



**Waste Management, Inc. of Tennessee's Request for Approval  
of its Application to Expand the Southern Services Landfill**  
Prepared for the March 24, 2020 Region Board Hearing

Waste Management, Inc. of Tennessee requests that this document be included in the March 24, 2021 hearing record.

I. Region Board Review of Expansion Application

The Davidson County Solid Waste Region Board (“**Board**”) was created by Resolution No. R92-474, adopted by the Metropolitan Council on November 17, 1992, pursuant to Tennessee statute § 68-211-813. *See* By Laws of the Davidson County Solid Waste Region Board attached hereto as **Exhibit A**. The Board’s authority is derived from the language set forth in TCA § 68-211-814. The Board has the obligation to review any applications for expansion of a solid waste disposal facility within its region and render a decision accepting or rejecting the application within 90 days after receipt of a complete application. TCA § 68-211-814(b)(2)(A).

The Board may reject an application for expansion of an existing solid waste disposal facility within the region only upon determining that the application is inconsistent with the solid waste management plan adopted by the region and approved by the Tennessee Department of Environmental Conservation (“**TDEC**”)<sup>1</sup> and the Board shall document in writing the specific grounds on which the application is inconsistent with such plan. TCA § 68-211-814(b)(2)(B).

Waste Management, Inc. of Tennessee (“**WM**”) is requesting that the Board approve WM’s application to expand the Southern Services Class III/IV Landfill located in Nashville,

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<sup>1</sup> TDEC approved the Region’s 2019 Solid Waste Master Plan. *See* March 8, 2021 email from Trey White, TDEC Division of Solid Waste Management, attached as **Exhibit A-1**.

Tennessee. The Southern Services Landfill (“**Landfill**”) accepts construction and demolition waste and yard waste. The Landfill is not permitted to accept municipal solid waste or hazardous waste.

a. Original Application Submittal

WM originally submitted its application for expansion of the Landfill to the Board on October 13, 2020. *See* email transmittal from Nancy Sullivan of TriAd Environmental Consulting to Sharon Smith, Assistant Director, Metro Public Works, and application attached as **Exhibit B**. After attempting to obtain confirmation from the Board that the application was complete, the Board’s representative advised that, due to email issues, the email transmitting the application had been blocked. *Id.* Upon learning this, on November 20, 2020, WM’s consultant promptly re-sent the initial October 13, 2020 email that included the Landfill expansion application to the Board. *Id.* Out of an abundance of caution, WM also sent a hard copy of the application to the Board on or around November 20, 2020. *Id.*

b. Application Resubmittal

On January 12, 2021, WM received an email from the Board advising that WM’s application was not complete because page one needed to be signed in two places and notarized before the Board could review it. *See* emails exchanged between Ms. Sharon Smith and Ms. Nancy Sullivan dated January 12, 2021 and attached as **Exhibit C**. By that date, WM’s Landfill expansion application had been in the Board’s receipt for over 90 days and during that time period no one with the Board ever indicated the application was incomplete despite WM’s prior attempts to ensure completeness. To avoid further undue delay, WM re-submitted the expansion application with the requested signatures on page one. In its letter to the Board re-submitting the expansion application on February 3, 2021, WM advised the Board it did not agree that the application was incomplete and WM reserved all its rights and remedies available under the law as it pertains to

the required timeline for review and decision making related to the application. *See* letter from Nancy Sullivan dated February 3, 2021 attached as **Exhibit D**.

By letter dated February 11, 2021, Metro Public Works advised WM that it had received WM's re-submitted application on February 3, 2021 and that review of the application would be added to the Board's March 24, 2021 meeting agenda. *See* February 11, 2021 letter attached as **Exhibit E**.

## II. Southern Services Landfill

Southern Services Landfill is an approximately 77-acre Class III/IV Landfill located at 4651 Amy Lynn Drive, Nashville, Tennessee, 37218<sup>2</sup> that accepts construction and demolition debris ("C&D"). The Landfill is located on an approximately 183-acre site that lies within a primarily industrial development near the intersection of Ashland City Highway and Briley Parkway ("Site"). The entire Site and the proposed 17-acre expansion area is owned by WM (collectively, the "Property"). The Property is bordered by the Cumberland River on the south, the John W. McDougal metal fabrication facility on the west, the CSX Railroad on the north, and Briley Parkway on the east. Additional industrial uses and operations are located west of the Property, including CJ Mulch, Inc. (a mulching business) and Allied Crawford Steel. An aerial photo of the Site and surrounding area is attached as **Exhibit F**. The Landfill is accessed from Briley Parkway, by traveling approximately 1,500 feet west on Highway 12, Ashland City Highway, and turning left onto Amy Lynn Drive.

The Site initially received a conditional use permit from the Metropolitan Nashville and Davidson County ("Metro") in 1982 as a scrap operation. *See* January 28, 1992 letter from the Acting Director of the Board of Zoning Appeals and the Appeal #79-301 document approved by

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<sup>2</sup> The Landfill address was formerly known as 4475 Old Hydes Ferry Pike, Nashville, TN. The Landfill currently operates under Tennessee Department of Environment and Conservation, Division of Solid Waste Management, permit number DML 19-0032 issued on May 14, 2004.

Lon F. West on January 21, 1982 attached as **Exhibit G**. Approximately eight years later, consistent with the newly enacted Solid Waste Disposal Control Board rules established a classification system for disposal facilities, the then-owner of the Site applied for a permit by rule for a Class IV landfill for the property authorized as a conditional use by Metro. *See Application for Permit By Rule* dated on or around June 15, 1990 attached as **Exhibit H**. The first paragraph of that Application provides that "this facility is an existing disposal site that is being operated under the authority of a Metro zoning variance." The term "zoning variance" is a reference to the conditional use permit issued in 1982. *See Exhibit G*.

In a letter dated August 8, 1990, the Tennessee Department of Health and Environment, Division of Solid Waste Management, approved the Application thereby authorizing the facility to operate as a permit by rule Class IV landfill in compliance with the new rules. *See August 8, 1990 letter* attached as **Exhibit I**. In a letter dated September 20, 1993, the Metropolitan Zoning Administrator, Lon F. (Sonny) West advised attorney Tom White that the construction and demolition landfill on the property - now known as Southern Services - was allowed under the conditional use permit issued in 1982. *See September 20, 1993 letter* from the metropolitan Government of Nashville and Davidson County Zoning Administrator attached as **Exhibit J**.

WM acquired the Southern Services Landfill and took over operations in 1998. Since acquiring the Site, WM has made significant investments in the development of the Site and operation of the Landfill. WM has developed earthen flood barriers, relocated a Tennessee Valley Authority powerline, constructed wetlands, obtained a Permit-By-Rule authorization to process construction and demolition waste for recycling, obtained Wildlife at Work certifications from the Wildlife Habitat Council, and developed the internal infrastructure necessary for a C&D Landfill operation at the Site. *See April 21, 2011 letter* from TDEC to Timothy Wells of WM approving the Middle Tennessee Eco Park C&D Recycling Center attached hereto as **Exhibit K**.

The Eco Park area of the Site includes WM’s Middle Tennessee Environmental Center (“MTEC”) C&D recycling operation, a recovered material storage area, and WM is moving its office, scalehouse, and shop to the Eco Park area within the next 12 months. *See* Exhibit F, which shows the Eco Park location on the aerial photo. Trucks entering the Site and carrying loads of recyclable C&D materials such as metals, wood, and concrete are diverted from the Landfill and directed to MTEC where the truck is unloaded and the materials are segregated into recyclable and non-recyclable piles. All materials are then transferred to roll-off containers (or stockpiles if inert) and the reusable materials are sent to appropriate recycling markets or used at the Site. The non-recyclable materials are disposed in the adjacent Landfill. The co-location of the Southern Services Landfill and MTEC allows trucks containing recyclable C&D material to be easily diverted from disposal since MTEC and the Landfill share the same location. In addition, because MTEC and the Landfill are co-located, the non-recyclable residuals remaining from truckloads of materials that MTEC sorts can be easily disposed in the adjacent Landfill without trucks having to travel off-site to a distant disposal facility thereby increasing greenhouse gas emissions and incurring additional transportation costs. The unique co-location of the Landfill and MTEC makes C&D recycling economically feasible and convenient for C&D waste transporters.

So long as the Southern Services Landfill has capacity to continue disposing C&D waste, WM will continue to pay Metro the required fees that the Landfill must collect and remit to Metro. For the last three calendar years – 2018 through 2020 – WM paid Metro over \$6.5 million in C&D waste fees.<sup>3</sup>

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<sup>3</sup> WM paid Metro \$1,852,266 in 2018, \$2,002,975 in 2019, and \$2,657,474 in 2020 in fees for waste received at the Landfill. *See* WM 2018 through 2020 Fee Payment document attached as **Exhibit L**.

### III. The Proposed Expansion

Due to the proximity of existing waterways, roads, and rail at the Property, the potential for expansion of the Landfill is limited to a vertical expansion of the existing permitted landfill footprint and a horizontal expansion of approximately 17 acres east of the Site located between the existing Landfill and Briley Parkway. To facilitate the vertical portion of the expansion, WM will construct a Mechanically Stabilized Earth (MSE) retaining wall at the perimeter of the existing Landfill. Based on current disposal rates, the anticipated life of this expansion area is approximately ten to twelve years. However, the life of the proposed expansion area is greatly influenced by external factors over which neither WM, the City, nor County have control, such as weather events (tornados and flooding greatly increase the volume of materials generated), recycling market availability, and variable construction and demolition activities in the region.

### IV. Metro/Waste Management Partnership

WM currently partners with Metro on multiple solid waste management and recycling activities in support of the region's needs and goals. These activities include:

- WM owns and operates the only existing single-stream recyclable material recovery facility, which is located on Riverhills Drive in Nashville, Tennessee. WM has a contract with the City to receive and process all the residential recyclables collected in the City at the Riverhills Drive facility.
- WM operates two additional material recycling facilities in the Nashville area. WM's Nashville North facility on Myatt Drive and its High Grade facility on Riverhills Drive.
- WM has a permit-by-rule to operate MTEC – the only mixed C&D recycling operation in the County – which is located on the same site as the Southern Services Landfill.
- WM operates a transfer station on Antioch Pike in Nashville, which receives and transfers municipal solid waste out of Davidson County for disposal.

- WM owns and operates the Southern Services Landfill - the only C&D landfill in Davidson County.

WM employs 23 full-time staff at the Southern Services Site and employs 250 workers in Middle Tennessee.

V. 2019 Region Solid Waste Master Plan

In June 2017, the City and County began working on a new region Solid Waste Master Plan (“**Plan**”) to “serve as a roadmap to achieving Zero Waste over the next 30 years.” *See* August 2019 Plan Executive Summary, page 1, attached as **Exhibit M**. For purposes of the Plan, Zero Waste is defined as achieving 90% diversion from landfill disposal.<sup>4</sup> *Id.* The Plan contains a number of recommendations and options for Metro to consider along with varying levels implementation ranging from aggressive to slower and more conservative.

The authors of the Plan recognized that achieving the long-term Zero Waste vision will not be easy because fundamental changes to the way waste is currently managed will be required. *Id.* at 10. The first step in bringing about this change “is to establish a set of policies that will become the foundation of Metro’s solid waste management program.” *Id.* Without establishing new policies, including the formation of a Solid Waste Authority, the Plan authors cautioned that the County should not expect more than minor improvements to the 18% diversion rate.<sup>5</sup>

In addition to establishing new policies, the Plan’s Executive Summary highlights that arguably the biggest challenge of the Plan is determining how to fund new programs. *Id.* at 13. Due to funding challenges, the Plan authors recommend the creation of a Solid Waste Authority that has the power to assess fees to fund the Plan programs free of the limitations associated with

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<sup>4</sup> Zero Waste means “the conservation of resources by means of responsible production, consumption, reuse and recovery of products, packaging and materials. *See* Plan Executive Summary, page 4, of **Exhibit M**.

<sup>5</sup> It is important to note that the C&D waste diversion rate has been around 1% for at least the last 3 years. The 18% diversion rate is tied to residential single stream and commercial waste recycling, not C&D.

the current tax structure. *Id.* “The ability of an authority to collect adequate fees is paramount to establish a long-term, sustainable source of funding that would allow the program to move forward.” *Id.*

Overall, the Plan was developed with an eye toward allowing Metro “to adjust strategy and project implementation through the planning period in response to changes in available revenue and funding, population, environment, technology, and regulatory pressure.” *Id.* at 16. The Plan identified phases that are both aggressive and extended, giving Metro the flexibility to adjust the schedule based on changing priorities, funding, or immediate needs. *Id.* Even the most aggressive schedule, however, contemplates five phases that will take over 20 years to achieve the Zero Waste goal. The less aggressive, extended schedule contemplates a 30 year schedule. *Id.* Based on “Metro’s solid waste goals and the Plan’s recommended strategies and options, the schedule must balance an aggressive timeline with realistic expectations. *Id.* Importantly, the Plan authors made it clear that:

Even with the technical, financial, and environmental components considered in developing the Plan, **success will depend on the early adoption of the policy, authority and funding requirements that are the key diversion strategies’ foundation.** *Id.* (emphasis added).

Several significant events have occurred since the Plan was adopted in the Fall 2019 that have caused Metro’s attention to be focused on other more immediate needs of the community. The extremely destructive March 2020 tornado, the COVID-19 pandemic, and then the December 2020 explosion in downtown Nashville have all required Metro’s attention and diligence. It is not surprising that even though a year and one-half has passed since the Plan’s adoption, the first step of the Plan – establishing new policies – has not yet occurred. Consequently, implementation of the Plan is already behind schedule as Metro has had to balance the Plan’s recommended schedule and objectives with the serious events that have required its more urgent attention and focus.



## VI. The Plan and C&D Waste

“Since 2008, Nashville’s construction and demolition (C&D) waste generation has nearly doubled while C&D waste recycling has decreased to minimal levels.” *See* page 2-3 of the Plan, including Figure 2-4, attached as **Exhibit N**.<sup>6</sup> At the time the Plan was drafted, the most recent data available on C&D volumes and recycling were for calendar year 2016. The 2016 data demonstrated that the total C&D waste generated within the County was approximately 353,200 tons and only 3,100 of those tons – less than 1% - were recycled. *See* page 6-3 of the Plan, Exhibit N. This volume of C&D waste represented nearly a quarter of the total waste generated in the County and was acknowledged as presenting “a challenging sector from which to gain diversion.” *Id.* More recent data confirms that C&D waste volumes have continued to remain at high levels<sup>7</sup> while C&D recycling remains at an extremely low level. *See* WM’s calendar year 2020 report for C&D waste diverted to MTEC,<sup>8</sup> attached as **Exhibit O**.

These high tonnages of C&D reflect, in part, the ongoing booming development in Nashville and its suburbs. *See* page F-13 of the Plan, **Exhibit N**. The Plan identified “deposit programs” as the most effective programs in place nationally to recycle C&D waste. *Id.* A deposit program requires developers filing for construction or demolition permits to leave a financial deposit that can be reclaimed if they provide documentation that they recycled or reused a threshold amount of the material generated on-site during the project. *Id.* According to the Plan,

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<sup>6</sup> WM hereby incorporates by reference the entire August 2019 Plan, which is comprised of over 400 pages, including all appendices, tables, and figures. The entire Plan is available on-line on the Solid Waste Region Board website located at [SWMP Complete.pdf \(nashville.gov\)](#). WM has included the entire Plan Table of Contents and the specific Plan pages cited in this position paper in Exhibit N.

<sup>7</sup> In 2018 and 2019, over 350,000 tons generated within the County, with most of that waste being disposed at Southern Services Landfill. *See* Metro Nashville and Davidson County 2019 Annual Solid Waste Progress Report, page 11, attached as **Exhibit Q**. In 2020, 489,978 tons of C&D waste generated within Davidson County was disposed at Southern Services Landfill, which includes material generated from the Spring 2020 tornado. *See* WM document setting forth the C&D waste generated within Davidson County and disposed at Southern Services Landfill in 2017 through 2020, attached as **Exhibit R**.

<sup>8</sup> WM’s MTEC 2020 report reflects that 7,159 tons of C&D materials were diverted from disposal. 22,271 tons of green waste received as a result of the March 2020 tornadoes was also diverted.

handling the amount of C&D waste necessary to achieve a 75% landfill diversion rate in Davidson County requires a special new processing facility. *Id.*

The Plan acknowledges that Nashville has one dedicated C&D waste landfill – Southern Services Landfill. *See* page 2-8 of the Plan attached as **Exhibit N**. At the time the Plan was approved, there was also an existing privately owned and operated C&D waste processing center operating in Nashville called Atomic Resource Recovery, LLC (“**Atomic Recovery**”). The Plan listed Atomic Recovery’s available operating capacity at 89,700 tons of C&D waste annually, with a 260,000 ton per year capacity after the facility expanded. *Id.* However, Atomic Recovery permanently closed its C&D recovery facility in the Fall 2020, eliminating its role in helping achieve the Plan’s C&D diversion goals. *See* Google search reflecting Atomic Recovery is permanently closed, attached as **Exhibit P**. Accordingly, the Plan’s assumption that Atomic Recovery would not only continue recycling C&D material but that it would expand its operational capacity nearly threefold is now an invalid assumption which necessitates the consideration and approval of alternative options for management of the significant amounts of C&D waste generated in the County.

## VII. Bridging the Gap

Today, the Southern Services Landfill accepts approximately 90% of the C&D waste generated in the County, yet the Landfill has only two to three years of capacity remaining. The Plan emphasized that even under the aggressive scenario, it would still take 20 years to implement a 75% diversion rate for C&D waste. Yet, the Plan offers no meaningful discussion or recommendations on how best to manage the C&D waste generated in the County between January 2024 (the date Southern Services Landfill is likely to reach capacity without an expansion) and 2039, the soonest date the Plan contemplates the County could achieve a maximum 75% C&D diversion rate, assuming Metro adopts the aggressive implementation scenario. This leaves Metro

with a 15-year gap in which there is no C&D landfill available within the County, C&D diversion infrastructure is not yet developed or operational, and no mature end-markets for C&D materials are readily available. Approving the Southern Services Landfill expansion application, which extends the Landfill's disposal capacity for an estimated 10 to 12 years, will bridge this gap and allow for the safe and proper disposal of C&D waste generated within the County while the Plan is being implemented.

#### VIII. The Expansion Application Should Be Approved

The Board can only reject WM's application for expansion of the Southern Services Landfill if the Board determines that WM's application is inconsistent with the current Plan. The Plan contains the following language regarding landfill expansions:

With Metro Nashville aggressively working to reduce reliance on landfills, this Plan does not include recommendations for any new or expanding landfills in Davidson County. Permitting new or expanding landfills **would be inconsistent with the goals** of the Plan.”

*See pages 8-2, 9-4, and Appendix I-4 of the Plan, Exhibit N (emphasis added).*

Importantly, the above language does not say that approving a landfill expansion application is inconsistent with the Plan. To the contrary, it merely states that expanding landfills would be inconsistent with **the goals** of the Plan. However, none of the goals of the Plan have been implemented to-date. In fact, Metro has made little to no progress on taking even the first steps outlined in the Plan; namely, establishing a new set of policies to serve as the necessary framework for implementing the Plan goals.

The Plan made it plain that achieving a C&D waste diversion goal of even 75% will take at least two decades to accomplish. The ten to twelve-year expansion that WM is seeking for the only C&D landfill in the County is not at all inconsistent with the Plan's 20-year aggressive scenario goal of achieving 75% diversion of C&D waste from landfills.

Further, the Plan language says “expanding landfills **would be inconsistent** with the goals of the Plan.” The phrase “would be” is written in the future tense. The only way the future tense language makes sense is to tie that language back to the assumption made in the preceding sentence which states that Metro is “aggressively working to reduce reliance on landfills.” As demonstrated herein, Metro is not aggressively working to reduce reliance on landfills, particularly as it pertains to C&D waste, which is the waste stream relevant to WM’s expansion application. The significant volume of C&D waste that has and continues to be disposed at the Southern Services Landfill demonstrates Metro is not aggressively working to reduce reliance on landfills.

WM is prepared to do its part to help the City and County achieve the ambitious long-term Zero-Waste vision outlined in the Plan, but there is a long way to go before that vision can become a reality. Below are considerations, some of which are noted in the Plan, related to C&D waste as well as impacts that will occur if WM’s expansion application is not approved:

1. High volumes of C&D waste are generated within Davidson County.
2. Recycling rates for C&D waste have remained very low, hovering around 1%.
3. No viable end use markets exist for C&D waste, which is why C&D recycling rates are 1%.
4. There is limited existing infrastructure to help manage C&D waste material.
5. Southern Services Landfill is the only C&D disposal facility within the County.
6. If the expansion is not approved, it is likely MTEC – the only mixed C&D waste recycling operation in the County – will cease operating because the financial and operational synergies arising from being co-located with an operational Landfill will cease to exist.
7. Without Southern Services Landfill, the nearest disposal facilities for C&D waste are all more than 40 miles from Nashville.
8. With no other repositories for C&D waste in the County, the increased time and costs

associated with transporting C&D material outside the County is likely to result in increased illegal dumping within the County.

9. Without the expansion, the Landfill will reach capacity and Metro will no longer receive the significant fees WM currently pays Metro for waste disposed at the Landfill (e.g., over \$6.5 million in the past three years). This element of funding will no longer be available to Metro for use in funding Plan goals or any other use.
10. The Landfill has served as a necessary disposal facility capable of efficiently accepting significant amounts of C&D material generated from natural disasters, such as the 2010 flood and the March 2020 tornado events.
11. Disruption to Nashville and Davidson County development and growth.
12. C&D material generated in the County will have to be hauled further away, leading to:
  - a. An increase in greenhouse gas emissions,
  - b. Additional traffic congestion involving more large waste trucks,
  - c. Significant cost increases, and
  - d. Construction and demolition project delays.

Simply put, the lack of a C&D disposal facility located within the County could have a chilling effect on the local economy's growth because the costs of development projects will increase without the Southern Services Landfill's ability to accept C&D waste.

#### IX. Conclusion

WM's application to expand the Southern Services Landfill is not inconsistent with the Plan. To the contrary, the ten to twelve-year expansion WM seeks is necessary to bridge the minimum 20-year gap it will take, per the Plan, for Metro to achieve only a 75% C&D diversion rate. For all of the reasons stated herein, WM respectfully requests that the Board approve its application to expand the Southern Services Landfill.