

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE) RESOLUTION NO. 01-3045
EXECUTIVE OFFICER TO GRANT A METRO)
SOLID WASTE FACILITY LICENSE TO) Introduced by Mike Burton,
ROOFGONE) Executive Officer

WHEREAS, Metro Code Section 5.01.045(b) requires a Metro Solid Waste Facility License of any person operating a facility that processes non-putrescible waste that results in processing residual of more than ten percent; and

WHEREAS, RoofGone processes composition roofing waste for recycling; and

WHEREAS, recycling uses and markets for composition roofing waste are variable and uncertain; and

WHEREAS, it has not been clearly established that RoofGone will have a residual of ten percent or less; and

WHEREAS, there is a significant potential for large amounts of waste roofing to be rapidly accumulated and abandoned for lack of markets; and

WHEREAS, it is in the public interest for Metro to have regulatory oversight of roofing recycling facilities in order to monitor the accumulation and disposition of large piles of roofing waste within the Metro boundary; and

WHEREAS, RoofGone has applied for a Metro Solid Waste Facility License under the provisions of Code chapter 5.01; and

WHEREAS, RoofGone's application is in conformance with the requirements of chapter 5.01 of the Code; and

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

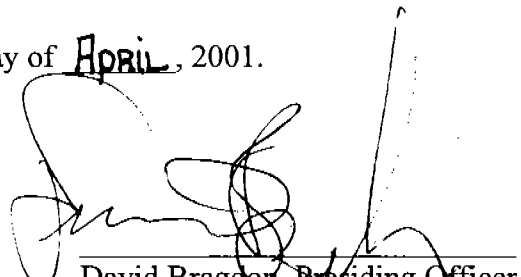
WHEREAS, the resolution was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

A Solid Waste Facility License shall be issued to the RoofGone. The new Solid Waste Facility License shall be substantially similar to the license attached as Exhibit A.

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





David Bragdon, Presiding Officer

Approved as to Form:



Daniel B. Cooper, General Counsel

SOLID WASTE FACILITY LICENSE

Number L-038-01

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

<p>LICENSEE:</p> <p>SpeFly Inc. dba RoofGone PO Box 13659 Portland, OR 97213 Dennis Brown 503-289-1612 503-684-8954 (fax)</p>	<p>FACILITY NAME AND LOCATION:</p> <p>RoofGone 9645 N. Columbia Blvd. Portland, OR 97213 Dennis Brown 503-289-1612 503-684-8954 (fax)</p>
<p>PARENT COMPANY</p> <p>SpeFly Inc. PO Box 13659 Portland, OR 97213 Dennis Brown 503-289-1612 503-684-8954 (fax)</p>	<p>PROPERTY OWNER</p> <p>Bors Brothers Limited Partnership P.O. Box 31077 Portland, OR 97283</p>

This license is granted to the licensee named above and is not transferable. Subject to the conditions stated in this license document, the licensee is authorized to operate and maintain a roofing processing facility, and to accept the materials and perform the activities authorized herein.

Signed:

Acceptance & Acknowledgement of Receipt:

Signature

Signature of Licensee

Mike Burton, Metro Executive Officer

Print name and title

Print name and title

Date

Date



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1.0 ISSUANCE

- 1.1 Licensee** SpeyFly Inc. dba RoofGone
PO Box 13659
Portland, OR 97213
- 1.2 Contact** Dennis Brown 503-289-1612
503-684-8954 (fax)
- 1.3 License Number** When referring to this license, please cite:
Metro Solid Waste Facility License Number L-038-01
- 1.4 Term of License** This license shall remain in force unless modified, suspended, or revoked under the provisions of section 9.2 of this license. The term commences from the date this license is signed by Metro.
- 1.5 Facility name and mailing address** RoofGone
9645 N. Columbia
Portland, OR 97213
- 1.6 Operator** Dennis Brown 503-289-1612
503-684-8954 (fax)
- 1.7 Facility legal description** Township 2N, Range 1W, Section 36CB, Tax Lot 200
- 1.8 Facility owner** SpeyFly Inc. dba RoofGone
PO Box 13659
Portland, OR 97213
- 1.9 Permission to operate** The licensee has obtained the property owner's (Bors Brothers Limited Partnership) consent to operate the facility as specified in this license.



2.0 CONDITIONS AND DISCLAIMERS

- 2.1 Guarantees** The granting of this license shall not vest any right or privilege in the licensee to receive specific quantities of material at the direction of Metro during the term of the license.
- 2.2 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.
- 2.3 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.
- 2.4 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.
- 2.5 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.
- 2.6 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.
- 2.7 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.
- 2.8 Choice of law** The license shall be construed, applied and enforced in accordance with the laws of the State of Oregon.
- 2.9 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.
- 2.10 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.



- 2.11 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.
- 2.12 Definitions** Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01.

3.0 AUTHORIZATIONS

- 3.1 Purpose** This section of the license describes the materials 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 acceptable materials** The licensee is authorized to accept at the facility only the materials described in this section. The licensee is prohibited from knowingly receiving any materials 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 Acceptance of roofing and related materials** The licensee is authorized by this license to accept the following materials on-site: wood shingles, shakes, and composition shingles from roof tearoffs; trimmings from the manufacture of composition roof shingles; wood trim and roof support structures, metal flashing, rain gutters, tar paper, and packaging from new roofing materials. All composition roofing accepted shall be certified as being free of asbestos through a protocol approved by the Oregon Department of Environmental Quality (DEQ).
- 3.5 Acceptance of clean wood** The licensee is authorized to accept pallets and other clean untreated wood wastes.
- 3.6 Processing for recovery** The licensee is authorized to process roofing for use as fuel, engineered fill, engineered road base, or any use approved by the DEQ or Metro. The licensee will provide Metro with information on uses approved by the DEQ.



4.0 LIMITATIONS AND PROHIBITIONS

- 4.1 Purpose** This section of the license describes limitations and prohibitions on the materials handled at the facility and activities performed at the facility.
- 4.2 Prohibited waste** The licensee shall not knowingly accept or retain any material amounts of wastes other than roofing, as described in section 3.4 of this license.
- 4.3 Accumulation limited** This license limits the quantity of authorized material that may be accumulated at the facility at any one time to the lesser of the amount specified by a DEQ permit if such a permit is required or any amount that may be specified by the City of Portland. In the absence of a DEQ or City of Portland limitation, no more than 10,000 total tons may be on site unless the licensee has been granted a written variance by the Director of the Metro Regional Environmental Management Department.
- 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

- 5.1 Purpose** This section of the license describes criteria and standards for the operation of the facility.
- 5.2 Operating plan** Licensee shall establish and follow a written operating plan. Such plan shall include at least the following:
- a. Objective criteria for accepting and rejecting loads;
 - b. Methods of inspecting incoming loads for the presence of Prohibited and Unauthorized Wastes;
 - c. Methods of managing and transporting for disposal at an authorized disposal site any Prohibited and Unauthorized Wastes inadvertently received;
 - d. Method of managing stockpiles to assure that they remain within the authorized volume.



- 5.3 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.
- 5.4 Managing prohibited wastes** The licensee shall make reasonable efforts to identify prohibited and unauthorized wastes. Upon discovery, all prohibited or unauthorized wastes shall be removed or managed in accordance with the facility operating plan and DEQ procedures.
- 5.5 Storage** Stored materials shall be 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.
- 5.6 Litter, dust, 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:
- a. Take reasonable steps to notify and remind persons delivering roofing material to the facility that all loads must be suitably secured to prevent any material from falling off the load during transit.
 - b. Construct, maintain, and operate all vehicles and devices transferring or transporting roofing from the facility to prevent sifting, spilling or blowing of the material on-site or while in transit.
 - c. Keep all areas within the site and all vehicle access roads within $\frac{1}{4}$ mile of the site free of roofing related litter and debris.
 - d. Take reasonable steps to suppress the generation of dust from the moving and processing of roofing debris.
- 5.7 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.
- 5.8 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.
- 5.9 Water quality** The licensee shall:
- a. Operate and maintain the facility to prevent submersion of roofing material in water.
 - b. Dispose of contaminated water and sanitary sewage generated onsite in a manner complying with local, state, and federal laws and regulations.



- 5.10 Public Access** Public access to the facility shall be controlled as necessary to prevent unauthorized entry and dumping.
- 5.11 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. Telephone number(s) of persons who can provide information about the facility in case of an emergency;
 - d. Operating hours during which the facility is open for the receipt of authorized material;
 - e. Metro's name and telephone number (503) 797-1650.
- 5.12 Complaints** The licensee shall respond to all written complaints on 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.
- 5.13 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 FEES AND RATE SETTING

- 6.1 Purpose** This section of the license specifies fees payable by the licensee, and describes rate regulation by Metro.
- 6.2 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.



6.3 Rates not regulated The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro.

7.0 INSURANCE REQUIREMENTS

7.1 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.

7.2 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.

7.3 Automobile The licensee shall carry automobile bodily injury and property damage liability insurance.

7.4 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.

7.5 Additional insureds Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS.

7.6 Financial Assurance The licensee shall, throughout the life of the facility, maintain an instrument of financial assurance in an amount adequate to assure site clean-up in the event of abandonment or long-term cessation of operations. If the DEQ requires such an instrument of financial assurance, then the DEQ-approved financial assurance shall be sufficient to fulfill this requirement.

7.7 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 license to that effect may be attached in lieu of the license showing current Workers’ Compensation.

7.8 Notification The licensee shall give at least 30 days written notice to the



Executive Officer of any lapse or proposed cancellation of insurance coverage.

8.0 ENFORCEMENT

- 8.1 Generally** Enforcement of this license shall be as specified in Metro Code and in section 8.0 of this license.
- 8.2 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.
- 8.4 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.

9.0 MODIFICATIONS

- 9.1 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.
- 9.2 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. A significant change in the character of the material 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.
- i. Operation or maintenance of a roofing processing facility without land use approval from the City of Portland.

9.3 Variance to volume limitation A variance to the volume limitation set forth in Section 4.3 of this license may be granted by the Director of the Metro Regional Environmental Management Department in response to a written request by the licensee.

9.4 Changes in ownership The licensee must, in accordance with Code Section 5.01.090, report to Metro any changes in either ownership of the facility property or of the name and address of the operator.

10.0 GENERAL OBLIGATIONS

10.1 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 5.01 whether or not those provisions have been specifically mentioned or cited herein. Such applicable laws, rules, regulations, ordinances, orders and permits include, without limitation, all laws, rules, regulations, ordinances, orders and permits adopted or made applicable during the term of this Franchise. 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.



- 10.2 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.
- 10.3 Deliver processed roofing to appropriate destinations** The licensee shall ensure that processed roofing transferred from the facility goes to the appropriate recovery uses, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits;
- 10.4 Provide access** The licensee shall allow the Executive Officer to have reasonable access to the premises for purposes of inspection and audit to determine compliance with this license, Metro Code, and the administrative procedures adopted pursuant to Metro Code Chapter 5.01 and this license.
- 10.5 Record-keeping and reporting.** The licensee shall keep and maintain records of the amount of material received and the amount of outgoing material. Such information shall be reported to Metro by February 1 of each year for the prior calendar year.
- 10.6 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.
- 10.7 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.

10.8 Compliance by agents The licensee shall be responsible for ensuring that its agents and contractors operate in compliance with this license.

11.0 CLOSURE OF N. SUTTLE ROAD SITE

11.1 Closure within 120 days Prior to beginning operations at 9645 N. Columbia Blvd., the licensee operated an unlicensed roofing recycling business at a site located at 4044 N. Suttle Rd. in Portland, Oregon. The licensee no longer receives roofing and related wastes at the site but continues to process the accumulation of material that remains. Licensee shall complete the processing of this material and cease performing unlicensed roofing waste processing operations at 4044 N. Suttle Rd. within the time limit specified by the DEQ if such a limit is established or, if the DEQ does not establish such a limit, within 120 days of the granting of this license. Continuation of unlicensed operations at the Suttle Rd. site after the established time limit may result in enforcement action, modification, or termination of this license pursuant to sections 8.0, 9.0, and 10.0 of the license.

11.2 Clean-up of site By the end of the time period established in section 11.1 of this license, all roofing waste accumulated by the licensee at 4044 N. Suttle Rd. shall be processed and either marketed or transferred to the N. Columbia Blvd. site authorized by this license. Failure to clean up and remove all roofing waste from the N. Suttle Rd. site may result in enforcement action, modification, or termination of this license pursuant to sections 8.0, 9.0, and 10.0 of the license.

SOLID WASTE AND RECYCLING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 01-3045 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO GRANT A METRO SOLID WASTE FACILITY LICENSE TO ROOFGONE

Date: March 26, 2001

Presented by: Councilor McLain

Committee Recommendation: At its March 21 meeting, the Committee considered Resolution No. 01-3045 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. He explained that the proposed resolution would grant a solid waste facility license to Roofgone for the operation of a new recycling facility for roofing material. The facility would be located on Columbia Blvd in north Portland, near the American Compost and Recycling facility. Brower explained that the facility would accept roofing material and wood. The license would place a 10,000-ton cap on stockpiling at the site and require financial assurance to provide for any necessary site cleanup costs. Brower indicated that the DEQ permit required by the facility is pending.

Dennis Brown, representing Roofgone, indicated that the tip fee at the facility would be \$40/ton. In response to questioning, he indicated that he anticipated no problems in obtaining a DEQ permit. He also noted that the facility would have less than 1% residual (plastic).

**EXECUTIVE SUMMARY
RESOLUTION NO. 01-3045
FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO GRANT A METRO
SOLID WASTE FACILITY LICENSE TO ROOFGONE**

PROPOSED ACTION

- Approve a Solid Waste Facility License authorizing RoofGone to operate a roofing recycling facility. RoofGone is one of three facilities presently applying for such a license.

WHY NECESSARY

- RoofGone is presently operating as an unlicensed facility.
- The accumulation of composition roofing is a solid waste processing activity that requires a level of oversight commensurate with a Metro Solid Waste Facility License.
- RoofGone has submitted a Solid Waste Facility License application for Council consideration.

DESCRIPTION

- RoofGone is located at 9645 N. Columbia Blvd., Portland, Oregon (Metro District 5) and has been operating as an unregulated facility since April, 1999. Approval of Resolution 01-3045 will bring the facility under Metro's regulatory oversight and into compliance with Metro Code.

ISSUES/CONCERNS

- Maximum allowable inventory – In order to prevent the possible accumulation of more roofing than can be processed and marketed within a reasonable time frame, the proposed license sets the limit at 10,000 tons unless the DEQ establishes a different limit in its Solid Waste Disposal Site Permit.
- Financial Assurance – Staff recommends that the licensee be required to provide financial assurance sufficient to fully cover the cost of a possible clean-up.

BUDGET/FINANCIAL IMPACTS

- No significant budget impact on Metro.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 01-3045 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO GRANT A METRO SOLID WASTE FACILITY LICENSE TO ROOFGONE

March 1, 2001

Presented by: Terry Petersen

BRIEF DESCRIPTION OF RESOLUTION

Approval of Resolution No. 00-xxx will authorize the Executive Officer to issue a new Solid Waste Facility License to RoofGone for the operation of its waste roofing processing facility located at 9645 N. Columbia Blvd., Portland, Oregon (Metro District 5). Issuance of such a license will authorize the facility to accept wood shakes and composition shingles from roof tear-offs, trimmings from the manufacture of composition roofing, metal flashing, rain gutters, wooden roof structures, tar paper, and other materials directly associated with the roofing and re-roofing of buildings. All material accepted shall be certified as being free of asbestos through a protocol approved by the Oregon Department of Environmental Quality (DEQ). In addition, the facility shall be authorized to accept clean wood wastes (such as pallets) for the purpose of processing into hogged fuel.

EXISTING LAW

If adequate markets can be found, the proposed roofing recycling activity would be expected to generate less than a ten percent residual and may be eligible to be certified rather than licensed by Metro. However, such markets are not assured, it has not been established that the residual will be less than ten percent, and the accumulation of large amounts of composition roofing is an intensive and problematic activity that requires a level of oversight that is more commensurate with a license than a certificate.

BACKGROUND

A. History of the Facility

The applicant has operated a roofing recycling facility on Suttle Road in northeast Portland since April 1999. The facility did not obtain a DEQ permit or Metro license or certificate to operate. In April 2000, the applicant moved its operation to 9645 N. Columbia Boulevard in Portland and has begun to stockpile roofing feedstock, though a substantial stockpile remains at the Suttle Road site. While the Suttle Road site has ceased taking new material, the applicant is currently processing and removing the remaining onsite inventory of roofing. No further activities are planned at the Suttle Road site once the material is processed and removed.

The Columbia Boulevard facility will accept residential roof tear-offs, manufacturer mill ends and tabs. A custom designed grinder is used for processing the materials into a

paving medium for private roads and parking lots. However, such uses are experimental and the potential of this market is unproven. The material will also be sent to the Tacoma Steam Burner as fuel. DEQ has decided to require the applicant to obtain a permit for its new location but will have conditions on the Suttle Road site for removal of the remaining inventory within a certain period of time.

The Metro license will cover activities at the Columbia Boulevard site. The license will also include special conditions requiring the applicant to conclude its activities at the Suttle Road site. These conditions will focus primarily on timely processing and removal of existing stockpiles.

B. Metro Code Provisions Related to the Applicant's Request

Code Section 5.01.045(b) specifies that:

5.01.055 Pre-Application Conference

(a) All prospective applicants for a Franchise or License shall participate in a pre-application conference with the Executive Officer. The purpose of such conference shall be to provide the prospective applicant with information regarding the applicable requirements for the proposed facility and to obtain from the prospective applicant a description of the location, site conditions and operations of the proposed facility.

Staff held a pre-application conference with the applicant on April 14, 2000.

(b) If a prospective applicant for a License or Franchise does not file an application for a License or Franchise within one year from the date of the pre-application conference, such applicant shall participate in a subsequent pre-application conference prior to filing any License or Franchise application.

The applicant submitted the original application on October 25, 2000. The applicant withdrew the application on February 16 and re-submitted it on February 19, 2001.

5.01.060 Applications for Certificates, Licenses or Franchises

(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.

The application was filed on forms and in the format provided by the Executive Officer.

(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 contains a description of the activities proposed to be conducted and a description of wastes sought to be accepted. The proposed activities consist of shredding

roofing to produce a paving material or for use as fuel and shredding clean wood for use as fuel. Metal flashing and rain gutters will be separated and recycled as scrap metal.

(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 provided with the application.

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

DEQ has required that the applicant submit a DEQ solid waste facility permit application for this facility. A copy of the application has been provided to Metro.

- (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;*

DEQ and Metro staff are in the process of determining the parameters of a closure protocol. The timely development of such a protocol is a license requirement.

- (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;*

Section 7.6 of the proposed license stipulates that the licensee shall maintain an instrument of financial assurance to help assure site clean-up in the event of abandonment or long-term closure. DEQ and Metro staff are in the process of determining an appropriate method and amount 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;*

A copy of the required consent form signed by the property owners was included with the application.

- (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; and*

The facility is in an IH (heavy industrial) zone. It is co-located with a scrap steel yard on a lot directly adjacent to a large yard debris composting facility. The applicant has provided a Land Use Compatibility Statement as part of its application.

- (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.*

DEQ has recently required that the applicant submit a permit application for this facility. Ordinarily, Metro would process a license application but not actually issue the license until after the issuance of a DEQ permit. However, because a license application was submitted to Metro prior to DEQ's decision to require a permit, and because it is in the public interest for Metro to gain some regulatory oversight as rapidly as possible, staff recommends proceeding with the issuance of a Metro license. If granted, continuation of Metro license authority will be conditional upon the subsequent approval of a DEQ permit. No other required permits are known or anticipated by Metro staff.

5.01.062 Application Fees

- (a) *Upon the filing of an application, every applicant for a Certificate, License or Franchise shall submit an application fee as provided in this section.*

The applicant has submitted the required application fee.

5.01.150 User Fees

- (b) *User fees shall not apply to:*
- (1) *Non-putrescible Wastes accepted at a Franchised or Licensed Solid Waste Facility that is authorized to perform only Materials Recovery or Recycling Activities;*

The proposed license authorizes RoofGone to perform materials recovery and recycling activities only. The facility will therefore be exempt from user fees under the existing Code.

BUDGET IMPACT

The facility anticipates diverting 12,000 tons of roofing annually from the solid waste stream. Because the applicant has already been diverting this waste since April, 1999, the effect of this diversion would have been implicitly factored in to projections on which the current year's budget is based. Thus, approval of the applicant's proposed license is not anticipated to have a significant budget impact.

OUTSTANDING QUESTIONS

1. Maximum allowable inventory – RoofGone has estimated in its application that it will process 12,000 tons per year of waste roofing. In order to prevent the possible accumulation of more roofing than can be processed and marketed within a reasonable time frame, Metro and DEQ staff have agreed that the license should restrict the amount of material that the licensee may have on site at any one time. The proposed license sets the limit at 10,000 tons unless the DEQ establishes a different limit in the Solid Waste Disposal Site Permit it intends to issue in the near future.
2. Financial Assurance – Staff recommends that the licensee be required to provide financial assurance sufficient to fully cover the cost of a possible clean-up.
3. Suttle Road Site – Staff have recommended additional conditions in the license that are not normally included in a Metro license. These conditions are intended to provide assurances that the remaining inventory on Suttle Road is properly processed and removed in a timely manner.

EXECUTIVE OFFICER'S RECOMMENDATION

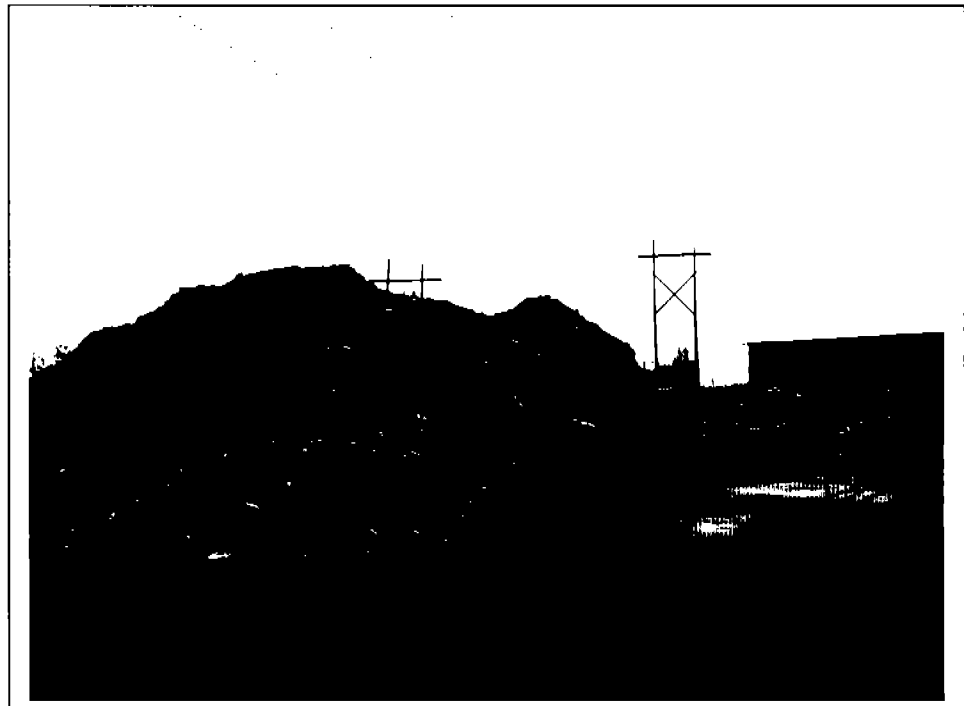
The Executive Officer recommends approval of Resolution No. 01-3045, granting a Solid Waste License to RoofGone subject to the terms and conditions incorporated into the license document attached as "Exhibit A" to Resolution No. 01-3045.

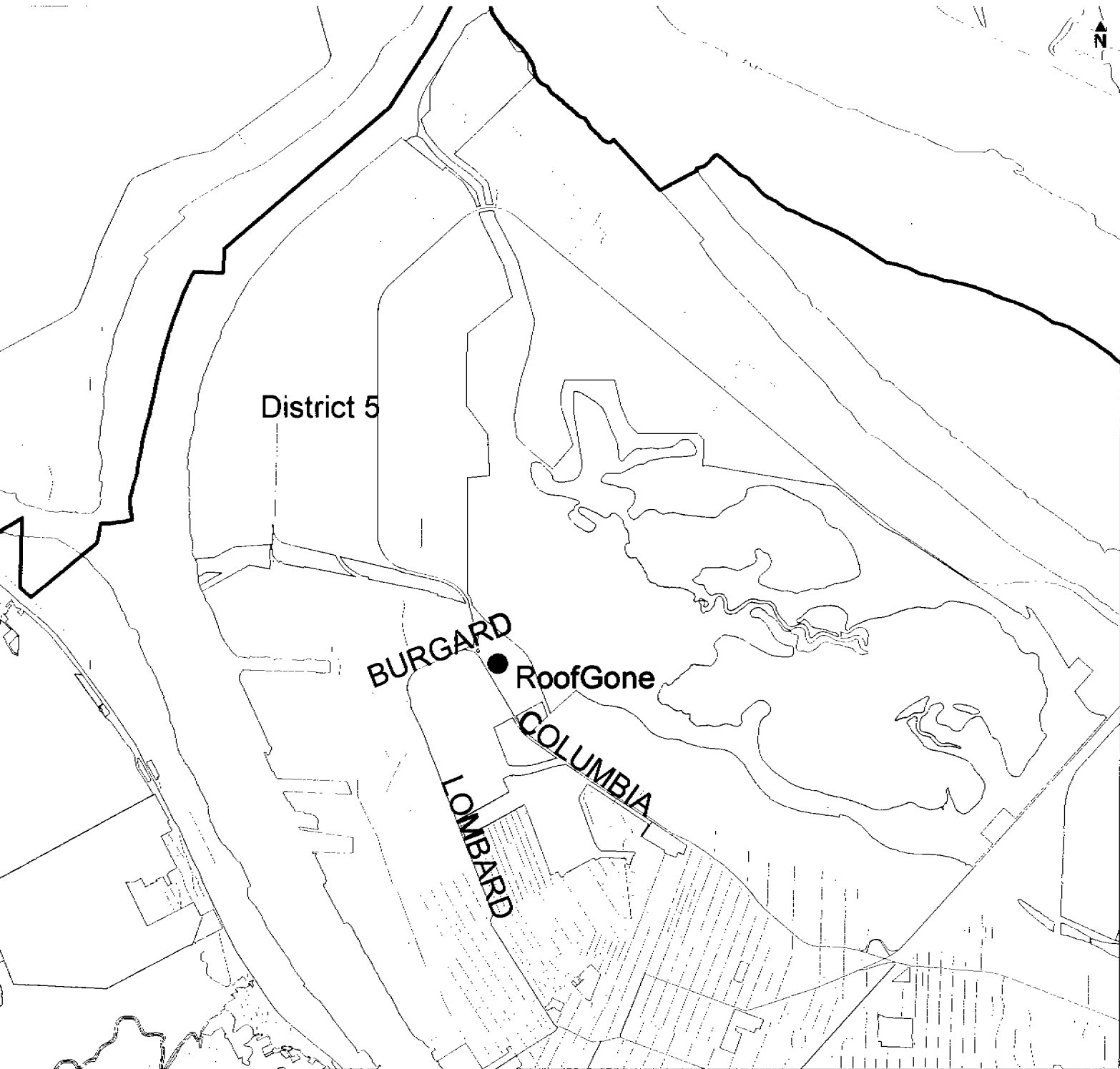
ROOFGONE
9645 N. COLUMBIA BOULEVARD
PORTLAND, OREGON

Facility Scale House



Roofing Debris Pile





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0 1000 2000 3000 4000 Feet

1" = 3000 feet



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