

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)	RESOLUTION NO. 01-3042
EXECUTIVE OFFICER TO GRANT A METRO)	
SOLID WASTE FACILITY LICENSE TO)	Introduced by Mike Burton,
AMERICAN COMPOST AND RECYCLING,)	Executive Officer
LLC.		

WHEREAS, American Compost and Recycling, LLC was previously issued a Metro Solid Waste Franchise to perform vermicomposting of vegetative food waste; and

WHEREAS, the facility has changed ownership and now specializes in yard debris composting, which is a licensable activity under Code chapter 5.01; and

WHEREAS, the new owners of American Compost and Recycling, LLC have applied for a Metro Yard Debris Composting Facility License; and

WHEREAS, American Compost and Recycling, LLC's application is complete and in conformance with the requirements of chapter 5.01 of the Metro Code; and

WHEREAS, the Executive Officer finds the proposed new Solid Waste Facility License for yard debris composting to be consistent with the Regional Solid Waste Management Plan; and

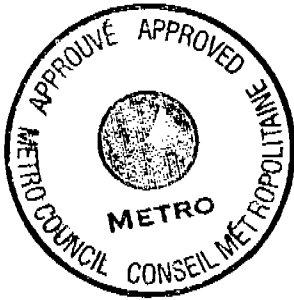
WHEREAS, Metro staff has analyzed the application and recommended approval of the applicant's request for a Solid Waste Facility License for yard debris composting; and

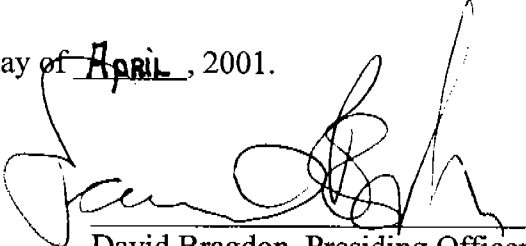
WHEREAS, The resolution was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:


1. The application of American Compost and Recycling, LLC for a Solid Waste Facility License for yard debris composting is approved.
2. The Executive Officer is authorized to grant a Solid Waste Facility License for yard debris composting to American Compost and Recycling, LLC that shall be substantially similar to the license attached as Exhibit A.
3. The existing Solid Waste Franchise originally issued to American Compost and Recycling, Inc. shall be terminated as of the effective date of the new Solid Waste Facility License.

ADOPTED by the Metro Council this 5th day of April, 2001.




David Bragdon, Presiding Officer

Approved as to Form:


Daniel B. Cooper, General Counsel

METRO SOLID WASTE FACILITY LICENSE

Number YD-037-01

Issued to American Compost & Recycling, LLC

Issued by

Metro

600 NE Grand Avenue

Portland, OR 97232

Telephone: (503) 797-1650

Issued in accordance with the provisions of Metro Code Chapter 5.01

LICENSEE: American Compost & Recycling, LLC 20200 SW Stafford Road Tualatin, OR 97062 Tel.: (503) 638-1011 Fax: 638-0754	FACILITY NAME AND LOCATION: American Compost & Recycling, LLC 9707 N. Columbia Blvd. Portland, OR 97283
OPERATOR: American Compost & Recycling, LLC 20200 SW Stafford Road Tualatin, OR 97062 Tel.: (503) 638-1011 Fax: 638-0754	PROPERTY OWNER: FS Properties, LLC 20200 SW Stafford Road Tualatin, OR 97062 Tel.: (503) 638-1011 Fax: 638-0754

This license is granted to the licensee named above and may not be transferred without the prior written approval of the Executive Officer. Subject to the conditions stated in this license document, the licensee is authorized to operate and maintain a yard debris composting facility, and to accept the solid wastes and perform the activities authorized herein.

METRO

American Compost & Recycling, LLC

Signature

Signature of Licensee

Mike Burton, Metro Executive Officer

Print name and title

Date

Date



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1.0 ISSUANCE

- | | | |
|------------|--|---|
| 1.1 | Licensee | American Compost & Recycling, LLC
20200 SW Stafford Road
Tualatin, OR 97062
Tel.: (503) 638-1011 Fax: 638-0754 |
| 1.2 | Contact | Casey Stroupe, President |
| 1.3 | License Number | Metro Solid Waste Facility License Number YD-037-01 |
| 1.4 | Term of License | This license is issued for a term of five (5) years as authorized by Metro Code Chapter 5.01. The term commences from the date this license is signed by Metro. |
| 1.5 | Facility name and mailing address | American Compost & Recycling, LLC
20200 SW Stafford Road
Tualatin, OR 97062
Tel.: (503) 638-1011 Fax: 638-0754 |
| 1.6 | Operator | American Compost & Recycling, LLC
20200 SW Stafford Road
Tualatin, OR 97062
Tel.: (503) 638-1011 Fax: 638-0754 |
| 1.7 | Facility legal description | Section 36, Township 2N, Range 1W
Multnomah County, State of Oregon |
| 1.8 | Property owner | FS Properties, LLC
20200 SW Stafford Road
Tualatin, OR 97062
Tel.: (503) 638-1011 Fax: 638-0754 |
| 1.9 | Permission to operate | Through a separate corporation (FS Properties, LLC) the licensee owns the property on which the facility is sited. |



2.0 CONDITIONS AND DISCLAIMERS

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|-------------|------------------------------|--|
| 2.1 | Guarantees | The granting of this license shall not vest any right or privilege in the licensee to receive specific quantities of solid waste at the direction of Metro during the term of the license. |
| 2.2 | Non-exclusive license | The granting of this license shall not in any way limit Metro from granting other solid waste licenses within the District. |
| 2.3 | Property rights | The granting of this license does not convey any property rights in either real or personal property, nor does it authorize any injury to private property or invasion of property rights. |
| 2.4 | No recourse | The licensee shall have no recourse whatsoever against the District or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this license or because of the enforcement of the license or in the event the license or any part thereof is determined to be invalid. |
| 2.5 | Release of liability | Metro, its elected officials, employees, or agents do not sustain any liability on account of the granting of this license or on account of the construction, maintenance, or operation of the facility pursuant to this license. |
| 2.6 | Binding nature | The conditions of this license are binding on the licensee. The licensee is liable for all acts and omissions of the licensee's contractors and agents. |
| 2.7 | Waivers | To be effective, a waiver of any terms or conditions of this License must be in writing and signed by the Metro Executive Officer. |
| 2.8 | Effect of waiver | Waiver of a term or condition of this License shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition. |
| 2.9 | Choice of law | The License shall be construed, applied and enforced in accordance with the laws of the State of Oregon. |
| 2.10 | Enforceability | If any provision of this License is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this License shall not be affected. |



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| 2.11 | License not a waiver | Nothing in this license shall be construed as relieving any owner, operator, or licensee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies. |
| 2.12 | License not limiting | Nothing in this license is intended to limit the power of a federal, state, or local agency to enforce any provision of law relating to the solid waste facility that it is authorized or required to enforce or administer. |
| 2.13 | Inadvertent composting | Nothing in this license is intended to authorize or establish standards or otherwise approve of inadvertent composting resulting from the storage of organic materials. |
| 2.14 | Definitions | Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01. |

3.0 AUTHORIZATIONS

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|------------|---|---|
| 3.1 | Purpose | This section of the license describes the wastes that the licensee is authorized to accept at the facility, and the activities the licensee is authorized to perform at the facility. |
| 3.2 | General conditions on solid wastes | The licensee is authorized to accept at the facility only the solid wastes described in this section. The licensee is prohibited from knowingly receiving any solid waste not authorized in this section. |
| 3.3 | General conditions on activities | The licensee is authorized to perform at the facility only those activities that are described in this section. |
| 3.4 | Authorized materials | The licensee is authorized to accept source-separated yard debris, leaves from municipal collection programs, landscape waste, and other green wastes if specifically authorized by the Director of the Regional Environmental Management Department. The licensee is also authorized to accept clean wood wastes (e.g. untreated lumber and wood pallets). No other wastes shall be accepted at the Facility unless specifically authorized in writing by Metro. |



4.0 LIMITATIONS AND PROHIBITIONS

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| 4.1 | Purpose | This section of the license describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility. |
| 4.2 | Prohibited waste | The Licensee is prohibited from receiving, processing or disposing of any solid waste not authorized in this License. The licensee shall not knowingly accept or retain any material amounts of the following types of wastes: non-green feedstocks, special wastes as defined in chapter 5.02 of the Metro Code, materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the DEQ. |
| 4.3 | No disposal of recyclable materials | Source-separated recyclable materials, yard debris and organic materials accepted at the facility may not be disposed of by landfilling. |
| 4.4 | Limits not exclusive | Nothing in this section of the license shall be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this license document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit. |

5.0 OPERATING CONDITIONS

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|------------|---------------------------|---|
| 5.1 | Purpose | This section of the license describes criteria and standards for the operation of the facility. |
| 5.2 | Qualified Operator | The licensee shall provide an operating staff qualified to carry out the functions required by this license and to otherwise ensure compliance with Metro Code Chapter 5.01. |
| 5.3 | Operating plan | <p>The licensee shall establish and follow procedures for accepting, managing and processing loads of solid waste received at the facility. Such procedures must be in writing and in a location where facility personnel and the Executive Officer can readily reference them. The licensee may, from time to time, modify such procedures. The procedures shall include at least the following:</p> <ul style="list-style-type: none">a. Methods of inspecting incoming loads for the presence of |



prohibited or unauthorized waste.

- b. Methods for managing and transporting for disposal at an authorized disposal site each of the prohibited or unauthorized wastes if they are discovered at the facility.
- c. Objective criteria for accepting or rejecting loads.
- d. Methods for measuring and keeping records of incoming waste
- e. A general description of any treatment the wastes will receive prior to processing (e.g., chipping, shredding) and the maximum length of time required to process each day's receipt of waste into windrows or other piles.
- f. The specifications to which the windrows or other piles will be constructed (width, height, and length) and calculation of the capacity of the facility.
- g. An estimate of the length of time necessary to complete the process.
- h. Methods for monitoring and adjusting temperature, oxygen level and moisture level of the material during processing.

5.4 Capacity

Storage and handling capacities shall not be exceeded. The facility shall have sufficient processing capacity to handle projected incoming volumes of materials. Facility design shall address specific capacity and storage issues, including:

- a. Capacity for incoming wastes waiting to be processed.
- b. Capacity for proper handling, storage, and removal of hazardous or other non-permitted wastes delivered to or generated by the facility.
- c. Capacity for finished product storage.

5.5 Fire prevention

The operator shall provide fire prevention, protection, and control measures, including but not limited to, temperature monitoring of windrows, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from the composting pad/processing area.

5.6 Adequate vehicle accommodation

Vehicles containing landscape waste or yard debris feedstock/waste shall not park or queue on public streets or roads except under emergency conditions. Adequate off-street parking and queuing for vehicles shall be provided.



- 5.7 Managing authorized wastes** All authorized solid wastes received at the facility must be either (a) processed, (b) appropriately stored, or (c) properly disposed of, within a timeframe that avoids creating nuisance conditions or safety hazards.
- 5.8 Storage** Stored materials and solid wastes shall be suitably contained and removed at sufficient frequency to avoid creating nuisance conditions or safety hazards. Storage areas must be maintained in an orderly manner and kept free of litter.
- 5.9 Litter and airborne debris** The licensee shall operate the facility in a manner that is not conducive to the generation of litter and airborne debris. The licensee shall:
- Take reasonable steps to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit.
 - Construct, maintain, and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit.
 - Keep all areas within the site and all vehicle access roads within $\frac{1}{4}$ mile of the site free of litter and debris.
- 5.10 Odor** The licensee shall operate the facility in a manner that is not conducive to the generation of odors. The licensee shall:
- Clean the areas and equipment that come into contact with solid waste on a regular basis.
 - Establish and follow procedures for minimizing odor at the facility. Specific measures an operator shall take to control odor include but are not limited to adherence to the contents of a required odor minimization plan (see Section 6.0). Such procedures must be in writing and in a location where facility personnel and Metro inspectors can readily reference them. The licensee may modify such procedures from time to time.
- 5.11 Vectors** The licensee shall operate the facility in a manner that is not conducive to infestation of rodents, insects, or other animals capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.
- 5.12 Noise** The licensee shall operate the facility in a manner that controls the creation of excessive noise to the extent necessary to meet applicable



regulatory standards and land-use regulations.

- 5.13 Water quality** The licensee shall operate and maintain the facility to prevent contact of solid wastes with stormwater runoff and precipitation. Methods must be consistent with the controlling agency (local jurisdiction and DEQ).
- 5.14 Public Access** Public access to the facility shall be controlled as necessary to prevent unauthorized entry and dumping.
- 5.15 Signage** The licensee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, legible, and shall contain at least the following information:
- a. Name of the facility
 - b. Address of the facility;
 - c. Emergency telephone number for the facility;
 - d. Operating hours during which the facility is open for the receipt of authorized waste;
 - e. Fees and charges;
 - f. Metro's name and telephone number 797-1650; and
 - g. A list of authorized and prohibited wastes.
- 5.16 Complaints** The licensee shall respond to all written complaints of nuisances (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors). If licensee receives a complaint, licensee shall:
- a. Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of unsuccessful attempts; and
 - b. Log all such complaints by name, date, time and nature of complaint. Each log entry shall be retained for one year and shall be available for inspection by Metro.
- 5.17 Access to license document** The licensee shall maintain a copy of this Metro Solid Waste Facility License on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.



6.0 ODOR MINIMIZATION PLAN

- 6.1 Purpose** This section describes the minimum requirements that must be contained in an odor minimization plan.
- 6.2 Plan requirements** The operator shall have an odor minimization plan. The plan must include methods to minimize, manage and monitor all odors, including odors produced by grass clippings. The plan must include:
- a. A management plan that describes the methods that will be used to minimize, manage, and monitor all odors of any derivation including malodorous loads received at the facility;
 - b. Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility;
 - c. Additional odor-minimizing measures, which may include the following:
 - (1) Avoidance of anaerobic conditions in the composting material;
 - (2) Use of mixing for favorable composting conditions;
 - (3) Formation of windrow or other piles into a size and shape favorable to minimizing odors; and
 - (4) Use of end-product compost as cover to act as a filter during early stages of composting.
 - d. Specification of a readily-available supply of bulking agents, additives or odor control agents.
 - e. Procedures for avoiding delay in processing and managing landscape waste and yard debris during all weather conditions.
 - f. Methods for taking into consideration the following factors prior to turning or moving composted material:
 - (1) Time of day;
 - (2) Wind direction;
 - (3) Percent moisture;
 - (4) Estimated odor potential; and
 - (5) Degree of maturity.
- 6.3 Grass clippings** Grass clippings must be processed in a timely manner to avoid nuisance conditions.



- 6.4 Carbon source storage** Incoming leaves, brush or woody landscape waste may be stored in designated areas for use as a carbon source and bulking agent, rather than being processed into windrows or other piles.

7.0 RECORD KEEPING AND REPORTING

- 7.1 Purpose** This section of the license describes the record keeping and reporting requirements. The Licensee shall effectively monitor facility operation and maintain accurate records of the information described in this section.
- 7.2 Feedstocks received** Estimated amount of feedstock received and quantity of product produced at the facility. Records shall be reported to Metro no later than thirty (30) days following the end of each quarter. The report shall be signed and certified as accurate by an authorized representative of licensee.
- 7.3 Special occurrences** Records of any special occurrences encountered during operation and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.
- 7.4 Nuisance complaints** For every nuisance complaint (e.g. odor, noise, dust, vibrations, litter) received, the licensee shall record:
- a. The nature of the complaint;
 - b. The date the complaint was received;
 - c. The name, address, and telephone number of the person or persons making the complaint; and
 - d. Any actions taken by the operator in response to the complaint.
- Records of such information shall be made available to Metro and local governments upon request.
- 7.5 Regulatory information submittals** The licensee shall submit to Metro duplicate copies of regulatory information submitted to the DEQ and local jurisdictions pertaining to the facility, at the same time as submittal to DEQ and/or a local jurisdiction.



8.0 FEES AND RATE SETTING

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|------------|----------------------------|---|
| 8.1 | Purpose | This section of the license specifies fees payable by the licensee, and describes rate regulation by Metro. |
| 8.2 | Annual fee | The licensee shall pay a \$300 annual license fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the license fee at any time by action of the Metro Council. |
| 8.3 | Fines | Each violation of a license condition shall be punishable by fines as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation. Metro reserves the right to change fines at any time by action of the Metro Council. |
| 8.4 | Rates not regulated | The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro. |

9.0 INSURANCE REQUIREMENTS

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| 9.1 | Purpose | The section describes the types of insurance that the licensee shall purchase and maintain at the licensee's expense, covering the licensee, its employees, and agents. |
| 9.2 | General liability | The licensee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage. |
| 9.3 | Automobile | The licensee shall carry automobile bodily injury and property damage liability insurance. |
| 9.4 | Coverage | Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000. |
| 9.5 | Additional insureds | Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSURED. |



- 9.6 Worker's Compensation Insurance** The licensee, its subcontractors, if any, and all employers working under this license, are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Licensee shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If licensee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
- 9.7 Notification** The licensee shall give at least 30 days prior written notice to the Executive Officer of any lapse or proposed cancellation of insurance coverage.

10.0 ENFORCEMENT

- 10.1 Generally** Enforcement of this license shall be as specified in Metro Code.
- 10.2 Authority vested in Metro** The power and right to regulate, in the public interest, the exercise of the privileges granted by this license shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against licensee.
- 10.3 No Enforcement Limitations** Nothing in this license shall be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this license be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this license or the licensee's operation of the facility.

11.0 MODIFICATIONS

- 11.1 Modification** At any time during the term of the license, either the Executive Officer or the licensee may propose amendments or modifications to this license.



**11.2 Modification,
suspension or
revocation by
Metro**

The Executive Officer may, at any time before the expiration date, modify, suspend, or revoke this license in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:

- a. Violation of the terms or conditions of this license, Metro Code, or any applicable statute, rule, or standard;
- b. Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this license;
- c. Failure to disclose fully all relevant facts;
- d. A significant release into the environment from the facility;
- e. Significant change in the character of solid waste received or in the operation of the facility;
- f. Any change in ownership or control, excluding transfers among subsidiaries of the licensee or licensee's parent corporation;
- g. A request from the local government stemming from impacts resulting from facility operations.
- h. Compliance history of the licensee.

12.0 GENERAL OBLIGATIONS

**12.1 Compliance with
the 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 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this license as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the license document, as well as any existing at the time of the issuance of the license but not cited or attached, and permits or conditions issued or modified during the term of the license.

12.2 Indemnification

The licensee shall indemnify and hold Metro, its employees, agents and elected officials harmless from any and all claims, damages, actions, losses and expenses including attorney's fees, or liability related to or arising out of or in any way connected with the licensee's performance or failure to perform under this license, including patent infringement and any claims or disputes involving subcontractors.



- 12.3 Deliver waste to appropriate destinations** The licensee shall ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits;
- 12.4 Right of inspection and audit** Authorized representatives of Metro may take soil and water samples and perform such inspection or audit as the Regional Environmental Management Director deems appropriate and shall be permitted access to the premises of the facility during normal working hours upon giving reasonable advance notice (not less than 24 hours). Subject to the confidentiality provisions of this license, Metro's right to inspect shall include the right to review, at an office of licensee located in the Portland metropolitan area, all information from which all required reports are derived including all books, records, maps, plans, income tax returns, financial statements, contracts, and other like materials of licensee that are directly related to the operation of the Facility.
- 12.5 Confidential information** Licensee may identify any information submitted to or reviewed by Metro under this Section 10.0 as confidential. Licensee shall prominently mark any information which it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt, any request for disclosure of information identified by licensee as confidential, Metro shall provide Licensee written notice of the request. Franchisee shall have fifteen (15) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. Nothing in this Paragraph 10.7 shall limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such representatives agree to continue to treat such information as confidential and make good faith efforts not to disclose such information.
- 12.6 Compliance by agents** The licensee shall be responsible for ensuring that its agents and contractors operate in compliance with this license.

SOLID WASTE AND RECYCLING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 01-3042, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO GRANT A METRO SOLID WASTE FACILITY LICENSE TO AMERICAN COMPOST AND RECYCLING, L.L.C

Date: March 26, 2001

Presented by: Councilor McLain

Committee Recommendation: At its March 21 meeting, the Committee considered Resolution No. 01-3042 and voted unanimously to send the resolution to the Council for adoption. Voting in favor: Councilors McLain, Monroe and Chair Atherton.

Background: The Metro Code authorizes the issuance of solid waste facility licenses. The most commonly issued licenses have been to yard debris-processing facilities, which are required to be licensed. The Code also provides that a facility can be certified, instead of licensed, if it does not generate more than 10% residual material. Council approval is required for the issuance of original or renewed licenses or for a change of facility ownership.

Committee Discussion: Roy Brower, REM Regulatory Affairs Manager, presented the staff report. Brower explained that the proposed resolution has two principal purposes. First, it converts the regulatory mechanism for the American Compost site from a franchise to a facility license. The site had been operating under the terms of a franchise that was granted prior to the enactment of the facility licensing. Similar facilities are now granted licenses instead of franchises. The second purpose of the resolution would be to recognize a transfer of ownership for American Compost and Recycling, L.L.C. The Metro Code provides that the Council must approve a change in ownership. Brower noted that the facility has been operating for several years at a site on Columbia Blvd in north Portland.

Casey Stroupe, representing American Compost, noted that the facility accepts wood and yard debris. He noted that the facility has not had any neighborhood complaints concerning its operations. He indicated that the company composts materials at its site and that it uses various "turning" and other aeration techniques to minimize odors. In response to questioning, he indicated that the facility charges \$6/cubic yard for disposal or about \$12-15/ton.

**EXECUTIVE SUMMARY
RESOLUTION NO. 01-3042**

**FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO GRANT A METRO
SOLID WASTE FACILITY LICENSE TO AMERICAN COMPOST AND RECYCLING, LLC.**

PROPOSED ACTION

- Approve a Solid Waste Facility License authorizing American Compost and Recycling, LLC to operate a facility that composts yard debris and processes clean wood for hogged fuel.

WHY NECESSARY

- American Compost is presently operating under an “old style” franchise issued in 1997 to the previous owner/operator of the facility. Because the facility has changed ownership, the new operator is required to obtain new operating authority. The new owner/operator of this facility is also the owner/operator of Clackamas Compost.
- American Compost and Recycling, LLC has submitted a Solid Waste Facility License application for Council consideration.

DESCRIPTION

- American Compost and Recycling, LLC occupies a five-acre site located at 9707 N. Columbia Blvd. in Portland, Oregon (Metro District 5). Track-hoes are utilized to form and turn windrows.

ISSUES/CONCERNS

- None

BUDGET/FINANCIAL IMPACTS

- No significant budget impact on Metro.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 01-3042, FOR THE PURPOSE OF
AUTHORIZING THE EXECUTIVE OFFICER TO GRANT A METRO SOLID
WASTE FACILITY LICENSE TO AMERICAN COMPOST AND RECYCLING, LLC.

March 1, 2001

Presented by: Terry Petersen

BRIEF DESCRIPTION OF RESOLUTION

American Compost and Recycling, Inc. has been operating under authority of an "old" Metro Solid Waste Franchise since June, 1997. On August 18, 2000, American Compost and Recycling, Inc. was purchased from Don Chappell by Casey Stroupe, Duane Stroupe, Rick Franklin, and Bernice Franklin who formed a new company called American Compost and Recycling, LLC (AC&R). Approval of Resolution No. 01-3042 will transfer operating authority to the new owners of AC&R and replace the existing Metro Solid Waste Franchise with a Solid Waste Facility License for yard debris composting.

EXISTING LAW

Section 5.01.045 of the Code stipulates that a Solid Waste License is required of any person owning or controlling a facility that processes or reloads yard debris.

The American Compost and Recycling facility performs yard debris composting operations as its primary activity and is therefore required to have a Metro Yard Debris Composting Facility License.

Section 5.01.060 of the Code stipulates that:

- (a) Applications for a Certificate, Franchise or License or for renewal of an existing Certificate, Franchise or License shall be filed on forms or in the format provided by the Executive Officer.*

American Compost and Recycling, LLC submitted a Yard Debris Processing Facility application on forms provided by the Executive Officer. The original application was submitted on August 24, 2000. By letter dated October 2, 2000, the applicant was informed that additional information was needed to complete the application. All the requested information except for confirmation of land use approval was provided on October 25, 2000. Proof of land use approval was provided on January 26, 2001.

- (b) In addition to any information required on the forms or in the format provided by the Executive Officer, all applications shall include a description of the Activities proposed to be conducted and a description of Wastes sought to be accepted.*

The application included detailed descriptions of the feedstock to be accepted and the composting method to be employed.

- (c) *In addition to the information required on the forms or in the format provided by the Executive Officer, applications for a License or Franchise shall include the following information to the Executive Officer:*
- (1) *Proof that the applicant can obtain the types of insurance specified by the Executive Officer during the term of the Franchise or License;*

A certificate of insurance was included with the application.

- (2) *A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;*

By intergovernmental agreement with the Department of Environmental Quality (DEQ), a Metro Yard Debris License substitutes for a DEQ solid waste facility permit. The applicant has provided a copy of its DEQ National Discharge Elimination System Storm Water Discharge Permit (NPDES) as part of the application.

- (3) *A duplicate copy of any closure plan required to be submitted to DEQ, or if DEQ does not require a closure plan, a closure document describing closure protocol for the Solid Waste Facility at any point in its active life;*

A closure protocol was included in the application.

- (4) *A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure, or if DEQ does not require such documents, proof of financial assurance for the costs of closure of the facility;*

A Metro license substitutes for a DEQ permit for this facility. Because compost and hogged fuel are readily marketable commodities, Metro does not require proof of financial assurance

- (5) *Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the Licensee or Franchisee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of section 5.01.180(e) of this chapter if the License or Franchise is revoked or any License or Franchise renewal is refused;*

The applicant owns the underlying property.

- (6) *Proof that the applicant has received proper land use approval; or, if land use approval has not been obtained, a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. Such recommendation may include, but is not limited to a statement of compatibility of the site, the Solid Waste Disposal Facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the Statewide Planning Goals of the Land Conservation and Development Commission;*

The applicant has provided a copy of a January 24, 2001 letter from the City of Portland's Office of Planning and Development Review, Land Use Review Division confirming land use authority for a waste-related use.

- (7) *Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously made, a copy of such permit application, and any permit that has been granted shall be provided.*

The applicant has also provided a copy of its DEQ National Pollutant Discharge Elimination (NPDES) permit No. 1200-COLS.

Section 5.01.067 of the Code stipulates that: applications for licenses filed in accordance with section 5.01.060 shall be reviewed by the Executive Officer and are subject to approval or denial by Metro Council. On the basis of the application submitted and the Executive Officer's investigation concerning the application, the Executive Officer shall formulate recommendations regarding whether the proposed License meets the requirements of section 5.01.060. If the Executive Officer recommends that the application be granted, the Executive Officer shall recommend to the Council specific conditions of the License. Subsequent to receiving the recommendation of the Executive Officer, the Council shall issue an order granting, or denying the application. The Council may attach conditions to the order. If the Council issues an order to deny the application, such order shall be effective immediately.

American Compost and Recycling's application has been reviewed by the Executive Officer. The Executive Officer has conducted an investigation and formulated a recommendation that appears in this report. This staff report presents the Executive Officer's findings as a basis on which the Council may approve or deny Resolution No. 01-3042.

Section 5.01.090 of the Code specifies that a new License application shall be submitted when a Licensee proposes to transfer Control or ownership of the Solid Waste Facility to

any other Person. Any Person in control of a Franchise may not lease, assign, mortgage, sell or otherwise transfer, either in whole or in part, the Franchise to another person unless an application therefor has been filed in accordance with section 5.01.060 and has been granted. The proposed transferee of a Franchise must meet the requirements of this chapter.

It is proposed that a new license be granted to the new owner of the facility to replace the existing franchise granted to the previous owner. The proposed new license will be for a five-year term.

BACKGROUND

American Compost and Recycling, Inc., under the ownership of Don Chappell, was originally franchised by Metro in June, 1997. The facility was franchised rather than licensed because, at the time of application, the operator's plans called for the vermicomposting of vegetative food waste as a pilot project in addition to yard debris composting. However, plans for vermicomposting were never fully realized and, within two years, vermicomposting of vegetative food waste ceased altogether and the facility began processing yard debris only. In late summer, 2000, the facility was acquired by Casey Stroupe et al, DBA FS Properties, LLC.

Mr. Stroupe is also the operator of Clackamas Compost and S & H Logging. Clackamas Compost is a yard debris composting facility licensed by Metro and located on Capps Rd, in Clackamas. S & H Logging previously operated as an unlicensed composting facility and yard debris reload but is presently processing yard debris for hogged fuel only pending its appeal of a Clackamas County land use decision.

BUDGET IMPACT

None

OUTSTANDING QUESTIONS

None

EXECUTIVE OFFICER'S RECOMMENDATION

AC&R is an existing facility that has been operating under Metro authority since June, 1997. Ownership of the facility has changed to a new owner who has considerable experience in yard debris composting and has been found by Metro staff to be a knowledgeable and competent operator. Because of changes that have been made to the Code and because the facility no longer intends to process large amounts of vegetative food waste, a license is now a more appropriate regulatory instrument than a franchise. The Executive Officer therefore recommends approval of Resolution No. 01-3042x, for the purpose of authorizing the Executive Officer to grant a new Metro Yard Debris Composting Facility License to American Compost and Recycling, LLC subject to the

terms and conditions incorporated into the license document attached as “Exhibit A” to Resolution No. 01-3042.

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American Compost and Recycling, LLC

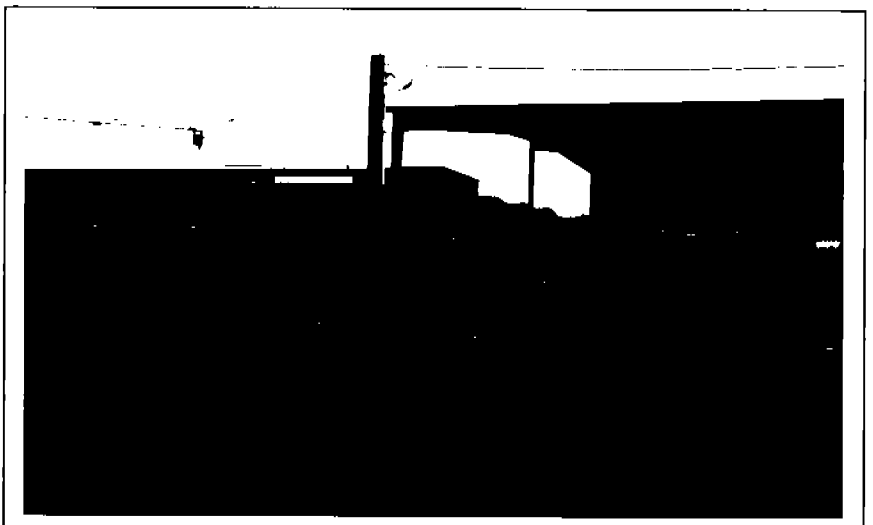
Facility Sign

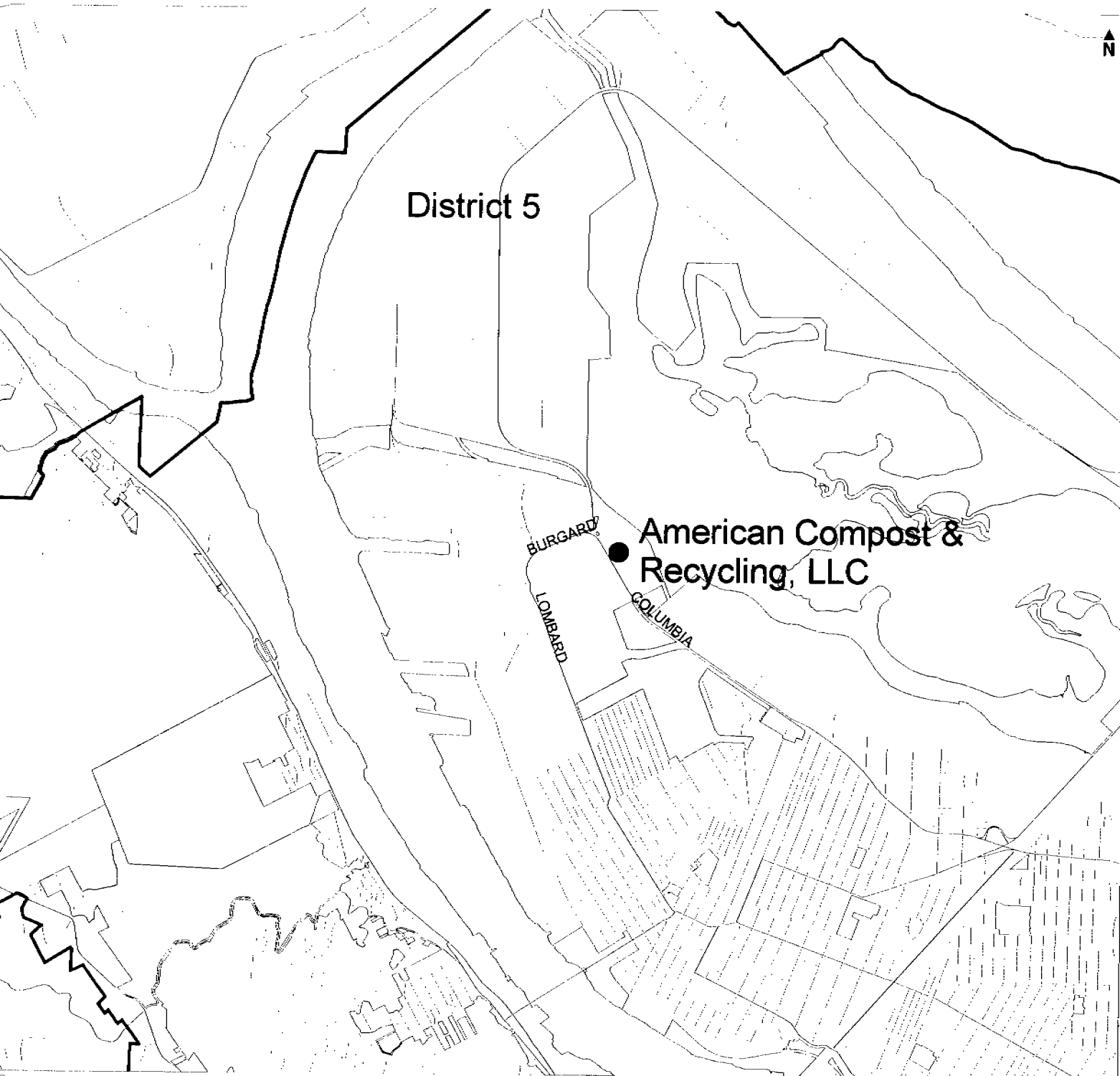


View of Unprocessed Landscape
Waste near Tipping Area



View of processed Hog Fuel





R L I S

REGIONAL LAND INFORMATION SYSTEM

District 5

BURGARD

LOMBARD

COLUMBIA

American Compost & Recycling, LLC

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0 1000 2000 3000 4000 Feet

1"= 3000 feet



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