS to the Riverbend Landfill, which is a WMO facility. 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 applicant operates both a garbage hauling company that has previously operated entirely outside the Metro boundary and an out-of-region transfer station. The applicant has no previous record regarding compliance with Metro but is regulated by both the DEQ and Yamhill County (for the transfer station) and by the City of Sherwood (for the hauling company) and has a good compliance record with all applicable requirements.

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

The majority of the applicant's hauling accounts lie outside the Metro region. In order to route its trucks efficiently, the applicant asserts that its trucks must cross the Metro jurisdictional boundary and co-mingle in-Metro waste with out-of-Metro waste. In order to determine the appropriate fees and taxes owed to Metro, NGS proposes to multiply the number of in-Metro cans and carts by the average weight the same size containers as determined by quarterly weight studies used to allocate disposal costs between other jurisdictions where NGS operates. Staff finds this to be a reasonable and verifiable procedure.

### **3. Anticipated Effects**

The effect of Resolution No. 04-3484 will be to issue an NSL to Newberg Garbage Service, Inc., for delivery of up to 160 tons per fiscal year of residential and commercial solid waste, including putrescible waste, to the Newberg Transfer Station.

### **4. Budget Impacts**

The regional system fee and excise tax will continue to be collected on in-Metro waste delivered to NTS under authority of the proposed NSL. The budget impact, for 160 tons annually, would be negligible.

## **RECOMMENDED ACTION**

The Chief Operating Officer recommends approval of Resolution No. 04-3484, finding that the proposed license 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.