

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A) RESOLUTION NO. 17-4837
NEW NON-SYSTEM LICENSE TO THE BOEING COMPANY)
FOR TRANSPORT AND DISPOSAL OF NON-RECOVERABLE) Introduced by Martha J. Bennett,
SOLID WASTE, INCLUDING PUTRESCIBLE WASTE AT THE) Chief Operating Officer, with the
COVANTA WASTE-TO-ENERGY FACILITY LOCATED IN) concurrence of Tom Hughes,
BROOKS, OREGON) 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, The Boeing Company holds Metro Solid Waste Facility Non-System License No. N-140-16 which expires on December 31, 2017; and

WHEREAS, The Boeing Company filed a complete application seeking a new, replacement non-system license to deliver non-recoverable 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, Metro Code Chapter 5.05 provides that the Chief Operating Officer will review applications for non-system licenses for putrescible waste and that the Metro Council will approve or deny them; and

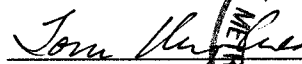
WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

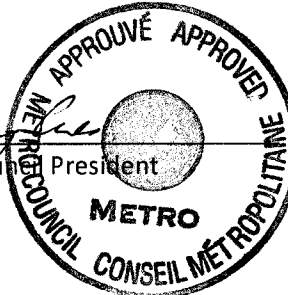
WHEREAS, the Chief Operating Officer recommends that Metro issue a new non-system license to The Boeing Company with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:


1. The non-system license application of The Boeing Company 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 The Boeing Company a new Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 16 day of November, 2017.


Tom Hughes, Council President



Approved as to Form:


Alison R. Kean, Metro Attorney

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

No. N-140-17

LICENSEE:
The Boeing Company 19000 NE Sandy Blvd Gresham, OR 97230
CONTACT PERSON:
Mike Bernard Phone: (971) 221-1905 E-mail: michael.p.bernard@boeing.com
MAILING ADDRESS:
The Boeing Company P.O. Box 20487 Portland, OR 97294

ISSUED BY METRO:

Paul Slyman
Property and Environmental Services Director

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Non-recoverable solid waste commingled with putrescible waste, including restroom and lunchroom waste, and special waste consisting of oily solids, absorbent material, shop cleanup debris, non-hazardous shot-blasting residue and floor sweepings including mixed metal chips generated at the Boeing Company site located at 19000 NE Sandy Blvd in Gresham, Oregon.
2	CALENDAR YEAR TONNAGE ALLOCATION
	The licensee is authorized to transport to the non-system facility listed in Section 3 up to 1,000 tons per calendar year of the waste described in Section 1.
3	NON-SYSTEM FACILITY
	<p>The licensee 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>Metro issues this license 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 6.</p>
4	TERM OF LICENSE
	The license term commences on November 30, 2017, and expires December 31, 2019, unless terminated sooner under Section 10.
5	REPORTING OF ACCIDENTS AND CITATIONS
	The licensee must 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	MATERIAL MANAGEMENT
	<p>The licensee is authorized to deliver the waste described in Section 1 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 must accept all solid waste that is transported under authority of this license for the sole purpose of processing and composting on-site. The licensee must not dispose of any source-separated recyclable material, except as provided in Section 7; and(b) The non-system facility must receive, manage, process, and compost all solid waste that is transported under authority of this license in accordance with all applicable local, state and federal laws, rules, regulations, ordinances, orders, and permits.

7	RECORD KEEPING AND REPORTING
	<ul style="list-style-type: none">(a) The licensee must keep and maintain accurate records of the amount of all waste that the licensee delivers to the non-system facility described in Section 3. These records include the information specified in <u>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements</u>. No later than the 15th day of each month, beginning with the first month following the commencement date of this license, the licensee must transmit to Metro in an electronic format prescribed by Metro the records required that apply to the preceding month.(b) The licensee must:<ul style="list-style-type: none">i. Transmit to Metro the records required under Section 6(a) above 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.(c) So long as Metro provides at least three business days written notice, the licensee must make all records available to Metro (or Metro's designated agent) for inspection or copying or both. The licensee must also 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.



8	ADDITIONAL LICENSE CONDITIONS
	<p>This license is subject to the following conditions:</p> <ul style="list-style-type: none">(a) The transport of solid waste to the non-system facility, listed in Section 3, authorized by this license is subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.(b) The COO may amend or terminate this license 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 be transferred to, and disposed of at, a facility other than the facility listed in Section 3;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; orv. The non-system facility listed in Section 3 generates malodors that are detectable off-site.(c) In addition to subsections (b)(i) through (b)(v) above, this license is subject to amendment, modification, suspension, or termination pursuant to the Metro Code.(d) The licensee may not transfer or assign any right or interest in this license without Metro’s prior written approval.(e) This license is subject to modification or termination by the COO 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.(f) This license only authorizes the transport of solid waste to the facility listed in Section 3. The licensee is prohibited from transporting waste generated from within the Metro boundary to any non-system facility other than that specified in this license unless Metro authorizes such in writing.

9	COMPLIANCE WITH LAW
	<p>The licensee must fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to</p>



	<p>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 are deemed part of this license as if specifically set forth herein.</p>
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10	INDEMNIFICATION
	<p>The licensee must 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, 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. 17-4837 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM LICENSE TO THE BOEING COMPANY FOR TRANSPORT AND DISPOSAL OF NON-RECOVERABLE SOLID WASTE, INCLUDING PUTRESCIBLE WASTE AT THE COVANTA WASTE-TO-ENERGY FACILITY LOCATED IN BROOKS, OREGON

November 1, 2017

Prepared by: Hila Ritter
(503) 797-1862

Approval of Resolution No. 17-4837 will authorize the Chief Operating Officer (COO) to issue a new non-system license (NSL) to The Boeing Company (Boeing) to annually deliver up to 1,000 tons of non-recoverable solid waste and putrescible solid waste from its facility within the Metro region to the Covanta Waste-to-Energy Facility (Covanta) in Marion County, Oregon. The proposed NSL replaces an existing NSL¹ that currently authorizes 500 tons per calendar year and is set to expire on December 31, 2017. The proposed NSL includes an increased tonnage authorization.

BACKGROUND

Boeing seeks to replace its NSL to transport non-recoverable solid waste and putrescible waste generated within the Metro region to Covanta with an NSL with an increased tonnage amount. Covanta is a non-system waste-to-energy facility located outside of the region. Metro Code Section 5.05.040 prohibits any person from transporting solid waste to a non-system facility without an appropriate license from Metro. The proposed NSL is subject to Metro Council approval because it involves putrescible waste.²

The Applicant

The applicant, Boeing, operates an airplane parts manufacturing and assembly facility located at 19000 NE Sandy Blvd. in Gresham, Oregon (Metro Council District 1). Boeing routinely generates miscellaneous non-recoverable wastes at its facility which includes office, restroom, and lunchroom waste and special waste consisting of oily solids, absorbent material, shop cleanup debris, non-hazardous shot-blasting residue, and floor sweepings including mixed metal chips. The company makes efforts to reduce, reuse, and recycle waste and has implemented an internal diversion program in which it tracks its recovery efforts for a variety of materials generated at the site including metals, paper, cardboard, glass, wood, food waste, and landscape waste. As part of these sustainability efforts, Boeing prefers to send its non-recoverable wastes to a waste-to-energy facility instead of landfills for disposal.

Boeing has been transporting miscellaneous non-recoverable waste including putrescible waste to Covanta under authority of an NSL since October 2013.³ The current license will expire on December 31, 2017. The licensee transported approximately 360 tons to Covanta in calendar year 2016, and about 335 tons through September of calendar year 2017.

Boeing seeks to increase its tonnage authorization because overall production at the plant has increased. On September 13, 2017, Boeing submitted a complete application requesting that Metro

¹ N-140-16

² Metro Code Section 5.05.110

³ NSL No. N-140-13

replace its existing NSL with a tonnage authorization of 1,000 tons per calendar year – an increase in 500 tons per calendar year.

ANALYSIS & INFORMATION

1. Known Opposition

There is no known opposition to the proposed NSL.

2. Legal Antecedents

Metro Code Section 5.05.040 prohibits any person from utilizing a non-system facility without an appropriate license from Metro. Additionally, Metro Code Section 5.05.140 provides that, when determining whether or not to approve an NSL application, the Metro Council will 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. Air emissions from the facility are controlled through the use of high efficiency combustion within the furnace/boiler as well as by selective non-catalytic reduction, spray dryer absorbers, fabric filter baghouses and an activated carbon injection system. The ash generated at the facility is then disposed, or used beneficially, in accordance with Oregon Department of Environmental Quality (DEQ) requirements.

- (2) *The non-system facility owner's and operator's regulatory compliance record with federal, state and local requirements, including but not limited to public health, safety and environmental regulations;*

Covanta holds a DEQ Solid Waste Energy Recovery Permit.⁴ No formal enforcement actions have been taken at Covanta by DEQ in the last five years and 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 regulations.

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

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 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;*

⁴ Oregon DEQ permit #364

Boeing has an aggressive internal recycling program and it seeks to deliver only its non-recyclable waste, including putrescible solid waste, to Covanta.

The Metro-area waste that is delivered to Covanta is not included in Metro's recovery rate calculation because state statute⁵ stipulates that only those wastesheds that burn mixed solid waste for energy recovery within their wasteshed boundaries may count a portion of it towards their DEQ recovery rate calculation. Marion County is the only wasteshed within Oregon that hosts a waste-to-energy facility within its boundaries; therefore, it is the only wasteshed that is currently allowed to include a portion of the in-County waste that is delivered to Covanta in its recovery rate. Approval of the proposed license renewal is not expected to impact the Metro region's recycling and waste reduction efforts.

(5) *The proposed non-system license's effect with Metro's existing contractual arrangements;*

Through 2019, Metro has a contractual agreement 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 be transported to a waste to energy facility rather than disposal. Therefore, approval of the proposed license will not conflict with Metro's disposal contract.

(6) *The applicant's record 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 regulations; and*

The applicant has a good record of compliance with regard to Metro regulations.

(7) *Any other factor the Chief Operating Officer considers appropriate.*

Covanta is the primary disposal site for solid waste generated within Marion County. Marion County generally supports the Metro-authorized flow of solid waste to Covanta.

3. Anticipated Effects

The effect of Resolution No. 17-4837 will be to issue a replacement NSL authorizing Boeing to transport up to 1,000 tons per calendar year of non-recoverable solid waste and putrescible solid waste to Covanta. The proposed NSL commences on November 30, 2017 and expires on December 31, 2019.

4. Budget/Rate Impacts

The waste covered under the proposed NSL will be delivered to Covanta. Covanta is not a general-purpose landfill and this NSL will not impact Metro's obligations under its disposal contract. Notwithstanding that this proposed NSL will authorize 500 additional tons to Covanta, 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 replacement of an existing NSL.⁶

⁵ ORS 465A.010(4)(f)(B)

⁶ NSL No. N-140-16

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 17-4837, finding that the license application satisfies the requirements of Metro Code Section 5.05.140, and issuance of a new NSL substantially similar to the NSL attached to the resolution as Exhibit A.

HR
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