

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING) RESOLUTION NO. 18-4930
OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO)
EPSON PORTLAND, INC. FOR TRANSPORT AND DISPOSAL OF) Introduced by Chief Operating
NON-RECOVERABLE SOLID WASTE, INCLUDING PUTRESCIBLE) Officer Martha Bennett in
WASTE AT THE COVANTA WASTE-TO-ENERGY FACILITY) concurrence of Council President
LOCATED IN BROOKS, OREGON.) Tom Hughes,

WHEREAS, the Metro Code requires a non-system license of any person that transports 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-028-17, which expires on December 31, 2018; and

WHEREAS, Epson has filed a complete application seeking renewal of the non-system license to transport non-recoverable solid waste, including 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 an application for a non-system license to transport putrescible waste and that Metro Council has authority to approve or deny the application; 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 29th day of November 2018.



Tom Hughes, Council President

Approved as to Form:



Nathan A. S. Sykes, Metro Attorney



600 NE Grand Ave.
Portland, OR 97232-2736
oregonmetro.gov

METRO SOLID WASTE FACILITY NON-SYSTEM LICENSE

No. N-028-19

LICENSEE:
Epson Portland, Inc. 3950 NE Aloclek Place Hillsboro, OR 97124
CONTACT PERSON:
Doris Gonzalez Phone: (503) 617-5783 E-mail: doris.gonzalez@epi.epson.com
MAILING ADDRESS:
Epson Portland, Inc. 3950 NE Aloclek Place Hillsboro, OR 97124

ISSUED BY METRO:

Martha J. Bennett, Metro Chief Operating Officer

Date

1	NATURE OF WASTE COVERED BY LICENSE
	<p>Industrial solid waste, consisting primarily of non-recoverable plastics, commingled with putrescible waste, including restroom and food waste, and off-specification and counterfeit ink cartridges received or generated at the Epson Portland, Inc. site located at 3950 NW Alcock Place in Hillsboro, Oregon.</p>
2	CALENDAR YEAR TONNAGE LIMITATION
	<p>Licensee is authorized to transport to the non-system facility described in Section 3 of this license up to 425 tons per calendar year of the waste described in Section 1 of this license.</p>
3	NON-SYSTEM FACILITY
	<p>The licensee is authorized to transport 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
	<p>The term of this license commences on January 1, 2019 and expires on December 31, 2020, unless terminated sooner under Section 7 of this license.</p>
5	REPORTING OF ACCIDENTS AND CITATIONS
	<p>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.</p>

6	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee must keep and maintain accurate records of the amount of all waste that the Licensee transports to the non-system facility described in Section 3 of this license. 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>.</p> <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 must 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 must, 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 is subject to the following conditions:</p> <p>(a) The permissive 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.</p> <p>(b) This license is 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; 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 transported to, and disposed of at, a facility other

	<p>than the facility listed in Section 3.</p> <p>(c) This license, in addition to subsections (b)(i) through (b)(iii), above, is subject to amendment, modification, suspension, or termination pursuant to the Metro Code.</p> <p>(d) The Licensee cannot transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(e) This license will 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 transport of solid waste to the facility listed in Section 3. Transport 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 must 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 are deemed part of this license as if specifically set forth herein.</p>

9	INDEMNIFICATION
	<p>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, 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. 18-4930 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO EPSON PORTLAND, INC. FOR TRANSPORT AND DISPOSAL OF PUTRESCIBLE WASTE AT THE COVANTA WASTE-TO-ENERGY FACILITY IN BROOKS, OREGON

November 1, 2018

Prepared by: Will Ennis
(503) 797-1667

Approval of Resolution No. 18-4930 will authorize the Chief Operating Officer (COO) to issue a renewed non-system license (NSL) to Epson Portland, Inc. (Epson) to annually transport up to 425 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 a renewal of an existing NSL that is set to expire on December 31, 2018.¹

BACKGROUND

The applicant, Epson, is a manufacturing facility located at 3950 NE Aloclek Drive in Hillsboro, Oregon (Metro District 4). Epson routinely generates manufacturing wastes that consist primarily of non-recoverable industrial plastics and off-specification ink cartridges that are mixed with putrescible waste from the facility's offices, restrooms, and lunchrooms. The facility also serves as a collection point for counterfeit Epson ink cartridges that are delivered to Covanta for destruction.

In November 2016 Epson was issued a renewal of its existing NSL.² The NSL, which is set to expire on December 31, 2018, authorizes Epson to transport a total maximum of 425 tons of solid waste to Covanta per calendar year. In 2017, Epson delivered approximately 202 tons to Covanta under the NSL and delivered about 166 tons between January 1 and September 30, 2018.

On August 15, 2018, Epson filed an application seeking a renewed NSL to transport up to 425 tons per calendar year of industrial solid waste and putrescible solid waste to Covanta. This is the same annual tonnage limit that Epson is currently authorized to transport under its existing NSL. The proposed license is subject to approval or denial by the Metro Council because, in addition to the non-recoverable industrial plastics, it also authorizes the delivery of putrescible waste to a non-system facility.³

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed NSL.

¹ Metro Solid Waste Facility Non-System License No. N-028-17

² Metro Solid Waste Facility Non-System Licenses Nos. N-028-15

³ Metro Code Section 5.05.110

2. Legal Antecedents

Metro Code Section 5.05.110 prohibits any person from utilizing non-system facilities 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 determine whether to issue a non-system license:

- (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 those 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 delivered to a disposal facility permitted by the Oregon Department of Environmental Quality (DEQ).

- (2) *The non-system facility's 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 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 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 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 non-recyclable waste and putrescible solid waste, to Covanta as it has done under authority of previous NSLs since 2000. The Metro-area waste that is delivered to Covanta is not included in Metro's recovery rate calculation because state statute⁴ 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

⁴ ORS 465A.010(4)(f)(B)

Covanta in its recovery rate. Approval of the proposed license 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;*

Until the end of 2019 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 this 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.

- (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 factors as the Chief Operating Officer deems 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, but has expressed concerns about capacity to accept new customers.

3. Anticipated Effects

The effect of Resolution No. 18-4930 will be to issue a renewed NSL authorizing Epsom to transport up to 425 tons per calendar year of industrial solid waste and putrescible solid waste to Covanta for energy recovery. The proposed NSL would commence on January 1, 2019 and expire on December 31, 2020.

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 proposed NSL is a renewal of an existing authorization and the financial impact of this NSL has already been factored into the budget.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 18-4930, finding that the license renewal satisfies the requirements of Metro Code Chapter 5.05, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

WE