



DATE: October 13, 2022
TO: Washington County Garbage and Recycling Advisory Committee
FROM: Kathy Folsom, Senior Policy Coordinator
RE: Proposed Franchise Agreement Renewal – Hillsboro Landfill, Inc.

Background and summary

Hillsboro Landfill, Inc. (HLI), a wholly owned subsidiary of Waste Management of Oregon, Inc., the franchise holder for the Hillsboro Landfill solid waste disposal facility located at 3205 S.E. Minter Bridge Road in Hillsboro, Oregon, has submitted a solid waste facility application for the purpose of renewing its franchise agreement to continue to operate the facility in Washington County. The current Washington County franchise was issued in August 2012 and is scheduled to expire on November 30, 2022.

The facility is a permitted solid waste disposal site under Solid Waste Disposal Site Permit No. 112, issued by the Oregon Department of Environmental Quality (DEQ) in October 2012.

Washington County Code (WCC) Chapter 8.08 directs the Garbage and Recycling Advisory Committee (GRAC or Committee) to make findings of fact related to HLI's solid waste facility renewal application. The criteria and proposed findings for Committee consideration are outlined in Attachment A to this staff report. The Committee's recommendation will be provided to the Washington County Board of Commissioners during its consideration of the renewal application.

Franchise Renewal Process

The process for renewal of the franchise is outlined within WCC Chapter 8.08 Disposal Sites, Sections 180 through 300. This process requires applications for franchises to be made on forms provided by the County submitted with a non-refundable fee of one hundred dollars (\$100). Additionally, applicants for disposal franchises shall file in duplicate the information required by the Department of Environmental Quality for a solid waste disposal site permit as required by Oregon Revised Statutes Chapter 459.

Solid Waste Facility Application

On April 6, 2022, HLI filed a complete application for renewal of the Franchise Agreement authorizing its disposal site operation. Information contained in this application specifically addressed HLI's current compliance status with the provisions contained within WCC Chapter 8.08, within the existing Franchise Agreement, and within all associated permits issued under the authority of appropriate state and local agencies.

Review of Solid Waste Facility Application

Provisions within WCC Chapter 8.08 require that applications for disposal franchises shall be reviewed by the following County departments: Health and Human Services (HHS), Land Use and Transportation, and other county offices designated by the board. Each of these departments has reviewed the application. The relevant department findings are outlined below.

Land Use and Transportation Department

The Washington County Department of Land Use and Transportation (LUT) is the authority for land use decisions for the County. LUT has advised the Solid Waste & Recycling Division that:

The landfill is in good standing with LUT. The 2020 land use review of conditions was the last review of HLI, and part of that decision allowed for a cessation of the normal five-year review period. Nothing further is pending.

Clean Water Services

Clean Water Services maintains two permits with HLI:

1. Industrial User Wastewater Permit Expires: 8/27/2025
2. NPDES 1200-Z Stormwater Permit Expires: 6/30/2026

Hillsboro Landfill is in conformance and compliance with all Clean Water Service District's rules and permit requirements for these permits.

Department of Environmental Quality

While the Oregon Department of Environmental Quality (DEQ) is not a County department, the code requires that the applicant be in compliance with all applicable rules and regulations. Since DEQ is a permitting agency for the requested solid waste disposal operation, its review was solicited by staff. OAR 340-093-0070 provides that if a completed application for the renewal of a permit is filed with the department in a timely manner before the expiration date of the permit, the permit does not expire until the department takes final action on the renewal application. All permit conditions will remain in effect until such time as a renewed permit is issued by DEQ. Both a solid waste disposal site permit renewal application and an air contaminant discharge permit renewal application have been filed by HLI and the status of those permits are 'under review' as of the date of this staff report.

DEQ maintains two permits with HLI:

1. Solid Waste Disposal Site Permit No. 112 - Expires: 10/1/2022.

DEQ stated that *"DEQ received a timely renewal application so Hillsboro can operate under the expired permit until DEQ renews the permit."*

2. Standard Air Contaminant Discharge Permit No. 34-0004-ST-01-Expired: 3/1/2017

In accordance with permit stipulation 12.12.a, if a complete permit application is submitted on time to DEQ, the permit is administratively extended until DEQ reissues or terminates the permit. A complete permit application was submitted to DEQ on 12/19/16 and has been under review since that time.

Health and Human Services Department, Solid Waste & Recycling Division

The HHS Solid Waste & Recycling Division has conducted a review of the HLI franchise agreement renewal application. WCC Chapter 8.08.290 Franchise Issuance requires that the Garbage and Recycling Advisory Committee (GRAC) make specific findings of fact related to the Franchise Agreement renewal application. These findings are based on specific criteria determined through investigation of the Hillsboro Landfill, Inc. facility application. The criteria and proposed findings for GRAC consideration are outlined in Attachment A to this staff report.

The Hillsboro Landfill is classified by DEQ as a dry waste landfill. As such, it is limited to certain types of waste, including construction and demolition waste. Most of this type of material, construction-related waste, is now routed through the Tualatin Valley Waste Recovery facility, a permitted Materials Recovery Facility (MRF) located on site. The landfill is permitted to accept residual waste from the MRF, land clearing debris, certain special wastes that are subject to special waste management plans approved by DEQ, friable asbestos-containing solid waste subject to provisions of special waste management regulations, waste tires, contaminated soils and empty rigid pesticide containers.

During 2021-2022, staff investigated one HLI odor complaint. The investigation found that the odor was apparently coming from a location within the City of Hillsboro and that there were no odors coming from the landfill.

Additionally, staff contacted the City of Hillsboro regarding any potential concerns or complaints. City of Hillsboro staff noted that they receive an occasional call, but nothing that warranted a concern.

Based on the proposed findings included in Attachment A, it appears that the applicant meets the criteria for renewal.

Franchise Agreement Terms and Conditions

Proposed changes to the current Franchise Agreement include an updated maximum rate, an increase to the tonnage cap, clarifications regarding additional conditions, and the addition of facility special events. There are other minor revisions to terms and conditions that will be part of the renewed franchise agreement.

Section 4. Rates

The HLI current Franchise Agreement sets a base level maximum rate per ton for the disposal of dry solid waste of \$62/ton beginning in 2012 and then further adjusted each year by 85% of the percentage change in the Consumer Price Index. The allowed maximum rate for 2021 was adjusted by 85% of the change in the Consumer Price Index to arrive at the new base level maximum rate for 2022 of \$75.16 per ton. No other changes are proposed.

Section 5. Tonnage Cap

In response to a request from the Franchisee for an increase in the tonnage cap, staff is proposing to increase the annual tonnage cap from 400,000 tons to 550,000 tons. Reported data has shown a steady increase in tonnage since the current Agreement was executed in 2012. In 2022, the landfill is very close to bumping against the tonnage cap and would need to cease accepting waste in the absence of an increase. Since it is a 10-year agreement and given the landfill tonnage projections, staff believes that an approximately 37% increase in tonnage is reasonable over the next 10 years.

Additionally, staff and HLI are proposing adding tonnage cap “review” language that is meant to allow HLI a shorter County review period if reported tonnage starts getting closer to the tonnage cap in the future. Staff is proposing that “if during the term of this Agreement the amount of solid waste for disposal accepted for two consecutive quarters exceeds 50% of the tonnage cap, the Franchisee may request that the County review the tonnage cap for any potential adjustments. The County will within 45 days consider the impacts of increasing the maximum tonnage cap on traffic, noise, odor and other community considerations.”

The Franchisee has reported that it is expected that the increased maximum tonnage allowed will not have a significant impact on the nearby neighborhoods and roadways. As noted by the Franchisee, over the past several years, HLI’s waste stream has transitioned into a larger mix of transfer loads utilizing their tipper operations. This in turn, has reduced the number of vehicles per ton utilizing the landfill operations and traveling on the local roadways. Larger loads lead to less traffic and less congestion on the roads around the landfill. Staff will continue to monitor the impact of increased tonnage on traffic and other community considerations.

Section 20. Additional Conditions

Proposed language clarifying the requirement to file with the County any permits issued by other regulatory bodies has been added to the Franchise Agreement.

Section 21. Special Events

As part of the Franchise Agreement, HLI will support Washington County’s public outreach by facilitating, at the request of Washington County, an annual outreach day to support residents living within an agreed upon area of the Landfill. This may include a bulky item drop off or similar event.

Remaining Edits

All additional edits do not make substantial changes to the current Agreement and should be considered “housekeeping” in nature.

Staff Recommendation

Staff recommends that the Washington County Garbage and Recycling Advisory Committee favorably recommend that the Washington County Board of County Commissioners approve the renewal of the Washington County solid waste franchise agreement currently issued to Hillsboro Landfill, Inc. to operate the Hillsboro Landfill solid waste disposal site for a term of ten years, through November 30, 2032.

The recommended term is consistent with the current franchise term and pursuant to WCC 8.08.490.

Attachment:

Attachment A: Staff Analysis and Findings

Attachment A Staff Analysis and Findings

Washington County Code (WCC) Chapter 8.08.230 Requirements

WCC 8.08.230 provides several requirements for consideration by the board in determining whether to approve an application for a solid waste facility. The following findings respond to each of those requirements.

Criterion: The applicant must show to the satisfaction of the board that it has available equipment, facilities and personnel to meet the standards established by this chapter, applicable state statutes, and rules and regulations

Finding: Hillsboro Landfill, Inc. has maintained and operated a solid waste disposal site under DEQ permit and franchise to the County since 1997. During that time, the applicant has made available the necessary equipment, facilities and personnel required to meet the standards established by this chapter, applicable state statutes and rules and regulations as they relate to the operation of the facility. Staff finds that this criterion has been met.

Criterion: The applicant must show to the satisfaction of the board that it is registered with the State of Oregon Corporation Division and is duly authorized to conduct business within the State of Oregon.

Finding: Staff has reviewed the materials submitted as part of the application and reviewed the corporate records on file with the Oregon Secretary of State Corporation Division. Staff finds that this criterion has been met.

Criterion: The applicant must show to the satisfaction of the board that it has sufficient personnel experienced in the operation of comparable disposal facilities considering the type, duration, volume of disposal, weather conditions, and methods of disposal to ensure an ability to comply with Chapter 459 ORS and rules and this chapter and the regulations thereunder.

Finding: The applicant has operated this facility at this location since 1997. The applicant will keep the necessary existing personnel and operations manager on site. These personnel represent an extensive level of experience in the field of solid waste disposal operations. Staff finds that this criterion has been met.

Criterion: The applicant must show to the satisfaction of the board that it has, as a condition of receiving a franchise, submitted to the county before issuance of the franchise, proof of financial assurance in a form and of a value sufficient to satisfy the provisions of ORS 459.272 and Metro Code 5.01.060(c)(4), as may be amended, if applicable, unless otherwise required by the board.

Finding: The applicant has demonstrated, via its DEQ permit, proof of financial assurance sufficient to meet the standard established within the code. Staff finds that this criterion has been met.

Washington County Code Chapter 8.08.290. Franchise Issuance – Findings

In addition, WCC Chapter 8.08 requires that the Garbage and Recycling Advisory Committee shall, upon the basis of the application, evidence submitted, and results of any investigations make specific findings of fact for the following:

Criterion: Qualifications of the applicant in the light of this chapter, statutes, rules and regulations.

Finding: Applicant has successfully operated the current landfill operation without any violation of the County's franchise or other related rules and regulations. Currently, there are no reported violations issued by DEQ related to their permit requirements or other rules or regulations. The County received a minimal number of complaints during the 10-year Franchise Agreement. Staff finds that this criterion has been met.

Criterion: The service, equipment and facilities are provided by the applicant.

Finding: The applicant has maintained and operated a solid waste disposal site under DEQ permit and Franchise Agreement with the County since 1997. During this time the applicant has made available the necessary equipment, facilities and personnel required to meet the standards established by this chapter, applicable state statutes and rules and regulations as they relate to the operation of the facility. Staff finds that this criterion has been met.

Criterion: Conditions of service should be imposed, including but not limited to, whether the site should be open to the public and under what conditions, whether certain types of wastes, solid wastes or hazardous wastes should be excluded from the site or should be required to be accepted at the site.

Finding: Adequate provisions have been established by the applicant to ensure that the site be open to the public on a regular basis, in addition to commercial customers. The types of waste to be accepted at this site are regulated under the terms and conditions of its DEQ solid waste permit and Franchise Agreement with Washington County. Staff finds that this criterion has been met.

Criterion: Whether the site can be integrated with existing private, regional, county-owned or operated sites or proposed sites.

Finding: The Hillsboro Landfill, Inc. facility is part of a larger integrated network of solid waste disposal facilities that are located throughout the three-county metropolitan area and receives feedstock from various jurisdictions. Staff finds that this criterion has been met.

Criterion: Public utility facilities.

Finding: The facility is currently served by all required public utilities. Staff finds that this criterion has been met.

Criterion: Location of facilities in relation to population centers within the county.

Finding: The facility is located on the southern edge of the city of Hillsboro and is partially located within the urban area. The facility is part of the recognized Regional Solid Waste Facilities network. While the facility is located adjacent to some residential and commercial uses, it is an established landfill operation and has developed and

maintained a strong working relationship with surrounding properties. Staff finds that this criterion has been met.

Criterion: Compliance with the Regional Solid Waste Management Plan.

Finding: This facility is inventoried within the Regional Solid Waste Management Plan as part of the Regional Solid Waste Facilities network and has a current designated facility agreement (DFA) with Metro, the regional solid waste management planning authority. Staff finds that this criterion has been met.