BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: December 1, 2025

SUBJECT: Consideration of termination of the Solid Waste Franchises for the collection of Solid Waste in the unincorporated areas of Deschutes County

RECOMMENDED MOTION:

Move to authorize the Solid Waste Department Director to:

1. Issue a Notice of Termination to all solid waste collection franchise holders operating under existing Board Orders in the unincorporated areas of Deschutes County, initiating the six-year wind down provided for under the current "evergreen" structure.
2. Lead a coordinated, countywide process-aligned with the Cities of Bend, Redmond, Sisters, and La Pine—to design and competitively procure a contemporary franchise framework via a Request for Proposals (RFP), with agreements targeted for a defined 10–15 year term.

BACKGROUND AND POLICY IMPLICATIONS:

In 1972 the Board of County Commissioners (BOCC) through Board Orders granted four (4) separate franchises in Deschutes County for solid waste collection as provided under the Solid Waste Collections and Disposal Ordinance. Each of these franchises have defined legal boundaries outlining the areas for the exclusive rights of service for each franchise as granted. Over the last 20 years these franchises, along with an additional franchise for the transfer of solid waste and other waste materials and a recycling and composting lease agreement have been purchased and consolidated to be held by two national waste companies. Waste Connections purchased Cascade Disposal, a franchise originally granted to R.A. Brownrigg. Republic Services purchased the remaining franchises and lease agreements providing services to the county.

While these franchises have provided essential services to County residents, these franchises reflect the policies and conditions of the early 1970s. The Deschutes County Code (DCC) framework governing these orders does not adequately address performance standards, customer service, financial transparency of reporting, facility designation, or default language and/or performance assurance mechanisms to address the expanded population and the current levels of services provided throughout the County. Since the original orders were established, County population has increased approximately eight-fold, curbside recycling and organics services have expanded, and processing of recyclables remains outside County jurisdiction-leaving the costs of those services unregulated. The current franchise grants along with the DCC do not adequately address:

- **Performance standards** (e.g., customer service metrics, equipment standards, and compliance monitoring).
    - Need to define measurable performance standards and enforce them.
    - Establish robust customer service and complaint resolution protocols with enforceable consequences for service failures or problems.
    - Specify clear default remedies, performance improvement plans and/or liquidated damages.
- **Facility designations** (e.g., landfill and transfer station use consistent with the County's Solid Waste Management Plan).
    - Create long-term certainty regarding designated facilities to protect County infrastructure, particularly in that DCC only applies to unincorporated portions of the County. Cities could utilize facilities not under County authorized designation.
- **Financial transparency and reporting** (e.g., audited financial statements, tonnage reporting, fee reconciliation).
    - Require financial transparency and reporting sufficient for rate-setting.
- **DEQ program and state reporting requirements (e.g. customer outreach, required recycling program elements, contamination standards)**
    - Establish reporting expectations to meet DEQ Opportunity To Recycle and Recycling Modernization Act statute requirements for program elements and reporting requirements.
- **Recycling processing costs, set outside County oversight and approval, contribute to rate instability for customers.**

The lack of modern provisions limits the County's ability to ensure consistent delivery of service, protect public health and safety, and maintain proper fiscal oversight for the ratepayer.

The cities of Bend, Redmond, Sisters and LaPine have also granted exclusive franchises within their jurisdictions. Over the past two and a half years, Solid Waste department staff has been working in cooperation with the cities of Bend and Redmond to assess the current situation of our collective franchises. The County had been asked to take the lead in the development of a new agreement that could be used as a universal template for all jurisdictions in the county and could be administered by County staff under an Intergovernmental Agreement (IGA). As Staff has presented to the BOCC at several meetings over that time, we were looking to develop and negotiate an agreement that would protect County investments, provide residents with services standards that they could rely on and that the franchisees were accountable to, along with financial reporting that was robust and transparent enough to ensure rates were appropriate and justified.

In consideration for voluntarily entering into a new Franchise Agreement, Staff was willing to continue the current contractual term of annual renewals with a seven (7) year termination notification clause, otherwise known as an "Evergreen" agreement. If a Notice of Termination is provided to the Franchise Haulers, the termination takes effect six (6) years from the date of notification.

In August the County agreed to review any revisions to the agreement that Cascade Disposal wanted to propose. While waiting for those revisions, on September 2nd Cascade Disposal notified the County that they were no longer interested in moving forward with any further discussions regarding a new franchise agreement and prefer to operate under the existing system. They were only willing to discuss potential revisions to Deschutes County Code.

Throughout this process Republic Services voluntarily participated, while Cascade Disposal has largely not engaged in the process or discussions. The City of Redmond and County staff were largely in agreement on terms regarding a new agreement with Republic Services (their sole service provider) with a few remaining items pending. However, Republic Services performance in many areas has been concerning over the past few years, to the point that the City of Redmond provided Notice of Termination at the end of 2023. The City of Bend is also close to agreement with Republic, but not with Cascade Disposal. Both of these cities are interested in how the County is going to move forward as they consider their options.

Without both franchisees being amenable to a new agreement Staff does not feel that it is prudent or efficient to move forward with one party under a new Franchise Agreement and have the other operate under current County Code.

Staff opinion is that updating the franchise agreement is necessary to align with industry standards and best practices. A new agreement will:

1. **Enhance Accountability** – Establish clear performance expectations and provide enforcement tools to ensure compliance.
2. **Improve Service Integration** – Specify designated facilities for disposal and processing to ensure alignment with the County's adopted Solid Waste Management Plan as well as current and future County infrastructure investments.
3. **Strengthen Financial Oversight** – Require transparent and timely financial reporting, including revenue and expense audits tied to franchise fees and insure rate payer protections.
4. **Provide Legal and Operational Clarity** – Eliminate ambiguities in the 1972 agreement and incorporate up-to-date legal protections for both the County and the franchisee.

Additionally, in 2019 the BOCC accepted and approved a new Solid Waste Management Plan (SWMP) that outlined the priorities of the Solid Waste department for the next 20+ years. This plan outlined recommendations that included the siting and development of a new in-county Municipal Solid Waste (MSW) landfill as well as the redevelopment of several of the transfer stations serving the needs of the county residents and franchise haulers. It also directs the development of programs and potential new facilities for Construction and Demolition (C&D) debris recovery and Organic Waste Composting in order to improve the diversion rate of waste out of the landfill from the current rate (below 30%) to 45% or greater.

Staff has been working since 2021 on the landfill siting process to establish the technical criteria by which to evaluate sites, identify potential locations/properties that could meet those criteria and provide capacity to serve a growing Deschutes County for a minimum of one hundred (100) years, and to fully technically assess the most qualified sites in order to make a final recommendation to the BOCC for approval. Current projections for the investment necessary to develop a new MSW Landfill are anticipated to exceed $50 million, with a desired opening in 2031.

In 2024 the County completed the redevelopment of the Negus Transfer Sation outside of the City of Redmond and anticipates doing the same for the Southwest Transfer Station outside of the City of LaPine.

Staff has also been working on the design and financial modeling of the development of both a C&D debris recycling facility and an expansion of the composting facility at the Knott Landfill campus. Each of these facilities would be designed to handle the current overall waste stream of the County, along with the expected growth over the next 30+ years. If the potential path forward to meet our disposal needs and diversion goals includes all or part of these infrastructure improvements, the guaranteed flow of all waste materials to those facilities will be required. Currently, under the

County's franchised hauler arrangements, the County controls approximately 30% of the overall waste stream. The cities, under their franchise agreements, have the authority to direct the balance of the waste stream collected within their jurisdictions.

STAFF RECOMMENDATION

The various infrastructure initiatives that the Solid Waste department staff has been working on depend on flow of all materials collected in the county to be delivered to all Deschutes County operating facilities. This situation requires that the County and the Cities work together to establish agreements and arrangements that will ensure the flow of materials to any new facilities developed by the County in order to issue and fund any Bond or other debt instruments that we may consider.

The cities of Bend and Redmond have been committed to moving forward with new franchise agreements as well. They prefer the County to take the lead in this process, and are agreeable to having the same terms, conditions, and requirements that would allow the County to administer significant aspects of the agreements other than rate setting. This could include moving away from the current "evergreen" contract structure to a regularly bid contract (10–15-year term) that would regularly assess fair market cost of services while also allowing for innovation in collection services to be accessed by the County and local jurisdictions.

Why Act Now

- A six-year wind-down balances continuity of service with the time required to evaluate options, continue negotiations with existing haulers, update code, procure competitively, and transition operations.
- Coordinated action with cities enables a unified franchise template that reduces administrative burden, harmonizes service levels, and stabilizes rates countywide.
- Establishing facility designation now safeguards County investments and provides the tonnage commitments necessary for long-term financing and system planning.
- This six-year wind-down also aligns with the anticipated closure of Knott Landfill and in the time framework that new diversion facilities would be established, allowing for all those elements to fall into consideration during the procurement process.

Benefits of Terminating the Evergreen Agreements and Procuring via RFP

- Competitive pricing and innovation: Market competition for clearly defined service outcomes and risk allocation.
- Defined term (10–15 years): For potential service providers interested in participating in a procurement process it provides for predictability for capital planning. It also provides for a formal review as to the effectiveness of the franchise agreement and re-procurement at end of term, rather than perpetual renewal.
- Stronger accountability: Agreements would include measurable Key Performance indicators (KPIs), audits, and enforceable remedies (e.g., performance improvement plans, liquidated damages, cure timelines, performance bonds).
- Financial transparency: New agreements would potentially include open-book cost-of-service, standardized reporting, independent audits, and a clear, public rate-setting methodology.
- Customer service excellence: Would establish standardized complaint handling, response times, call center metrics, and service credits for missed service. In-county customer service representative requirements will be considered as well.
- System control: Lawful facility designation to County-authorized facilities for MSW landfilling, Mixed recyclable and C&D processing, Organic material composting that align with infrastructure development plans.

- Environmental performance: Contamination reduction plans, education/outreach, and emission-reduction requirements for fleets and facilities.
- Equity and access: Consistent service standards in rural and urban areas, language access, and affordability programs as adopted by the Board.

Key Elements to Embed in the New Franchise and RFP

- Scope of services: MSW, recycling, organics, bulky, on-call, drop-box/roll-off, and C&D collections as applicable.
- Service areas and route density: Optimize for collection service efficiency and safety.
- Performance standards (examples):
    - Missed-collection thresholds and make-good timelines.
    - Call answer times and first-contact resolution.
    - Contamination targets and outreach delivery.
    - Cart/container maintenance and safety metrics.
- Reporting and data: Monthly tonnage, route productivity, customer service metrics, ESG indicators, and audited financials.
- Rate-setting: Transparent cost-of-service, indexation protocols, extraordinary cost pass-through rules, and periodic full rate reviews.
- Enforcement: Graduated remedies, liquidated damages schedule, cure rights, performance security, and termination for cause.
- Facility designation: Direct materials to County-authorized facilities to support system performance and financing.
- Resilience: Business continuity, disaster debris response, and mutual-aid requirements.
- Workforce: Safety programs, training, and transition/retention provisions to ensure service continuity at contract start.
- Term: 10–15 years, with optional extensions only by Board approval based on performance.

Risks and Mitigations

- Service disruption risk: If one or more new service providers are successful in a new procurement process, the transition will need to be well planned and coordinated. Six-year transition plan would require detailed transition plans, that would include performance bonds, and the potential of labor retention requirements to reduce risk of service interruptions during the introduction of a possible new service provider.
- Rate volatility during transition: To reduce the risk of rate increase in the lead-up to the new franchise agreements, the County and cities would use current rate oversight tools available to enhance transparency while legacy agreements wind down.
- Regional misalignment: Early and ongoing coordination with cities; shared template agreement and synchronized timelines.

Regional Coordination and Governance Options (Years 1–3)

During the first three years after Notice of Termination is provided, Staff will work with the BOCC along with the cities of Bend, Redmond, Sisters, and La Pine to determine the most effective structure for administering consistent franchise terms countywide. The primary options for consideration that could be examined:

Table 1

Options	Description	Advantages	Considerations
Common Franchise Agreement Template with Intergovernmental Agreement (IGA)	Each jurisdiction holds its own franchise(s) using a shared template; administration delivered by County Solid Waste staff via IGA.	Local control retained; consistent standards and reporting; administrative efficiencies.	Requires durable IGAs; still multiple contracts to manage.
Establish a Solid Waste Management District	A single district manages franchising and system planning across jurisdictions. Each jurisdiction would have appointed representation in District Governance.	Unified governance, single point of accountability, maximum consistency.	Requires additional formation steps; governance with potential cost-sharing and rate setting agreements needed.
Amend Deschutes County Code and Reinstate Existing Franchises	Reinstate existing franchise hauler arrangements along with modifications to DCC and City Codes as needed to remedy the shortcomings of existing system.	Removes service interruption risks during a service transition.	Requires coordination of modifications to both City and County Codes to align with desired outcomes.

Staff would provide the Board with a recommended governance model and draft IGAs as they are developed.

Proposed Six-Year Timeline (Illustrative)

- Months 0–6: Board action; issue termination notices; initiate regional workgroup. Develop and issue RFP for consultants for system design discussions, regional meeting coordination, technical assessment assistance, and collection services RFP procurement, evaluation, and implementation.
- Months 6–18: Technical assessments; stakeholder engagement; draft franchise template; draft DCC updates for performance, enforcement, and facility designation.
    - Draft governance recommendation (IGA's or District),
    - Proposed DCC amendments, and
    - Outline of the RFP for the procurement of services, evaluation criteria, and schedule.
- Months 18–24: Board adoption of DCC updates; release Request for Information (RFI) to test market.
- Months 24–36: Issue RFP; evaluate proposals; negotiate terms; conditional awards.
- Months 36–54: Transition planning; rate filings and reviews; customer education; facility commissioning sequencing.
- Months 54–72: Go-live under new franchise(s); closeout of legacy agreements.

BUDGET IMPACTS:

Adoption of a modernized franchise agreement will improve revenue accountability through updated fee structures and reporting requirements. While no immediate fiscal impact results from issuing the termination notice, long-term impacts include increased accuracy in franchise fee collection and better alignment of costs with service delivery for the residents of Deschutes County.

- Near-term: Minimal direct cost to issue termination notices and commence planning.

- Mid-term: Consulting support for technical, legal, and financial analysis; funded from Solid Waste enterprise resources.
- Long-term: Improved rate stability and value through competitive procurement; clearer nexus between rates, service levels, and capital financing.
- Infrastructure alignment: Flow control and facility designation will underpin financing and utilization of the new landfill, transfer stations, C&D facility, and composting facility.

ATTENDANCE:

Tim Brownell, Director of Solid Waste