

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING AND)	RESOLUTION NO. 24-5428
ADOPTING THE LIST OF DESIGNATED)	
FACILITIES OF THE SOLID WASTE SYSTEM)	Introduced by Chief Operating Officer
PURSUANT TO METRO CODE CHAPTER 5.05)	Marissa Madrigal in concurrence with
)	Council President Lynn Peterson

WHEREAS, Metro Code Chapter 5.05 governs the regulation of solid waste generated within the Metro boundary that is transported, managed and disposed at locations outside of the jurisdictional boundary; and

WHEREAS, Metro Code Chapter 5.05 states that no person may transport solid waste generated within the Metro boundary to a solid waste facility or disposal site unless it is a designated facility, or the person has obtained a non-system license; and

WHEREAS, Metro Code Chapter 5.05 states that Metro Council may designate a solid waste facility or disposal site located outside the Metro boundary as part of the solid waste system and add it to the designated facilities list. That list is attached as Exhibit A; and

WHEREAS, Metro Code Section 5.05.100 authorizes the Chief Operating Officer to execute an agreement between Metro and a Council-approved designated facility or disposal site located outside the Metro boundary; and

WHEREAS, the Divert Integrated Food Recovery Facility in Longview, Washington has applied to Metro to become a designated facility of the system; and

WHEREAS, the Chief Operating Officer has considered the factors set forth in Metro Code Section 5.05.070 with respect to this applicant as outlined in Exhibit B and recommends amending the designated facilities list to add Divert Integrated Food Recovery Facility; and

WHEREAS, Metro Council finds that designating a solid waste facility as part of the solid waste system will provide Metro with greater oversight of the region’s waste and help ensure that the region’s waste is properly managed and disposed in accordance with Regional Waste Plan and other solid waste policy objectives; and

WHEREAS, Metro Council finds that designating a solid waste facility as part of the solid waste system may be beneficial to the Metro region by reducing the need for regional users of the facility to obtain an individual non-system license from Metro; and

WHEREAS, Metro is currently developing a Regional System Facilities Plan to establish and implement an investment strategy to modernize the region’s reuse, recycling and garbage infrastructure; and

WHEREAS, the Regional System Facilities Plan may identify areas of the current solid waste system that require further analysis or re-evaluation, and Metro Council may amend the designated facility list in accordance with Metro Code Chapter 5.05 to add or remove a designated disposal site or solid waste facility in the future; now therefore,

BE IT RESOLVED that the Metro Council:

1. Has considered the factors set forth in Metro Code Section 5.05.070 as further described in attached Exhibit B, and designates Divert Integrated Food Recovery Facility as part of Metro's solid waste system and adds this facility to the designated facilities list.
2. Adopts an amended list of designated facilities (attached as Exhibit A) pursuant to Metro Code Section 5.05.060.
3. Authorizes the Chief Operating Officer to remove from the list of designated facilities in Exhibit A any disposal site or solid waste facility that permanently closes or ceases to accept solid waste. No further Metro Council action is needed for designated facility removals authorized by this section.
4. Authorizes the Chief Operating Officer to execute a designated facility agreement between Metro and Divert Integrated Food Recovery Facility for the types of waste described in the staff report to this resolution.

ADOPTED by the Metro Council this 21st day of November 2024.



Lynn Peterson, Council President

Approved as to Form:



Carrie MacLaren, Metro Attorney

IN CONSIDERATION OF RESOLUTION NO. 24-5428, FOR THE PURPOSE OF AMENDING AND ADOPTING THE LIST OF DESIGNATED FACILITIES OF THE SOLID WASTE SYSTEM PURSUANT TO METRO CODE CHAPTER 5.05

Date: October 29, 2024
Department: WPES
Meeting Date: November 21, 2024

Prepared by: Joanna Dyer, 503-813-7550,
joanna.dyer@oregonmetro.gov

ISSUE STATEMENT

All solid waste generated within the Metro jurisdictional boundary must be transported to a designated facility, or to another approved destination under a non-system license, for processing or disposal. Divert Integrated Food Recovery Facility is a food waste processing and anaerobic digestion facility under development at 1800 Prudential Blvd. in Longview, Washington. It has applied to become a designated facility of Metro’s solid waste system pursuant to Metro Code Chapter 5.05.

ACTION REQUESTED

Adopt Resolution No. 24-5428 to:

1. Designate Divert Integrated Food Recovery Facility as part of Metro’s solid waste system and add this facility to the designated facilities list;
2. Adopt an amended list of designated facilities pursuant to Metro Code Section 5.05.060, attached as Exhibit A to Resolution 24-5428;
3. Authorize the Chief Operating Officer to remove from the list of designated facilities in Exhibit A any disposal site or solid waste facility that permanently closes or ceases to accept solid waste. No further Metro Council action is needed for designated facility removals authorized by this section; and
4. Authorize the Chief Operating Officer to execute a designated facility agreement between Metro and Divert Integrated Food Recovery Facility for the types of waste described in this staff report.

IDENTIFIED POLICY OUTCOMES

Designating the proposed facility as part of Metro’s solid waste system and establishing a designated facility agreement (DFA) with it provides greater oversight of the region’s waste and helps Metro ensure that commercial food waste is properly managed in accordance with the Regional Waste Plan and other solid waste policy objectives.

POLICY QUESTION

Should Metro Council designate Divert Integrated Food Recovery Facility as part of Metro’s solid waste system?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. *Adopt the proposed resolution and authorize Divert Integrated Food Recovery Facility as a designated facility.*

Designating an out-of-region facility as part of the solid waste system helps Metro ensure that Metro area waste is managed appropriately when it leaves the region. When Council designates a facility, it creates a direct relationship between Metro and the facility. This

allows Metro to establish operational expectations and mechanisms for monthly reporting and fee and tax remittance for Metro area waste received at the facility. This reduces administrative costs and creates tax and fee collection efficiencies. Designation also reduces the need for any future user of the facility to apply for and maintain an individual non-system license (NSL) from Metro, which reduces Council's need to potentially consider multiple administrative NSLs during Council meetings.

2. *Do not adopt the Resolution to authorize Divert Integrated Food Recovery Facility as a designated facility.*

If Council does not adopt this resolution, the designated facility list would not change and would remain as adopted by Council in 2021 (Resolution No. 21-5167). Each generator or transporter interested in sending commercial food waste from the Metro area to the Divert Integrated Food Recovery Facility for processing would need to apply for a Metro NSL to authorize that transport. Staff would evaluate each NSL application and make a recommendation to Council, which would need to determine whether to issue each NSL.

Multiple NSLs issued to transport waste to the same non-system facility may create an administrative burden for Metro and add a barrier to the facility's ability to source feedstocks in a timely manner. Metro does not have a direct relationship with non-system facilities authorized under an NSL, therefore, Metro has less direct knowledge of how the waste is managed when authorized under an NSL versus an agreement with the facility itself. A DFA is a more efficient mechanism for managing the flow of waste from the Metro region to a designated facility, as the facility can accept authorized waste directly from Metro area customers as provided in the DFA.

STAFF RECOMMENDATIONS

Staff recommends that Metro Council adopt Resolution No. 24-5428 to add Divert Integrated Food Recovery Facility to Metro's designated facilities list.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

A designated facility is a solid waste facility or disposal site that is: (1) owned or operated by Metro; (2) located *within* the Metro jurisdictional boundary and subject to Metro's regulatory authority under Metro Code Chapter 5.01, or (3) located *outside* the Metro jurisdictional boundary that Council has designated as part of Metro's solid waste system. Once designated, Metro adds the facility to the designated facilities list (see Exhibit A to Resolution No. 24-5428). Council adopts the designated facilities list at least every five years and more often if changes to the list occur (as proposed with this resolution). If Metro Council designates a facility as part of the system, the Chief Operating Officer is authorized to execute an agreement between Metro and the facility, which allows the facility to accept solid waste generated from within the region and collect the regional system fee and excise tax on Metro's behalf. There are currently 15 designated facilities located *outside* of the Metro jurisdictional boundary.

On May 10, 2024, Divert PNW Dev Co, LLC submitted a designated facility application to Metro for its facility in Longview, Washington which is currently under development. The proposed facility plans to receive pre-consumer packaged, unpackaged and liquid food waste from food retailers and producers. The facility will depackage and process the food waste into a liquid slurry which will be fed into an on-site anaerobic digester to produce renewable natural gas. This facility, once operational, will provide additional capacity for recovering food waste from large grocery retailers that generate high volumes of packaged and unpackaged food waste. Depackaging is an essential

tool in diverting this waste from the landfill. In addition, Divert works with its customers to separate food for donation and provides data to its customers about their food waste to inform future purchasing and diversion decisions.

Divert operates a similar facility in Albany, Oregon that Council designated as part of Metro's solid waste system in 2021 (Resolution No. 21-5167). Attachment 1 contains additional information about the applicant, the proposed facility and the existing facility in Albany.

Legal Antecedents

Metro has solid waste management authority under the Oregon Constitution, state law and the Metro Charter. To determine whether to add a facility to the designated facilities list, Metro Council must consider the factors described in Metro Code Subsection 5.05.070(b) as set forth in Exhibit B to Resolution 24-5428.

Financial Implications

Recovered food waste is exempt from Metro fees and taxes. Metro will collect fees and taxes on any residual waste resulting from depackaging of food waste generated in the Metro region. Staff will work with the facility to establish reporting and remittance protocols using the existing DFA with the Divert facility in Albany as guidance. Based on the current system, staff does not expect any financial implications resulting from the proposed action. However, Metro is currently developing a Regional System Facilities Plan that identifies organics processing as a potential future investment strategy. The financial implication of this strategy is not yet known, and Council may decide to amend the designated facility list in accordance with Metro Code Chapter 5.05 in the future when more information is available.

Known Opposition

There is no known opposition to the proposed actions described in this resolution.

ATTACHMENTS

- Attachment 1 to Staff Report: Background information on the applicant

Exhibit A to Resolution No. 24-5428



Designated Facilities of Metro’s Solid Waste System

Effective November 21, 2024

The Metro Council has found that the following disposal sites and solid waste facilities meet the criteria set forth in Metro Code Chapter 5.05 and are designated as part of Metro’s solid waste system. In accordance with Metro Resolution No. 24-5428, this list of designated facilities is hereby effective on November 21, 2024.

I. Disposal sites and solid waste facilities owned or operated by Metro.

- 1) Metro Central Station
6161 NW 61st Ave.
Portland, OR 97210
- 2) Metro South Station
2001 Washington St.
Oregon City, OR 97045

II. Disposal sites and solid waste facilities located within Metro’s boundary.

All disposal sites and solid waste facilities located within the Metro boundary that are subject to Metro regulatory authority under Metro Code Chapter 5.01. All such designated facilities are required to obtain a Metro-issued license or franchise unless otherwise exempt from such requirement.

III. Disposal sites and solid waste facilities located outside of Metro’s boundary.

The out-of-region designated facilities listed below are authorized to accept certain types of waste generated within the Metro jurisdictional boundary as described in an agreement between Metro and the owner of the facility. Metro may also allow other types of waste to be transported to these facilities under a non-system license.

Designated Facility	Address
Canby Transfer & Recycling, Inc.	1600 SE 4th Ave., Canby, OR 97013
Chemical Waste Management of the Northwest Inc.	17629 Cedar Springs Lane, Arlington, OR 97812
Coffin Butte Landfill	29175 Coffin Butte Road, Corvallis, OR 97330
Columbia Ridge Landfill	18177 Cedar Springs Lane, Arlington, OR 97812
Covanta Marion (now Reworld Marion)	4850 Brooklake Road NE, Brooks, OR 97305
Cowlitz County Headquarters Landfill	3434 Silverlake Road, Castle Rock, WA 98611
Dirt Hugger	111 E Rockland Road, Dallesport, WA 98617
Divert Albany Processing Facility	950 SE Jackson St., Albany, OR 97322
Divert Integrated Food Recovery Facility	1800 Prudential Blvd., Longview, WA 98632
Finley Buttes Regional Landfill	73221 Bombing Range Road, Boardman, OR 97818
Hillsboro Landfill	3205 SE Minter Bridge Road, Hillsboro, OR 97123
Recology Organics – Aumsville	8712 Aumsville Highway SE, Salem, OR 97317
Recology Organics – North Plains	9570 NW 307 th Ave., North Plains, OR 97133
Roosevelt Regional Landfill	500 Roosevelt Grade Road, Roosevelt, WA 99356
Tualatin Valley Waste Recovery	3205 SE Minter Bridge Road, Hillsboro, OR 97123
Wasco County Landfill	2550 Steele Road, The Dalles, OR 97058

Exhibit B to Resolution No. 24-5428



Legal Antecedents

Metro has solid waste management authority under the Oregon Constitution, state law and the Metro Charter. The proposed resolution seeks to add the Divert Integrated Food Recovery Facility in Longview, Washington to Metro's designated facilities list. Metro Code Section 5.05.070(b) provides that the Metro Council considers the following factors to the extent relevant to determine whether to add a facility to the designated facilities list.

- (1) The degree to which Metro had knowledge of prior facility users and waste types accepted at the facility and the degree to which those wastes pose a future risk of environmental contamination;*

The proposed designated facility is new construction and therefore does not have a history of receiving and managing waste at this property. The operating plan submitted as part of the application includes procedures for receiving and managing waste that align with requirements for a facility located within the Metro region.

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

Divert has applied for and obtained an Air Discharge Permit (permit No. 23-3604) for the construction and operation of a renewable natural gas production facility from the Southwest Clean Air Agency and a Construction and Stormwater General Permit (permit No. WAR312144) from the Washington Department of Ecology (Ecology). Divert has also submitted applications to Cowlitz County for a Solid Waste Permit and Ecology for a National Pollutant Discharge Elimination System (NPDES) Permit, which have not yet been issued as of the writing of this staff report. Based on investigations by staff and information provided by these regulatory agencies, both applications have been deemed complete, and the applicant has been responsive throughout each application process. If the proposed resolution is approved prior to the issuance of these permits, staff will continue to monitor the application process to ensure that the facility obtains the requisite permits and Metro executes a designated facility agreement (DFA) with the facility before it receives any Metro area waste.

The parent company of the applicant, Divert Inc., is known to Metro staff. In 2017, the Oregon Department of Environmental Quality (DEQ) issued a Warning Letter with Opportunity to Correct to Divert for operating a solid waste facility in Dayton, Oregon without a permit. Divert moved its Oregon facility to its current location in Albany, Oregon and applied for and obtained a solid waste permit. In 2021, DEQ issued a Warning Letter with Opportunity to Correct to Divert Inc. for violations found at the Albany facility during a routine inspection. Divert performed corrective measures and returned the facility to compliance.

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

Cowlitz County and Ecology are currently working with the facility to ensure that it has the operational practices and management controls in place for managing solid waste, wastewater and stormwater, as well as operating an anaerobic digestion facility in the state of Washington. Based on the information provided in the application, Metro considers the operational practices and management controls proposed at this facility to be adequate for this type of facility and consistent with similar facilities designated by Metro.

(4) The expected impact on the region's recycling and waste reduction efforts;

The proposed food waste processing facility under consideration in this resolution is important to Metro's efforts to increase food waste recovery rather than disposal in a landfill. Currently, nearly 5,000 tons of packaged and unpackaged food waste generated in the Metro region flows to Divert's facility in Albany, Oregon. Divert has not indicated whether any of the Metro area food waste currently going to Albany will be routed to the Longview facility. However, the new facility will have increased capacity to capture packaged and unpackaged food waste. Divert's service model also prioritizes separation of donatable food at the store level and provides data to its customers about the types of food that are wasted. Staff finds that designating this facility will create a direct relationship between Metro and the facility, which provides Metro with greater oversight to ensure that food waste is properly managed.

(5) The facility designation's compatibility with Metro's existing contractual arrangements;

Metro's existing contractual arrangements will not be affected by the designation of this facility. However, it is important to note that Metro is currently developing a Regional System Facilities Plan to modernize the region's reuse, recycling and garbage infrastructure. That planning effort may identify areas of the current solid waste system that require further analysis or re-evaluation. Metro Council may reconsider the designated facility list in the future in accordance with Metro Code Chapter 5.05.

(6) The facility's record of compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement; and

This facility is new construction and therefore does not have a record of compliance with Metro. However, Divert Inc., the parent company of the applicant, is well known to Metro staff through its operation of the Divert Albany Processing Facility which is a designated facility of Metro's solid waste system. Divert has a good record of cooperating with Metro regarding waste flow control matters and staff also finds that Divert has generally been responsive to Metro's requests for information about the Albany facility and origins of the waste it receives. Staff has an effective working relationship with the Albany facility operators and finds that they have a good record of assisting and complying with Metro's requirements.

(7) Other benefits or detriments accruing to regional residents if Council designates the facility.

As previously mentioned, staff finds that designating the proposed facility creates a direct relationship between Metro and the designated facility and provides Metro with greater oversight of the region's waste to ensure that it is properly managed and disposed of. This direct relationship reduces the need for users of a facility to obtain a non-system license. Under a DFA the facility would be responsible for reporting tonnage and remit fees and taxes to Metro monthly.

Based on an evaluation of the above-mentioned factors, staff finds that the applicant will operate this new facility in a manner that meets Metro Code requirements. The facility has applied for permits from the appropriate authorities to minimize the potential for environmental risk.

Attachment 1 to Staff Report for Resolution No. 24-5428



Applicant

The applicant, Divert PNW Dev Co, LLC is a subsidiary of Divert, Inc., a company based in Concord, Massachusetts that creates advanced technologies and sustainable infrastructure to eliminate wasted food. The Divert Integrated Food Recovery Facility is a food waste processing and anaerobic digestion facility that is currently under development in Longview, Washington.

The facility plans to receive pre-consumer packaged, unpackaged and liquid food waste from commercial food retailers and producers. The proposed facility's operations are divided into two stages: food waste processing and anaerobic digestion. Divert's processing equipment will separate food waste from packaging to produce a nutrient rich liquid slurry, which will be added to the on-site anaerobic digestion tank where bacteria will break down the organic matter and convert the organic carbon into biogas. The facility will further process the biogas into renewable natural gas (RNG), which will be injected into an existing offsite natural gas pipeline. The solids, or digestate, resulting from the anaerobic digestion process will be collected and transported to a permitted composting facility that has not yet been identified at the time of this staff report. The non-recoverable residual waste from the depackaging process will be disposed of at Headquarters Landfill in Cowlitz County, Washington.

The Longview facility applied for a solid waste permit from Cowlitz County and a National Pollutant Discharge Elimination System (NPDES) Permit from the Washington Department of Ecology. Neither permit has been issued as of the writing of this staff report. Staff will continue to monitor the permitting process to ensure that the permits are issued and effective prior to authorizing the flow of food waste generated in the Metro region to this facility via the designated facility agreement (DFA).

Divert operates a similar facility in Albany, Oregon which depackages and processes commercial food waste into a slurry that it transports to a neighboring farm for anaerobic digestion. Packaged and unpackaged commercial food waste generated within the Metro region has flowed to the Albany facility since it opened in 2017, first under Non-System Licenses (No. N-180-17 and N-181-17) and currently under DFA No. 937405 that became effective on Sept. 1, 2021 (Resolution No. 21-5167). Under the DFA, the Albany facility has received nearly 5,000 tons of food waste per year from the Metro region. Thirty percent of this waste becomes residual during the depackaging process and is subject to the Metro regional system fee and excise tax. Staff anticipates a similar residual rate at the new facility. Divert has not indicated whether any of the Metro area food waste currently going to Albany will be routed to the Longview facility.