



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Designated Facility Agreement

METRO CONTRACT NO. 937405

This Designated Facility Agreement (“Agreement”) is between Metro, a metropolitan service district organized under ORS Chapter 268 and the Metro Charter (“Metro”), located at 600 NE Grand Avenue, Portland, Oregon 97232-2736, and Divert Inc. dba Divert Albany Processing Facility (the “facility”) located at 950 SE Jackson St., Albany, Oregon 97322, (collectively, the “parties”) and is entered into under the authority of ORS 268.317 and Metro Code Chapter 5.05.

RECITALS

WHEREAS, the Metro area has limited land and resources for solid waste disposal, transfer, and resource recovery; and

WHEREAS, Metro may require generators of Metro area waste to make use of a solid waste system facility; and

WHEREAS, no person may transport Metro area waste to a solid waste facility or disposal site unless it is a designated facility of the solid waste system or the person has obtained a non-system license; and

WHEREAS, a non-system license is not required to transport Metro area waste to a designated facility if the facility is in compliance with all local, state, federal, and Metro regulations and designated by Metro to accept the waste; and

WHEREAS, Metro prohibits the disposal of Metro area waste in a limited capacity landfill or new landfill as defined in Metro Code Chapter 5.00; and

WHEREAS, the Metro Code authorizes the Chief Operating Officer (“COO”) to execute an agreement between Metro and a designated facility located outside Metro’s jurisdictional boundary to receive, process, transfer or dispose of Metro area waste; and

WHEREAS, Metro may execute a designated facility agreement and establish terms and conditions necessary to ensure that Metro area waste is properly managed and disposed in accordance with the Metro Code and Regional Waste Plan; and

WHEREAS, the Metro Council has included the Divert Albany Processing Facility as a designated facility of the system authorized to accept Metro area waste.

NOW THEREFORE, in exchange for the promises set forth below, the facility and Metro agree as follows:

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1. Acceptable Metro Area Waste.
 - a. The facility may accept Metro area waste that consists of source-separated, packaged or unpackaged commercial food waste generated by businesses located within the Metro jurisdictional boundary.
 - b. The facility may accept this waste from any business that was authorized by Metro to transport packaged or unpackaged food waste to the facility under a Metro non-system license before July 1, 2021, or subsequently approved in writing by Metro.
 - c. Before the facility may accept Metro area waste from a business that had not previously been approved by Metro, the facility must submit a written request and obtain Metro's written approval to accept the waste under the terms of this agreement. The facility must provide Metro with the following information as part of its request:
 - (1) Name and address of the business;
 - (2) Description and origin of the Metro area waste;
 - (3) Estimate of the annual tonnage amount that the facility will receive from the business; and
 - (4) Estimate of the annual tonnage amount of processing residual that will require disposal at a Metro designated facility.
2. Prohibited Metro Area Waste.
 - a. The facility may not accept any Metro area waste other than that described in Section 1 or otherwise authorized in writing by Metro.
 - b. The facility may not accept any Metro area waste prohibited by the Oregon Department of Environmental Quality (DEQ) or city of Albany.
3. Material Management.
 - a. The facility must process the Metro area waste that it receives into a suitable form for use in anaerobic digestion or other beneficial use as approved in writing by Metro. The facility must transport all non-recoverable processing residual to a Metro designated facility for disposal.
 - b. The facility may combine and jointly process Metro area waste with other waste originating from outside the Metro jurisdictional boundary. In such cases, the facility must manage and report the mixed material as Metro area waste unless it

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provides documentation to Metro showing the total weight of the waste that was generated only within the Metro jurisdictional boundary.

- c. If the facility unknowingly receives Metro area waste that does not meet the facility's acceptance criteria and is not suitable for processing as specified in the facility operating plan as provided in Section 9, the facility must notify Metro of the source, type and quantity of the waste received and may transport the waste to a Metro designated facility for disposal.
 - d. The facility must receive, manage and process all Metro area waste in accordance with all applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.
4. Monthly Residual Sampling Requirements.
- a. The facility must implement a monthly residual sampling protocol to calculate the portion of incoming Metro area waste that is transported to a disposal site ("residual percentage") as described in this section.
 - b. Each month, the facility must isolate all Metro area waste received for a 24-hour period and calculate the residual percentage for the sample using the following protocol:
 - (1) Weigh each full bin in the sample on site to determine the total inbound weight of the sample;
 - (2) Process the packaged and unpacked food waste from all bins in the sample;
 - (3) Weigh the corresponding processing residual to be disposed to determine the total residual weight;
 - (4) Calculate the residual percentage from the total sample using the following calculation: total residual weight/total inbound weight = residual percentage; and
 - (5) Record and report this data to Metro monthly as described in Section 11.

5. Appropriate Destination and Disposal of Processing Residual.

The facility must transport all processed food waste to an anaerobic digestion facility or other appropriate destination for beneficial use as allowed or specified under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits. The facility must deliver all processing residual to a Metro designated facility for disposal.

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6. Regional System Fee and Excise Tax.

- a. All Metro area waste, including the residual resulting from the processing of Metro area waste, is subject to the Metro regional system fee and excise tax at the time of disposal.
- b. Each month, the facility must collect and remit to Metro the regional system fee, as set forth in Metro Code Chapter 5.02, in an amount equal to 30 percent of the tonnage of Metro area waste the facility receives and processes. The facility must pay all fees by a Metro-approved method in accordance with Metro Code Chapter 5.02.
- c. Each month, the facility must collect and remit to Metro the excise tax, as set forth in Metro Code Chapter 7.01, in an amount equal to 30 percent of the tonnage of Metro area waste the facility receives and processes. The facility must pay all taxes by a Metro-approved method in accordance with Metro Code Chapter 7.01.
- d. The facility must properly classify all waste received at the facility and follow the monthly residual sampling requirements described in Section 4 for the purpose of collecting the Metro regional system fee and excise tax for Metro area waste.
- e. On July 1 of each year, Metro or the facility may re-evaluate and propose changes to the percentage of incoming Metro area waste that is subject to the regional system fee and excise tax (“residual rate”) based on the preceding 12-month average of the monthly residual percentage.
- f. If Metro area waste received at the facility does not meet the facility’s acceptance criteria or the facility is otherwise unable to process the waste received as required in this Agreement, the facility must pay to Metro an amount equal to the:
 - (1) Regional system fee, as provided in Metro Code Chapter 5.02, for each ton or portion thereof of unprocessed Metro area waste received at the facility that is ultimately transported to a disposal site; and
 - (2) Excise tax, as provided in Metro Code Chapter 7.01, for each ton or portion thereof of unprocessed Metro area waste received at the facility that is ultimately transported to a disposal site.
- g. The facility must pay the accumulated regional system fees and excise taxes to Metro by the last day of the month for waste disposed of in the preceding month in accordance with this Agreement and Metro Code provisions applicable to the collection, payment and accounting of those fees and taxes. Metro will assess a finance charge on all delinquent regional system fees and excise taxes required to be remitted under Metro Code Chapters 5.02 and 7.01.



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7. Term of Agreement.

The term of this Agreement is from September 1, 2021 through December 31, 2026, unless terminated earlier by mutual agreement of the parties or as provided in Section 18.

8. Facility Compliance with Supplemental Operating Requirements.

- a. The facility must comply with the requirements of this Agreement and Exhibit A, which includes supplemental operating requirements. The provisions of Exhibit A are attached and incorporated into this Agreement by reference as if specifically set forth in this Agreement.
- b. Metro reserves the right to amend Exhibit A to comport with any amendments to the Metro Code or administrative rules.

9. Facility Operating Plan.

- a. The facility must submit to Metro, for Metro's review and written approval, an operating plan ("Metro Plan") that describes the facility's procedures for managing Metro area waste and processing residual. The facility must maintain a copy of the Metro Plan on its premises and at a location where facility personnel and Metro have access to it.
- b. The Metro Plan must describe how the facility intends to comply with the requirements of this Agreement and address each supplemental operating requirement identified in Exhibit A.
- c. The Metro Plan must describe how the facility will identify whether Metro area waste is acceptable under Section 1 and must include the criteria used for that identification. This includes without limitation:
 - (1) Procedures for establishing whether incoming waste is Metro area waste;
 - (2) A set of objective criteria for accepting and rejecting loads;
 - (3) Procedures for inspecting incoming loads for the presence of Metro area waste that is prohibited under Section 2;
 - (4) Procedures for managing and transporting to appropriate facilities any prohibited Metro area waste discovered at the facility;
 - (5) Procedures for assessing and reporting each incoming load to verify the type of Metro area waste and to classify the Metro area waste for the purposes of assessing the regional system fee and excise tax;

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- (6) Procedures for processing, storage, reload, and transfer of Metro area waste;
 - (7) Procedures for monthly residual sampling as described in Section 4; and
 - (8) Any other measure necessary to comply with this Agreement.
- d. The facility must submit changes to the Metro Plan to Metro for review and written approval before implementing changes. Metro will review the Metro Plan to ensure compliance with this Agreement.
 - e. The facility must comply with the provisions of the Metro Plan. Those provisions are incorporated into this Agreement by reference as if specifically set forth in this Agreement. The facility's failure to comply with the Metro Plan is a breach of this Agreement.
10. Record Keeping and Audits.
- a. The facility must maintain complete and accurate records of all solid waste received, processed, transferred or disposed at the facility, regardless of the point of generation. These records include the information specified in Metro's reporting document titled, *Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements*. This reporting requirement document is subject to revision by Metro at any time and the facility must comply with all revised reporting requirements upon being notified in writing by Metro.
 - b. The facility must make these records available to Metro for inspection, auditing, and copying.
 - c. The facility must record the weight of each inbound and outbound transaction electronically based on actual and accurate scale weights or other method approved in writing by Metro.
 - d. The facility must keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.
 - e. The facility must maintain records of training personnel at generator businesses to properly source-separate food waste for processing from food that is fit for human consumption and acceptable for donation by charitable organizations.

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- f. Metro may require, at Metro's expense, that the facility submit to an independent audit conducted by an auditor chosen by Metro. The audit will address only those matters directly related to this Agreement.

11. Reports and Obligations.

- a. The facility must report information in the form, format, and the schedule specified in *Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements*.
- b. The facility must report to Metro the records required under Section 10a in a format prescribed by Metro, no later than 15 days following the end of each month.
- c. The facility must report to Metro, in a format prescribed by Metro, records showing the results of the monthly residual sampling of the Metro area waste authorized under this Agreement during the preceding month, including but not limited to date of the sample, number of bins in the sample, generating businesses included in the sample, net weight of the sample, weight of the residual, and residual percentage.
- d. The facility must notify Metro within 24 hours of any breakdown of the facility's equipment if the breakdown will substantially impact the facility's ability to comply with this Agreement, with Metro Code or which will create off-site impacts.
- e. The facility must report any facility fires, accidents, emergencies, and other significant incidents to Metro within 12 hours of the discovery of their occurrence.
- f. The facility must notify Metro of any short term (duration of time that is more than two consecutive business days but less than 120 days in length) or long term closure (duration of time that is more than 120 consecutive business days in length) of the facility.
- g. The facility must notify Metro regarding all permits relating to operations at the facility, including without limitation, land use applications, appeals, or modifications. The facility must provide copies of revisions to existing permits and newly issued permits to Metro within seven business days of issuance. The facility must also provide, within seven business days of issuance, a copy of any official enforcement action regarding the facility or its operation, including without limitation, a notice of violation or noncompliance with a statute, regulation, or permit condition.

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- h. The facility must provide, upon request by Metro:
 - (1) A list of businesses and corresponding store locations for each load of Metro area waste received.
 - (2) Records of training personnel at generator businesses to properly source-separate food waste for processing from food that is fit for human consumption and acceptable for donation by charitable organizations.
 - i. The facility must provide Metro with a copy of each annual *Solid Waste Material Recovery Facility Report* within two business days of providing this information to DEQ.
12. Compliance with Law.
- a. The facility must fully comply with all provisions of Metro Code Chapter 5.01 and the supplemental operating requirements in Exhibit A of this Agreement as applicable to a solid waste facility located within the Metro jurisdictional boundary. Those provisions are incorporated into this Agreement by reference as if specifically set forth in this Agreement. Any finding that the facility is in violation of any provision of Chapter 5.01 or the supplemental operating requirements is a breach of this Agreement.
 - b. Any finding that the facility is in violation of any applicable federal, state, regional and local laws, rules, regulations, ordinances, orders, and permits is a breach of this Agreement and constitutes good cause for termination under Section 18. DEQ termination or failure to renew the facility's Solid Waste Disposal Site Permit constitutes good cause for termination of this Agreement under Section 18.
13. Right of Inspection.
- a. The facility must allow Metro access to the facility at all reasonable times to inspect and carry out other necessary functions under this Agreement. The facility authorizes Metro access to inspect:
 - (1) Without notice during hours when the facility accepts solid waste;
 - (2) At other reasonable times upon 24 hours' written notice given by Metro to the facility; and
 - (3) At any time without notice when, in the reasonable opinion of the COO, notice would defeat the purpose of the entry.

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- b. Metro's right to inspect and audit includes the right to review all information from which all reports required pursuant to this Agreement are derived. The review may take place at an office of the facility or at the office of an affiliate of the facility located in or near the Metro area.
 - c. The facility must cooperate with Metro regarding Metro's investigation of possible infractions of the Metro Code or of this Agreement, including without limitation infractions related to misidentification of solid waste or false claims that solid waste is not Metro area waste. The facility's cooperation must include, without limitation, providing Metro with requested information in the facility's possession regarding matters under investigation and making facility representatives available to testify in deposition, in court, at a contested case hearing, and in any subsequent appeals.
14. Indemnification.
- a. The facility must indemnify, defend, and hold harmless Metro and Metro's agents, employees, and elected officials from any and all claims, demands, damages, actions, losses, and expenses, including attorney fees, arising out of or in any way connected with the facility's performance under this Agreement.
 - b. Metro must indemnify, defend, and hold harmless the facility, its officers, employees, and agents from all claims, suits, actions, or expenses of any nature resulting from or arising out of the acts, errors, or omissions of Metro or its assignees acting pursuant to the terms of this Agreement, subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution.
15. Confidentiality.
- a. Metro acknowledges the confidential and proprietary nature of the names of persons or entities generating or delivering waste to the facility and the types and quantities of waste generated or delivered by those persons or entities which the facility is required to submit to Metro (collectively, "confidential information"). Metro acknowledges that, although the facility is not obligated by law to submit this information, the facility is voluntarily obligating itself to do so pursuant to this Agreement. Metro also acknowledges that the confidential information may be a "trade secret" and exempt from public disclosure under Oregon law because it is currently known only by the facility, is used by the facility in its business, has commercial value, and gives the facility a business advantage over competitors not possessing this information. The ability of competitors of the facility to obtain the confidential information specified in this Agreement is not in the public interest because it detracts from a relationship of trust that is necessary for Metro to effectively carry out its solid waste management functions. Metro obligates itself in good faith not to disclose confidential information to any person outside

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of Metro except as specified in this Agreement. Access to, and use of, the confidential information is only as specified in this section.

- b. At any time during and after the term of this Agreement, Metro may not, either directly or indirectly, divulge, disclose, or communicate confidential information to any person, partnership, firm, association, corporation, or other entity, or to any person at Metro who does not have a reasonable need to obtain confidential information for Metro's solid waste management purposes. Neither Metro nor any person at Metro may use the confidential information specified in this section for personal benefit.
- c. Notwithstanding Sections 15a and 15b, Metro may use confidential information for solid waste management purposes. Those purposes include solid waste tracking and forecasting, enforcement of the Metro Code, or assistance to other jurisdictions in regulatory enforcement or other law enforcement. Metro may also use confidential information in aggregations or summaries that may be released to the public, so long as it is not possible to identify from the aggregations or summaries the persons or other entities generating and delivering waste to the facility or the types and quantities of waste that specific persons or other entities generate or deliver to the facility. Metro must notify the facility within five business days of Metro's receipt of any other type of request for confidential information from a third party.
- d. When submitting to Metro the confidential information specified in this Agreement, the facility must mark those materials "CONFIDENTIAL." If the facility provides Metro with information that is not marked or designated "CONFIDENTIAL," Metro has no obligation to treat that information as confidential information. Metro will 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. Metro will keep confidential information separate from other records and materials so that it will not be available to members of the public or persons at Metro who do not have a reasonable need to obtain access to the information relative to Metro's solid waste management responsibilities.
- e. If Oregon law is modified such that the confidential information referenced in this section is no longer exempt from public disclosure, or if an Oregon district attorney or court of competent jurisdiction requires release of such information, the facility is no longer required to submit this information to Metro. In this instance, upon request, the facility nevertheless agrees to provide to Metro the names of specific generators or transporters, and the types and quantities of waste delivered by those persons or entities, for Metro's use in enforcing the Metro Code against those persons or entities, when Metro has reasonable suspicion that a violation has occurred.

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16. Dispute Resolution.

Both parties will attempt in good faith to negotiate resolutions to all disputes arising out of this Agreement. The parties will resolve any controversy or claim arising out of or relating to this Agreement as follows:

- a. If the COO finds that the facility has breached this Agreement:
 - (1) The COO will provide the facility with a written notice of breach that describes the alleged breach and that includes a date by which the facility must respond to the COO's notice;
 - (2) Within the period specified by the COO, the facility must demonstrate that the facility has not breached this Agreement, that the breach has been corrected, or that the facility is making diligent efforts to correct the breach and is likely to succeed in a reasonable period of time; and
 - (3) If the COO determines that the facility has failed to remedy a breach of this Agreement, the facility must pay Metro liquidated damages in the amount of \$500 per day until the facility remedies the breach. These liquidated damages are not a penalty, but the parties agree that for certain breaches the amount of damage would be difficult to determine. Metro is entitled to recover its actual damages during all periods of breach in lieu of liquidated damages if actual damage amounts can be determined.
- b. The parties will resolve any dispute arising under this Agreement using any appropriate and available legal remedy. This may include arbitration if both parties agree to arbitration.

17. Amendment and Suspension.

The COO may amend or suspend this Agreement without notice as follows:

- a. If necessary in the reasonable opinion of the COO to protect the public health, safety, or welfare, and in the case of an emergency;
- b. If Metro discovers that the facility knowingly accepted prohibited Metro area waste or misrepresented the nature or identification of Metro area waste; or
- c. If, due to a binding decision by an arbitrator or court of competent jurisdiction, Metro:
 - (1) May be liable for damages for allowing waste of a type specified in this Agreement to be transported to the facility; or



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- (2) May no longer allow a waste type to be received, processed, transferred or disposed at the facility.

18. Termination.

- a. Metro may terminate this Agreement for good cause upon providing written notice to the facility specifying the action taken and the effective date. Further, any Metro Council action to delete the facility from the list of designated facilities constitutes good cause for termination of this Agreement.
- b. The facility may terminate this Agreement for good cause provided that the termination takes effect no sooner than 30 days after the facility provides Metro with written notice of the facility's intent to terminate.

19. General Conditions.

- a. The facility is responsible for using reasonable efforts to ensure that its contractors and agents operate in complete compliance with the terms and conditions of this Agreement.
- b. This Agreement does not confer a property right to the facility, nor vest any right or privilege in the facility to receive specific quantities of Metro area waste during the term of this Agreement.
- c. The facility may not transfer or assign this Agreement without the prior written approval of Metro. Metro may not unreasonably withhold consent to assignment.
- d. The facility must inform Metro of any change in control of the facility.
- e. A waiver of any term or condition of this Agreement must be in writing. If Metro is making the waiver, it will be approved in writing by Metro. If the facility is making the waiver, it must be signed by a legally authorized representative of the facility. Waiver of a term or condition of this Agreement by either party does not waive nor prejudice that party's right otherwise to require performance of the same term or condition or any other term or condition.
- f. This Agreement is to be construed, applied, and enforced in accordance with the laws of the State of Oregon without regard to any choice of law rules that would result in the application of the law of any state other than Oregon.
- g. If any provision of this Agreement is invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions contained in this Agreement are not affected.

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- h. If any deadline required to be computed under any provision of this Agreement falls on a Saturday, Sunday, or legal holiday, then the deadline is the next day which is not a Saturday, Sunday, or legal holiday. As used in this subsection, “legal holiday” means legal holiday as defined in ORS 187.010 and 187.020, as amended.
- i. Metro may seek to amend this Agreement to include requirements applicable to a solid waste facility that is subject to Metro Code Chapter 5.01.
- j. This Agreement is the entire agreement between the parties.

20. Definitions.

Unless otherwise defined in this Agreement, all terms are as defined in Metro Code.

- a. “Food waste” means waste from fruits, vegetables, meats, dairy products, fish, shellfish, nuts, seeds, grains, coffee grounds, and other food that results from the distribution, storage, preparation, cooking, handling, selling or serving of food for human consumption. Food waste includes but is not limited to excess, spoiled or unusable food and includes inedible parts commonly associated with food preparation such as pits, shells, bones, and peels. Food waste does not include liquids or large amounts of oils and meats which are collected for rendering, fuel production or other non-disposal applications, or any food fit for human consumption that has been set aside, stored properly and is accepted for donation by a charitable organization and any food collected to feed animals in compliance with applicable regulations.
- b. “Metro area waste” means solid waste generated from within the Metro jurisdictional boundary, including solid waste generated from outside the boundary if mixed in the same vehicle or container with solid waste generated from inside the boundary, unless the facility is provided with documentation establishing the weight of the solid waste generated from inside the boundary.



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DIVERT INC.

METRO

By: DocuSigned by:
Nick Whitman
C62A637FE97A4E2...

Name: Nick Whitman

Title: President

Date: August 23, 2021

By: DocuSigned by:
Roy Brower
8224FD6101684FC...

Name: Roy W. Brower

Title: Waste Prevention and Environmental
Services Director

Date: August 25, 2021

List of Attached Exhibits:

Exhibit A – Supplemental Operating Requirements



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

EXHIBIT A
TO METRO CONTRACT NO. 937405

Supplemental Operating Requirements

These supplemental operating requirements are intended to ensure that the designated facility operates in compliance with Metro Code Chapter 5.01.

Exhibit A is applicable to Metro area waste received at the facility, other waste that is commingled with Metro area waste, and processing residual.



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1.0	GENERAL MANAGEMENT REQUIREMENTS	
1.1	Acceptance and management of Metro area waste	<ol style="list-style-type: none"> 1. The facility must receive, process, store, reload and transfer all Metro area waste on an impervious surface, for example asphalt or concrete, and inside a covered building that is enclosed on at least three sides. 2. The facility must process all Metro area waste that meets the facility's acceptance criteria described in the Metro Plan within 48 hours of receipt unless otherwise approved in writing by Metro.
1.2	Processing required	<p>The facility must:</p> <ol style="list-style-type: none"> 1. Process all incoming Metro area waste into a suitable form for use in anaerobic digestion or other beneficial use as approved in writing by Metro. 2. Segregate non-recoverable processing residual waste for disposal. 3. Ensure that the facility is designed and operated to assure materials are processed in a timely manner and to prevent nuisance impacts at the facility.
1.3	Management of processing residual	The facility must store, reload and transfer all processing residual on an impervious surface, for example, asphalt or concrete, within a covered building or alternatively, inside covered containers or within covered transport trailers.

2.0	LIMITATIONS AND PROHIBITIONS	
2.1	Prohibited wastes	<ol style="list-style-type: none"> 1. The facility must not knowingly receive, process, reload or dispose of any Metro area waste not authorized in this Agreement. 2. The facility must not knowingly receive any Metro area waste that is not suitable for processing. 3. The facility must not accept Metro area waste that it is unable to process within the timeframe described in Section 1.1.2.
2.2	No disposal of recyclable materials	<ol style="list-style-type: none"> 1. The facility must not transport unprocessed Metro area waste that meets the acceptance criteria described in the Metro Plan, to a disposal site without written approval from Metro. 2. If the facility unknowingly receives Metro area waste that does not meet the acceptance criteria described in the Metro Plan, the facility may transport that unprocessed waste to a Metro designated facility for disposal without processing.



		3. The facility must notify Metro of any unprocessed Metro area waste that it transports to disposal as provided in Section 2.2.2. The facility must identify the reason that the waste was rejected from processing and remit to Metro the applicable fees and taxes for the entire load as described in the Agreement.
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3.0	GENERAL OPERATING REQUIREMENTS	
3.1	Qualified operator	<ol style="list-style-type: none"> 1. The facility must, during all hours of operation, provide an operating staff employed by the facility that is qualified and competent to carry out the functions required by this Agreement and to otherwise ensure compliance with Metro Code Chapter 5.01. 2. Facility personnel, as relevant to their job duties and responsibilities, must be familiar with the relevant provisions of this Agreement and the relevant procedures contained within the Metro Plan. 3. A qualified operator must have training and authority to reject prohibited waste that is discovered during load checks and to properly manage prohibited waste that is unknowingly received.
3.2	Fire prevention	<p>The facility must provide fire prevention, protection, and control measures, including but not limited to:</p> <ol style="list-style-type: none"> 1. Adequate water supply for fire suppression; and 2. Adequate equipment for the isolation of potential heat sources and/or flammables from processing and storage areas.
3.3	Adequate vehicle accommodation	<p>The facility must:</p> <ol style="list-style-type: none"> 1. Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. 2. Maintain access roads to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather. 3. Provide adequate off-street parking and queuing for vehicles, including adequate space for on-site covering and uncovering of loads.
3.4	Managing prohibited wastes	<ol style="list-style-type: none"> 1. The facility is prohibited from receiving or processing any Metro area waste not authorized in the Agreement. 2. The facility must not knowingly accept or retain waste prohibited under the Agreement, including but not limited to hazardous waste.



		<ol style="list-style-type: none"> 3. The facility must reject prohibited waste upon discovery and must properly manage and dispose of prohibited waste when unknowingly received. 4. The facility must maintain a load-check program to prevent the acceptance of waste that is prohibited by the Agreement. This program must include at a minimum: <ol style="list-style-type: none"> (a) Visual inspection. A qualified operator must visibly inspect each Divert bin to prevent the processing of waste that is prohibited by the Agreement. (b) Containment area. The facility must maintain a secured or isolated containment area for the storage of prohibited wastes that are unknowingly received. Containment areas must be covered and enclosed to prevent leaking and contamination. (c) Record maintenance. The facility must maintain records of the training of personnel in the recognition, proper handling, and disposition of prohibited waste and be available for review by Metro. 5. Upon discovery, the facility must remove all prohibited or unauthorized wastes or manage the waste in accordance with DEQ requirements and procedures established in the Metro Plan. The facility must remove from the site all prohibited or unauthorized wastes it inadvertently receives and transport the waste to an appropriate destination within 90 days of receipt, unless required to be removed earlier by DEQ or local government.
<p>3.5</p>	<p>Storage of waste</p>	<p>The facility must:</p> <ol style="list-style-type: none"> 1. Manage, contain, and remove at sufficient frequency the processed waste for use in anaerobic digestion or other approved beneficial use and processing residual to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards; and 2. Maintain storage areas in an orderly manner and keep the areas free of litter.
<p>3.6</p>	<p>Dust, airborne debris and litter</p>	<ol style="list-style-type: none"> 1. The facility must be operated in a manner that controls and minimizes the generation of dust, airborne debris and litter, and which prevents its migration beyond property boundaries. 2. The facility must: <ol style="list-style-type: none"> (a) 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.



		<p>(b) Maintain and operate all access roads and receiving, processing, storage, and reload areas in such a manner as to minimize dust and debris generated on-site and prevent such dust and debris from blowing or settling off-site.</p> <p>(c) Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation.</p> <p>(d) Maintain on-site facility access roads to control and minimize dust and the tracking of mud off-site.</p> <p>(e) Provide access to the facility for the purpose of uncovered load enforcement. During all times that solid waste or recyclable materials are being accepted, authorized representatives of Metro, including law enforcement personnel on contract to Metro, must be permitted access to the premises of the facility for the purpose of making contact with individuals they have observed transporting uncovered loads of solid waste or recyclable materials on a public road right-of-way in violation of Metro Code Chapter 5.09.</p>
3.7	Odor	<p>The facility must:</p> <ol style="list-style-type: none"> 1. Operate in a manner that controls and minimizes the generation of odors that are detectable off-site. 2. Follow procedures in the Metro Plan for minimizing odor at the facility.
3.8	Vectors (e.g. birds, rodents, insects)	<ol style="list-style-type: none"> 1. The facility must operate in a manner that is not conducive to harboring of rodents, birds, insects, or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another. 2. The facility must implement vector control measures if vectors are present or detected at the facility.
3.9	Noise	<p>The facility must operate in a manner that controls and minimizes any noise sufficient to causes adverse off-site impacts and meets applicable regulatory standards and land-use regulations.</p>
3.10	Water contaminated by solid waste and solid waste leachate	<p>The facility must:</p> <ol style="list-style-type: none"> 1. Operate consistent with an approved DEQ stormwater management plan or equivalent; 2. Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; and



		3. Dispose of or treat water contaminated by solid waste generated onsite in a manner complying with local, state, and federal laws and regulations.
3.11	Access control	Access to the facility must be controlled as necessary to prevent unauthorized entry and dumping.
3.12	Complaints	<ol style="list-style-type: none"> 1. The facility must respond to all complaints in a timely manner. 2. The facility must record the following information for every complaint it receives: <ol style="list-style-type: none"> (a) Type of complaint (for example odor, dust, notice, litter, etc.); (b) Date the complaint was received; (c) Name, address and telephone number of the complainant; and (d) Descriptions of the actions the facility took in response to the complaint, whether successful or unsuccessful. 3. The facility must retain each complaint record for a period of not less than one year and make these records available to Metro upon request.
3.13	Access to Supplemental Operating Requirements	The facility must maintain a copy of these supplemental operating requirements and the Agreement on the facility premises, and in a location where facility personnel and Metro representatives have ready access to them.