

**IONIA COUNTY
SOLID WASTE PLANNING COMMITTEE**

Meeting Agenda

Wednesday, June 7, 2023

10:00 am

County Administration Building

Commissioner's Board Room – 3rd Floor

101 West Main Street

Ionia, Michigan

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Minutes – February 21, 2023
5. Public Comment
6. Business
 - Host Community Agreement
 - Tonnage Increase
7. Public Comment
8. Adjourn

Includes revisions and comments from attorney for Pitsch

HOST COMMUNITY AGREEMENT

This Host Community Agreement (“Agreement”) is made this ____ day of _____, 2023~~2~~, between the County of Ionia, a municipal corporation and political subdivision of the State of Michigan (“County”) and Pitsch Recycling & Disposal, Inc. and Pitsch Sanitary Landfill, Inc. (“Pitsch”).

Commented [S01]: Discuss including Orleans Twp. as a party to this agreement.

WITNESSETH:

WHEREAS, Pitsch owns and operates a private solid waste landfill in the County which is permitted by the Michigan Department of Environment, Great Lakes and Energy, and is included in the Ionia County Solid Waste Management Plan; and

WHEREAS, Pitsch seeks an amendment to Section III (p. 2) of the Ionia County Solid Waste Management Plan (“Plan”) increasing the annual cap from 100,000 to ~~500,000~~ 200,000 tons per year;

WHEREAS, Pitsch seeks an amendment to Section III (p. 2), Table 1-A of the Ionia County Solid Waste Management Plan to provide that in addition to the authorized quantities set forth in Table 1-A, Pitsch is also authorized to accept imported construction and demolition waste from any county in the State of Michigan with an annual cap of ~~2049~~ 2049,000 tons for all other counties combined.

WHEREAS, Pitsch is seeking to expand its landfill through the siting review process set forth in the Plan; and

WHEREAS, the parties recognize and agree that the requested amendments and expansion will impact the Ionia County as the Host Community for the landfill.

THEREFORE, the parties agree as follows.

TERMS AND CONDITIONS

1. Definitions.

“*Hazardous Waste*” is defined as the term used in Part 111 of the NREPA and the Resource Conservation and Recovery Act, 42 U.S.C. § 6903.

“*Host Community*” means Ionia County.

“*Medical Waste*” means that term as defined in Part 115 of the NREPA with reference to Part 138 of the Michigan Public Health Code, Act. No. 378 of the Public Acts of 1978.

“Pitsch” means the individual, corporation, partnership, joint venture or other entity entering into this Agreement with the County.

“Solid Waste” means that term as defined in Part 115 of NREPA and the Resource Recovery and Conservation Act, 42 USC § 6903.

“Solid Waste Facility” means any area where solid waste is stored, disposed, transferred, collected, processed or otherwise handled for a fee and is required to obtain a permit pursuant to Part 115 of the NREPA, including the landfill operated by Pitsch.

“Yard Clippings” means that term as defined in 115 of NREPA.

2. **Permitting and Environmental Compliance.** Pitsch will obtain all permits required by law and will comply with all applicable statutes, regulations, and ordinances. Failure to obtain required permits and/or failure to comply with any applicable law constitutes a breach of this Host Community Agreement.

3. **Solid Waste Service Area.** The allowable service area which the landfill may serve shall be as provided for by Part 115 of the NREPA, if applicable, and/or the Ionia County Solid Waste Management Plan, as amended.

4. **No Hazardous or Medical Waste; Disposal of Yard Clippings.** Pitsch is a Type II Landfill and accepts waste that meets the Type II criteria. Pitsch agrees that no waste classified and regulated as a Hazardous Waste or Medical Waste shall be disposed of at the landfill, nor will Pitsch apply for authority to dispose of Hazardous or Medical Waste at the landfill. In addition, to prevent unwanted odor, Pitsch also agrees that yard clippings will not be deposited in the landfill.

5. **Facility User Fees.**

A. Pitsch shall pay a facility user fee to Ionia County in the amount of \$1.00 to Ionia and \$.50 to Orleans Twp. per ton for all solid waste accepted for disposal at the landfill.

Commented [SO2]: If Orleans Township is included in this agreement this section would need to include the fee to be paid to the Township

B. If the proposed Solid Waste Plan amendment to increase capacity and to allow imports from all counties within the State of Michigan is approved by EGLE, the user fee shall increase to N/A.

Commented [SO3]: I did not make changes to this section - need to reach agreement on fees

C. If the expansion proposed by Pitsch is determined to be consistent with the Solid Waste Management Plan and Pitsch receives all necessary permits from EGLE, the user fee shall increase to N/A.

Commented [SO4]: Section 9 contemplates increasing the fee if plan amendment to increase capacity is approved and then again if the expansion is determined to be consistent with the plan.

D. **Time and Method of Payment.** User fees pursuant to Sections 5.A., B and C. shall be paid monthly.

E. Payment Form. Each user fee payment shall be accompanied by a report from Pitsch specifying the weight in tons of solid waste disposed of disposal at the landfill during the payment period.

F. Books and Records. Pitsch will provide a copy of its monthly tonnage and revenue report to the County and to the County's Designated Planning Agency. Further, Pitsch shall keep complete and accurate revenue related books and records relating to the determination of the user fees owed under this Section, in an auditable form. The County may retain, at its sole expense, a professional independent certified auditor to verify compliance with the financial provisions of this Agreement. This audit may take place within the ninety (90) day period following the completion of Pitsch's own audit which must occur within one hundred twenty (120) days immediately following the fiscal year which ends December 31. Records to be provided to the County shall include all records required by generally accepted accounting and auditing principles to perform an audit to verify compliance with this Agreement. In the event that the auditor finds what he/she believes to be a payment violation under this Agreement, the auditor shall notify Pitsch in writing, and the auditor shall meet with Pitsch and the County in an attempt to resolve the matter. If the issue is not resolved in a reasonable time, the issue shall be resolved in binding arbitration through the American Arbitration Association.

6. **Obligations of Pitsch.**

A. Hours of Operation. Pitsch agrees that except as provided herein or as reasonably required to service the needs of Pitsch's customers that it shall limit operating hours of the landfill as follows: Monday through Friday Saturday 7:00 _____ a.m. to _____ 5:00 p.m. and the first, third and fifth (when applicable) Saturdays of the month 7:00 a.m. to 12:00 p.m.

B. Prevention of Litter. Pitsch agrees to do the following to remove solid waste litter from the area surrounding the landfill:

1. Install and maintain a wind catch fence on the east side of the landfill
2. Obtain and utilize portable fencing that can be moved to address changing wind directions.
3. Provide manual wastepaper and plastic pick on a regular basis, particularly in and around fencing that abuts residential properties.
4. Sponsor at least 2 community roadside clean up events on Johnson Road.
5. Plant evergreen trees along the fence line of residential properties abutting the landfill

Commented [VA5]: These are additions from the County.

Commented [VA6R5]: These must be consistent with the requirements of Part 115 or they are preempted. MCL 324.11583.

C. Waste, Mud, Dust, Other Residue. Pitsch shall use its best efforts and shall work with the County to develop programs to prevent vehicles leaving the landfill from tracking mud and dirt onto local roads by doing the following:

1. Utilize a street sweeper to clean up sand, dirt and dust that washes into the public roads from the landfill property.
- 2.
- 3.
- 4.

D. Facility Design Elements. Pitsch will implement the following facility design elements:

1. Greenbelts
2. Screening
3. Fencing
4. Specific landscaping features

E. Control of Odor. Pitsch shall take the following measures to control odor:

1. Plant more trees.
2. Will not do any stirring unless necessary.
3. If Pitsch opens or stirs any disposal area, the area will be closed as soon as possible.
4. Pitsch will conduct activities that are likely to result in an increase in odor during the weekday normal business hours. Residents will be notified in advance if circumstances require the work to be done after normal business hours or on the weekend.

Commented [VA7]: County additions

Commented [VA8R7]: These need to be consistent with Part 115 or they are preempted.

F. Control of Noise. Pitsch shall take the following measures to control noise:

1. Pitsch will not operate equipment outside of landfill hours.
2. Pitsch will utilize mufflers on all equipment.
3. No internal operations work will be performed before 7:00 a.m. or after 6:00 p.m.
- 4.

Commented [VA9]: County additions

Commented [VA10R9]: These need to be consistent with Part 115 or they are preempted.

~~G. Landfill Security. Pitsch agrees to implement security measures to ensure that the landfill is secure. This includes requesting patrol of the area for trucks that are violating frost laws.~~

Commented [VA11]: I don't see how Pitsch can patrol for alleged violators.

~~G.~~
H. Compliance with all laws. Pitsch agrees to comply with all applicable state, local and federal laws, regulations, ordinances, and requirements

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regarding the operation of the landfill, including but not limited to all environmental requirements.

7. **County's Obligations.** In consideration of the mutual promises contained herein, the County agrees to facilitate the upgrade of the remainder of Johnson Road to an all-season road. The terms and conditions for the upgrade to Johnson Road will be set forth in a separate agreement to be entered into between the parties. If an agreement to the terms and conditions for the road upgrade is not reached, the County has no further obligation under this section to facilitate the upgrade. Additionally, ~~t~~the County shall provide reasonable assistance to Pitsch with the requested Amendments to the Solid Waste Management Plan, and in conducting the Site Review process for the proposed expansion to the landfill. The County will not unreasonably hinder Pitsch's pursuit of any necessary or desired permits, licenses, or authorizations consistent with this agreement. Pitsch is solely responsible for any costs and ~~expenses, expenses~~ relating to or associated with the Solid Waste Management Plan amendment process and/or the Site Review Process.

Commented [SO12]: If Orleans Township is a party this section would include obligations for the Township.

Commented [VA13]: In the last Host Agreement, a portion of the host fee was paid to the County to fund road improvements. What funds does the County have from prior host fees paid to it to pay for the proposed road improvements? Pitsch has proposed to provide gravel and sand for the road construction.

Commented [VA14]: Does this take into consideration the prior host fees Pitsch paid to the County to pay for future road improvements. We want those funds used to pay for the road as well.

8. **Term.** This Agreement shall take effect on the date executed by both parties and shall continue so long as the landfill is operated.

9. **Miscellaneous Provisions.**

- A. **Specific Performance.** It is expressly understood and agreed by and between the parties that the subject matter of this Agreement is unique and that the failure of either party hereto to comply with the obligations and/or covenants contained herein constitutes irreparable injury if not fully and completely performed. Accordingly, any party seeking to enforce the terms and covenants contained herein shall be entitled to the equitable relief of specific performance and/or such equitable relief as ordered by a court of competent jurisdiction. The remedies outlined in this subsection shall not be exclusive of any other remedy at law or in equity.
- B. **Governing Law.** This Agreement and the performance hereof shall be construed and interpreted in accordance with the laws of the State of Michigan.
- C. **Entire Agreement.** This Agreement supersedes any and all agreements which may have existed prior to the execution of this Agreement. This Agreement constitutes the entire agreement between the parties hereto in connection with the subject matter hereof. This Agreement may be amended or modified in writing, signed by all parties.
- D. **Binding Agreement.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors, and assigns.

- E. Notices. All notices, acceptances, requests and other communications permitted or required hereunder shall be made in writing, and shall be given as follows:

Notice to County

Notice to Pitsch

- F. Waivers. Waiver by either party of any breach, or failure to enforce any of the terms and conditions of this Agreement at any time, shall not in any way affect, limit or waive such party's right thereafter to enforce and compel strict compliance with every term and condition of this Agreement.
- G. Severability. If and to the extent that any provision of this Agreement or portion thereof shall be determined by any court to be in whole or in part invalid or unenforceable, such provision or term shall be unenforceable only to the extent of that invalidity without invalidating the remaining provisions thereof and all other provisions of this Agreement shall remain in full force and effect.
- H. No Third-Party Beneficiaries. This Agreement is for the exclusive benefit of Pitsch and the County and shall not be deemed to give any legal or equitable right, remedy or claim whatsoever to any other person.
- I. Assignment. Neither party shall have the right to assign its rights or delegate its duties hereunder without prior written consent of the other party.
- J. Covenant Not to Challenge Validity. The parties herein warrant that they shall both defend the validity of this Agreement against all attacks from whatever source whatsoever and, hereby covenant and agree to be bound by the terms of this Agreement, and neither shall attempt, directly or indirectly, by any means whatsoever, to challenge the legal validity or constitutionality of this Agreement, and each agrees that, by execution of this Agreement, they shall be estopped to assert that this Agreement violates any ordinance, statute, regulation or provision of the constitution of the State of Michigan or the United States of America. Nothing contained herein shall be construed so as to prevent either party from pursuing any remedies they might have at law or equity or as set forth in this Agreement to enforce the terms herein, or to challenge the compliance herewith by any party.

