



Scott Alvord, City of Roseville, Chair
Shanti Landon, Placer County
Bonnie Gore, Placer County
Bill Halldin, City of Rocklin
Dan Karleskint, City of Lincoln
Ken Grehm, Executive Director

WESTERN PLACER WASTE MANAGEMENT AUTHORITY MEETING OF THE BOARD OF DIRECTORS

REVISED

SEPTEMBER 14, 2023 5:00 PM

Materials Recovery Facility Administration Building
3013 Fiddymment Road, Roseville, CA 95747

The WPWMA Board of Directors SEPTEMBER 14, 2023 meeting will be open to in-person attendance. Individuals may also participate in the meeting via Zoom at <https://placer-ca-gov.zoom.us/j/94385524919>

Materials related to an item on this Agenda submitted to the Board of Directors after distribution of the agenda packet are available for public inspection by emailing the Clerk of the Board at info@WPWMA.ca.gov. The Western Placer Waste Management Authority is committed to ensuring that persons with disabilities are provided the resources to participate fully in its public meetings. If you require disability-related modifications or accommodations, please contact the Clerk of the Board at (916) 543-3960 or info@WPWMA.ca.gov. If requested, the agenda shall be provided in appropriate alternative formats to persons with disabilities. All requests must be in writing and must be received by the Clerk three business days prior to the scheduled meeting for which you are requesting accommodation. Requests received after such time will be accommodated if time permits.

1. Call Meeting to Order
2. Pledge of Allegiance (Director Halldin)
3. Roll Call
4. Statement of Meeting Procedures (Clerk of the Board)
5. Public Comment
This is a time when persons may address the Board regarding items not on this Agenda. It is requested that comments be brief, since the Board is not permitted to take any action on items addressed under Public Comment.
6. Announcements & Information
 - a. Reports from Directors
 - b. Report from the Executive Director (Ken Grehm)
 - c. Financial Reports (Eric Oddo) Pg. 3
 - d. Monthly Tonnage Reports (Eric Oddo) Pg. 5
 - e. MRF Improvements Project Update (FCC) Pg. 11
 - f. FY 2022/23 Creditable Recovery Rates (Eric Oddo) Pg. 13
7. Action Items
 - a. Minutes of the Board Meeting held August 10, 2023 Pg. 15
Approve as submitted.

- b. Growth Factory Sponsorship (Emily Hoffman) Pg. 17
 - 1. Authorize the Executive Director or designee, upon review and approval by WPWMA Counsel, to sign a sponsorship agreement with the Growth Factory for the GFX Conference for a total cost of \$5,000.
 - 2. Determine that the recommended action is not a project pursuant to California Environmental Quality Act Guidelines Section 15378.
- c. Settlement Agreement with Placer County Air Pollution Control District (Eric Oddo) Pg. 23
 - 1. Authorize the Executive Director or designee to sign the attached Settlement Agreement with the Placer County Air Pollution Control District resolving Notice of Violation 3635 related to omissions and errors in landfill gas related reports submitted to the PCAPCD for the Western Regional Sanitary Landfill.
 - 2. Determine that the recommended action is not a project pursuant to California Environmental Quality Act Guidelines Section 15378.
- d. Construction & Demolition Debris Recovery Rates (Kevin Bell) Pg. 39
 - 1. Authorize staff to negotiate an amendment to the Material Recovery Facility Operating Agreement with FCC Environmental Services California, LLC related to Construction and Demolition Debris recovery rates consistent with the attached proposed deal points.
 - 2. Determine that the recommended action is not a project pursuant to California Environmental Quality Act Guidelines Section 15378.
- e. WPWMA Board Voting Methodology (Ken Grehm) Pg. 43
 - Provide direction to staff regarding possible adjustments to the WPWMA Board of Directors' voting methodology.
- 8. Timed Items
5:30 P.M.
- a. MRF Expansion Project/Subcontractor Substitution Hearing: Skutley Contracting Corporation (Robert Sandman) Pg. 49
 - 1. Conduct a subcontractor substitution hearing regarding Skutley Contracting Corporation.
 - 2. Render a decision regarding subcontractor substitution following the conclusion of the hearing listed in Action Item No. 1.
 - 3. Determine that that proposed actions are each not a project pursuant to CEQA Guidelines Section 15378.
- 9. Upcoming Agenda Items
Identification of any items the Board would like staff to address at a future meeting.
- 10. Adjournment

Western Placer Waste Management Authority - Operations Fund Income Statement

(unaudited/depreciation excluded)

Year-to-Date
July 2023

	Year to Date				Notes
	Annual Budget	Budget	Actuals	Variance	
Revenue					
42010:Investment Income					
Interest / Investment Income	247,047	20,587	25,396	4,809	Budgeted a lower rate of return based on previous years' earnings rate
Interest with Fiscal Agent	2,546,790	212,233	33,017	(179,216)	Interest on all bond-related account's not yet realized
42030:Rents and Concessions	492,586	41,049	-	(41,049)	Revenues offset by accruals from prior FY
44270:State Aid - Other Programs	-	-	-	-	
46240:Sanitation Services - Other	32,368	2,601	2,468	(133)	Tipping fee revenues tracking ~6.4% below budgeted amounts
46250:Solid Waste Disposal	51,986,849	4,192,168	3,922,724	(269,444)	Tipping fee revenues tracking ~6.4% below budgeted amounts
46430:Insurance	-	-	-	-	
48030:Miscellaneous	15,000	1,250	5,685	4,435	
49040: Gain/Loss on Fixed Asset Disposal	45,000	45,000	-	(45,000)	Payment for FCC for water truck pending DMV inspection of vehicle
Total Revenue	55,365,639	4,514,887	3,989,290	(525,598)	
Expenses					
Capital Assets:					
54430:Buildings & Improvements	2,751,366	-	1,376,801	(1,376,801)	Payment for costs scheduled for payment in FY 22-23
54450:Equipment	37,192,502	14,018,931	14,018,931	0	
54470:Infrastructure	550,000	550,000	-	550,000	
54480:Land Improvements	-	-	-	-	
Operating Expenses:					
51010:Wages and Salaries	2,243,386	186,949	182,208	4,741	
52030:Clothing and Personal	2,500	208	-	208	
52040:Communication Services Expense	10,000	833	268	565	
52050:Food	1,000	83	-	83	
52060:Household Expense	1,000	83	-	83	
52080:Insurance	359,003	29,917	46,451	(16,534)	Total insurance premium exceeds budgeted amount; will adjust at Final Budget
52140:Parts	1,000	83	-	83	
52160:Maintenance	159,379	13,282	2,550	10,732	CAD and odor monitoring software costs not yet realized.
52161:Maintenance - Building	30,000	-	-	-	
52170:Fuels & Lubricants	2,500	208	163	46	
52180:Materials - Buildings & Improvements	1,000	83	-	83	
52240:Professional / Membership Dues	6,000	6,000	550	5,450	Several staff annual membership costs to SWANA not yet realized
52250:Services and Supplies	1,000	83	-	83	
52260:Misc Expense	-	-	-	-	
52320:Printing	16,000	1,333	-	1,333	Print charges from County not yet realized
52330:Other Supplies	20,000	1,667	681	986	Lower office supply demand to date.
52340:Postage	3,000	250	-	250	
52360:Prof. & Special Svcs - General	3,960,011	330,001	-	330,001	Several planned professional service contracts not yet initiated.
52370:Professional and Special Services - Legal	160,000	13,333	-	13,333	Legal counsel costs not yet billed or realized
52380:Prof. & Special Svcs - Tech., Eng. & Env.					
SC3140 Building Maintenance Installation and Repair Services	5,100	5,100	-	5,100	
SC3180 MRF Operations	30,552,210	2,421,381	2,025,513	395,868	Lower than projected material quantities received at MRF
SC3190 Landfill Operations	2,778,838	231,570	128,589	102,981	Lower than projected disposal rates and associated costs
SC3320 Environmental and Ecological Services	150,000	12,500	-	12,500	County staff time billed to WPWMA-related projects not yet billed or realized
SC3322 Hazardous Waste	2,500	208	113	95	
52390:Prof. & Special Svcs - County	225,000	18,750	7,250	11,500	Lower than expected County service fees to date
52400:Prof. & Special Svcs - IT	130,000	10,833	-	10,833	IT costs not yet billed or realized
52440:Rents and Leases - Equipment	100	8	-	8	
52450:Rents and Leases - Buildings & Improvements	100	8	-	8	
52460:Small Tools & Instruments	1,000	83	-	83	
52480:PC Acquisition	5,000	5,000	-	5,000	Costs associated with new workstations. Costs not realized or billed yet.
52510:Commissioner's Fees	6,000	500	500	-	
52540:Signing & Safety Material	1,000	83	-	83	
52560:Small Equipment	100	8	-	8	
52570:Advertising	14,900	1,242	5,875	(4,633)	Cost for full page ad in Comstock's Magazine
52580:Special Department Expense	5,000	417	-	417	
52785:Training / Education	5,000	-	-	-	
52790:Transportation and Travel	45,900	3,825	4,518	(693)	
52800:Utilities	255,000	21,250	11,700	9,550	
53050:Debt Issuance Costs	-	-	-	-	
53190:Taxes and Assessments	543,709	-	-	-	
53250:Contributions to Other Agencies	276,178	276,178	-	276,178	Annual CFD payment not yet processed.
53390:Transfer Out A-87 Costs	50,000	4,167	-	4,167	Projected A-87 costs not yet billed or realized.
55510:Operating Transfer Out	-	-	-	-	
59000:Appropriation for Contingencies	-	-	-	-	
Total Expenses	82,523,281	18,166,441	17,812,659	353,782	
Net Income/(Loss)	(27,157,642)	(13,651,554)	(13,823,370)	(171,816)	
Additional non Income Statement Transactions:					
Bond Proceeds	39,864,268	14,018,931	14,018,931	0	
Planned use of Reserves	-	-	-	-	
Total with Bond Proceeds and Reserves	12,706,626	367,377	195,562	(171,816)	

Notes:

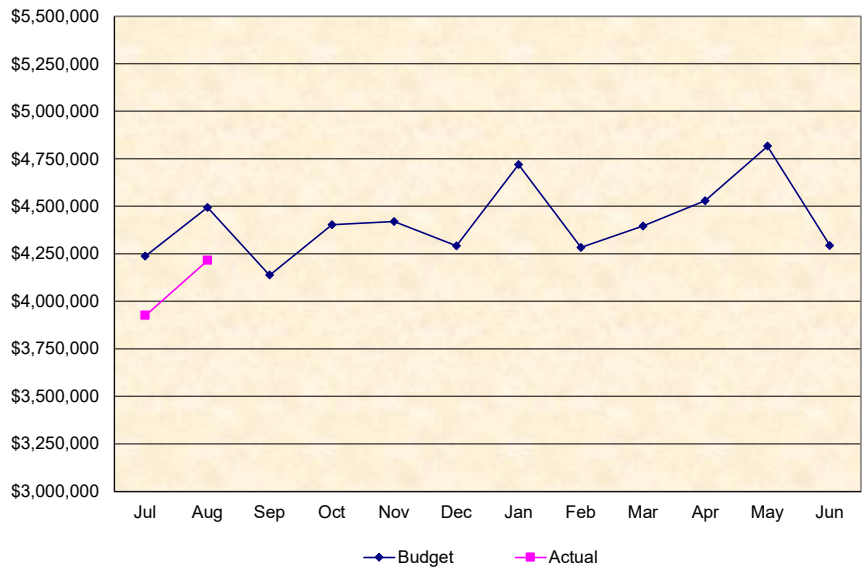
- Budgeted revenues and expenses are prorated equally each month of the fiscal year, whereas actual revenues and expenses reflect those realized as of the date of the report. This may lead to notable reported discrepancies between budgeted and actual amounts.
- Differences in the coding between the budgeted and actual revenues and expenses may result in notable reported discrepancies within the report.
- Additional non income Statement Transactions reflect amounts from WPWMA's Balance Sheet and are shown on this report for tracking and informational purposes only.

PAGE INTENTIONALLY LEFT BLANK

Fiscal Year 2023-2024

Combined Revenue

Month	Budget	Actual	Variance
Jul	\$4,237,699	\$3,925,609	(\$312,090)
Aug	\$4,493,821	\$4,215,259	(\$278,562)
Sep	\$4,137,723		
Oct	\$4,403,589		
Nov	\$4,419,546		
Dec	\$4,291,499		
Jan	\$4,719,101		
Feb	\$4,282,611		
Mar	\$4,396,492		
Apr	\$4,529,957		
May	\$4,816,424		
Jun	\$4,294,174		
Totals:	\$46,178,120	\$8,140,868	(\$590,652)

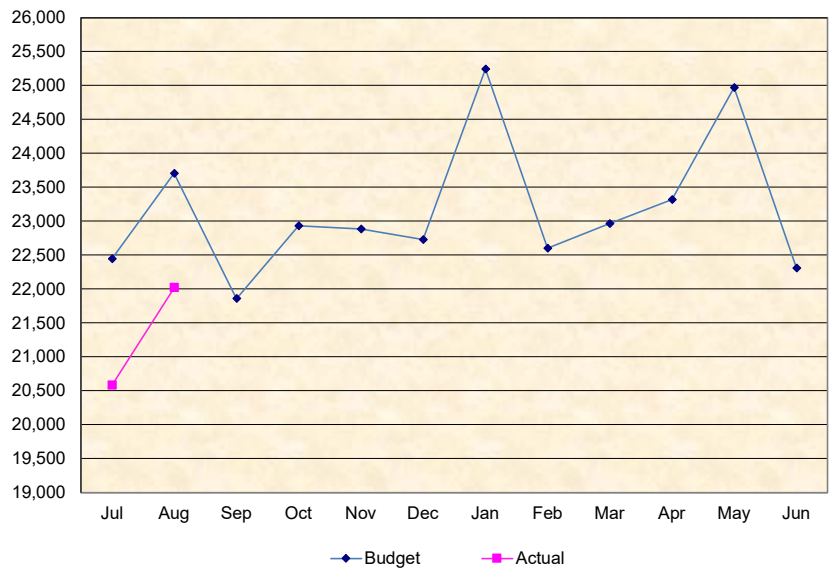


Combined Tipping Fee Revenue Year to Date

Budget	\$8,731,520
Actual:	\$8,140,868
Variance	(\$590,652)

MSW Tonnage

Month	Budget	Actual	Variance
Jul	22,444	20,585	(1,859)
Aug	23,703	22,022	(1,682)
Sep	21,859		
Oct	22,931		
Nov	22,886		
Dec	22,728		
Jan	25,245		
Feb	22,599		
Mar	22,963		
Apr	23,316		
May	24,967		
Jun	22,307		
Totals:	269,339	42,607	(3,541)

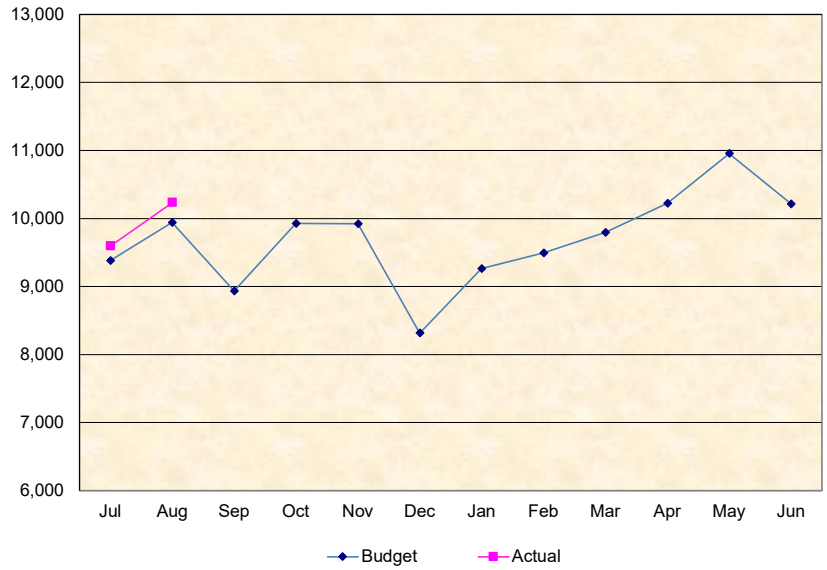


MSW Tonnage Year to Date

Budget:	46,147
Actual:	42,607
Variance	(3,541)

C&D Tonnage

Month	Budget	Actual	Variance
Jul	9,384	9,597	213
Aug	9,943	10,238	295
Sep	8,934		
Oct	9,929		
Nov	9,923		
Dec	8,317		
Jan	9,266		
Feb	9,495		
Mar	9,797		
Apr	10,225		
May	10,958		
Jun	10,213		
Totals:	119,396	19,835	507

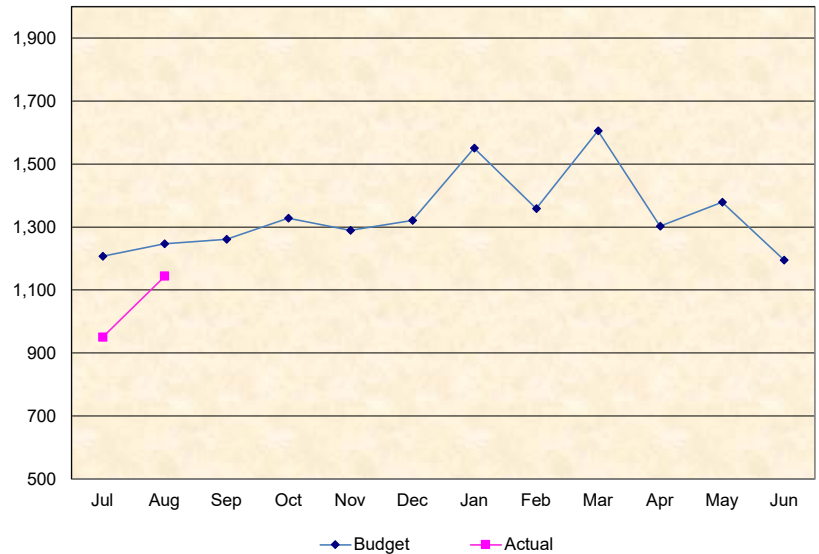


C&D Tonnage Year to Date

Budget:	19,327
Actual:	19,835
Variance	507

Sludge & Mixed Inerts Tonnage

Month	Budget	Actual	Variance
Jul	1,207	950	(256)
Aug	1,247	1,144	(103)
Sep	1,261		
Oct	1,328		
Nov	1,290		
Dec	1,321		
Jan	1,551		
Feb	1,359		
Mar	1,606		
Apr	1,303		
May	1,379		
Jun	1,195		
Totals:	18,471	2,094	(359)

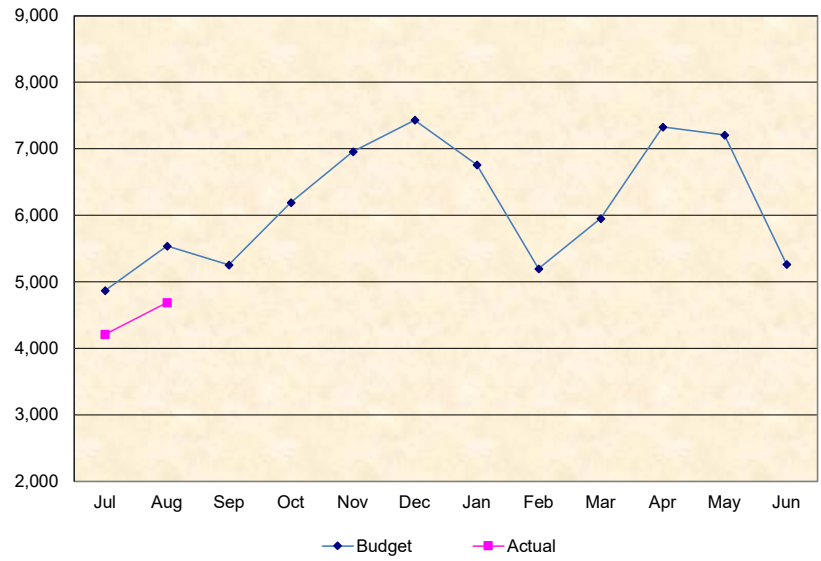


Sludge & Mixed Inerts Tonnage Year to Date

Budget:	2,453
Actual:	2,094
Variance	(359)

Green Waste Tonnage

Month	Budget	Actual	Variance
Jul	4,871	4,212	(659)
Aug	5,536	4,687	(849)
Sep	5,256		
Oct	6,193		
Nov	6,959		
Dec	7,432		
Jan	6,758		
Feb	5,195		
Mar	5,950		
Apr	7,326		
May	7,209		
Jun	5,266		
Totals:	65,505	8,899	(1,509)

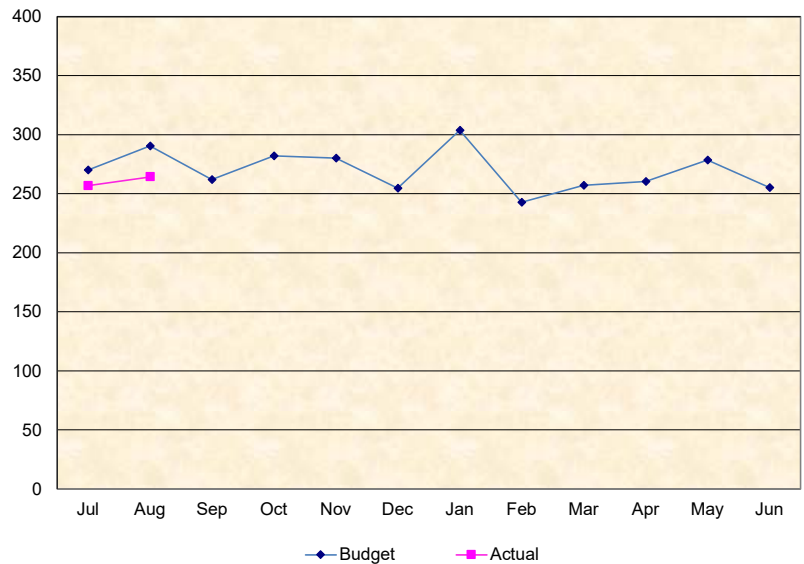


Green Waste Tonnage Year to Date

Budget:	10,408
Actual:	8,899
Variance	(1,509)

Food Waste Tonnage

Month	Budget	Actual	Variance
Jul	270	257	(13)
Aug	290	264	(26)
Sep	262		
Oct	282		
Nov	280		
Dec	255		
Jan	304		
Feb	243		
Mar	257		
Apr	260		
May	278		
Jun	255		
Totals:	3,176	521	(39)

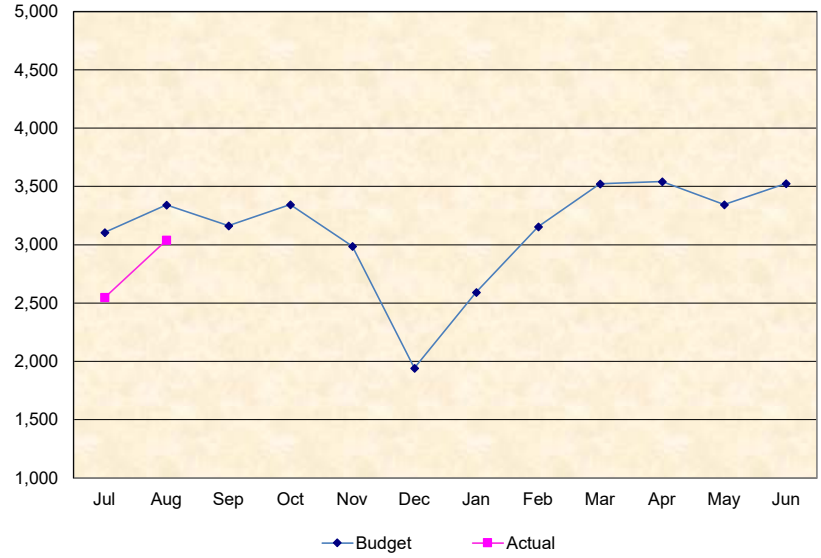


Food Waste Tonnage Year to Date

Budget:	561
Actual:	521
Variance	(39)

Inerts Tonnage

Month	Budget	Actual	Variance
Jul	3,105	2,549	(556)
Aug	3,341	3,041	(300)
Sep	3,163		
Oct	3,346		
Nov	2,989		
Dec	1,943		
Jan	2,594		
Feb	3,155		
Mar	3,524		
Apr	3,543		
May	3,343		
Jun	3,525		
Totals:	39,522	5,590	(856)

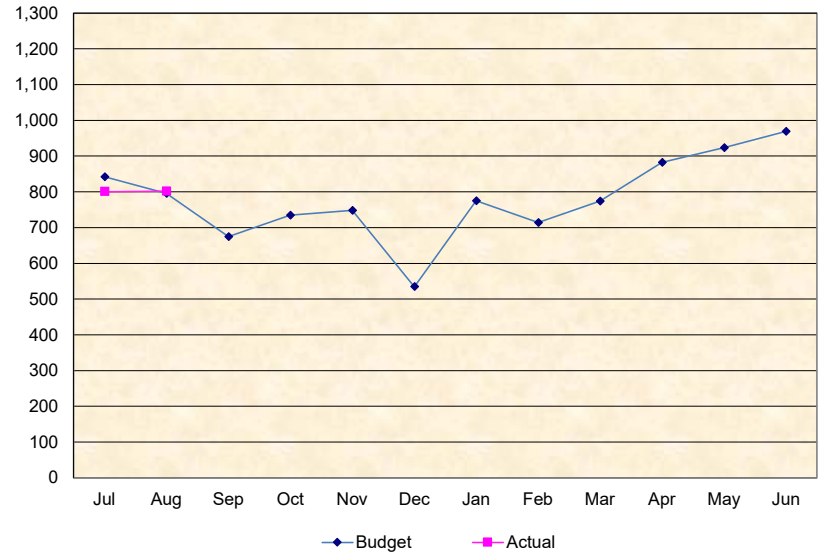


Inerts Tonnage Year to Date

Budget:	6,446
Actual:	5,590
Variance	(856)

Wood Tonnage

Month	Budget	Actual	Variance
Jul	843	801	(42)
Aug	795	802	7
Sep	674		
Oct	734		
Nov	748		
Dec	535		
Jan	775		
Feb	714		
Mar	774		
Apr	882		
May	923		
Jun	969		
Totals:	9,266	1,603	(35)

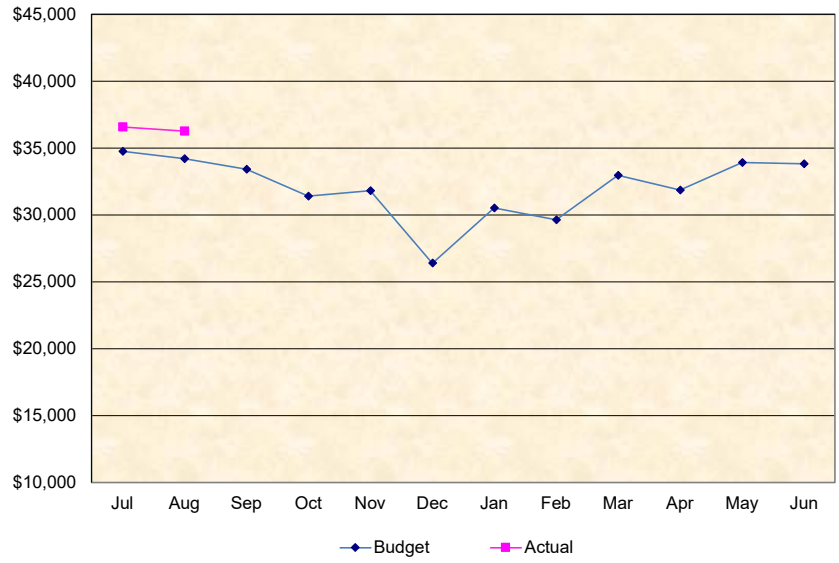


Wood Tonnage Year to Date

Budget:	1,638
Actual:	1,603
Variance	(35)

Miscellaneous Tipping Fee Revenue

Month	Budget	Actual	Variance
Jul	\$34,761	\$36,579	\$1,818
Aug	\$34,212	\$36,269	\$2,058
Sep	\$33,416		
Oct	\$31,399		
Nov	\$31,820		
Dec	\$26,398		
Jan	\$30,519		
Feb	\$29,630		
Mar	\$32,969		
Apr	\$31,866		
May	\$33,916		
Jun	\$33,809		
Totals:	\$321,918	\$72,848	\$3,876



Miscellaneous Tipping Fee Revenue Year to Date

Budget:	\$68,973
Actual:	\$72,848
Variance	\$3,876

Miscellaneous tipping fee revenue reflects tipping fees received from tires, treated wood waste, appliances, and water treatment plant sludges.

PAGE INTENTIONALLY LEFT BLANK

**MEMORANDUM
WESTERN PLACER WASTE MANAGEMENT AUTHORITY**

TO: WPWMA BOARD OF DIRECTORS DATE: **SEPTEMBER 14, 2023**
FROM: **KEN GREHM / WILL SCHEFFLER** *WS*
SUBJECT: **MRF IMPROVEMENTS PROJECT UPDATE**

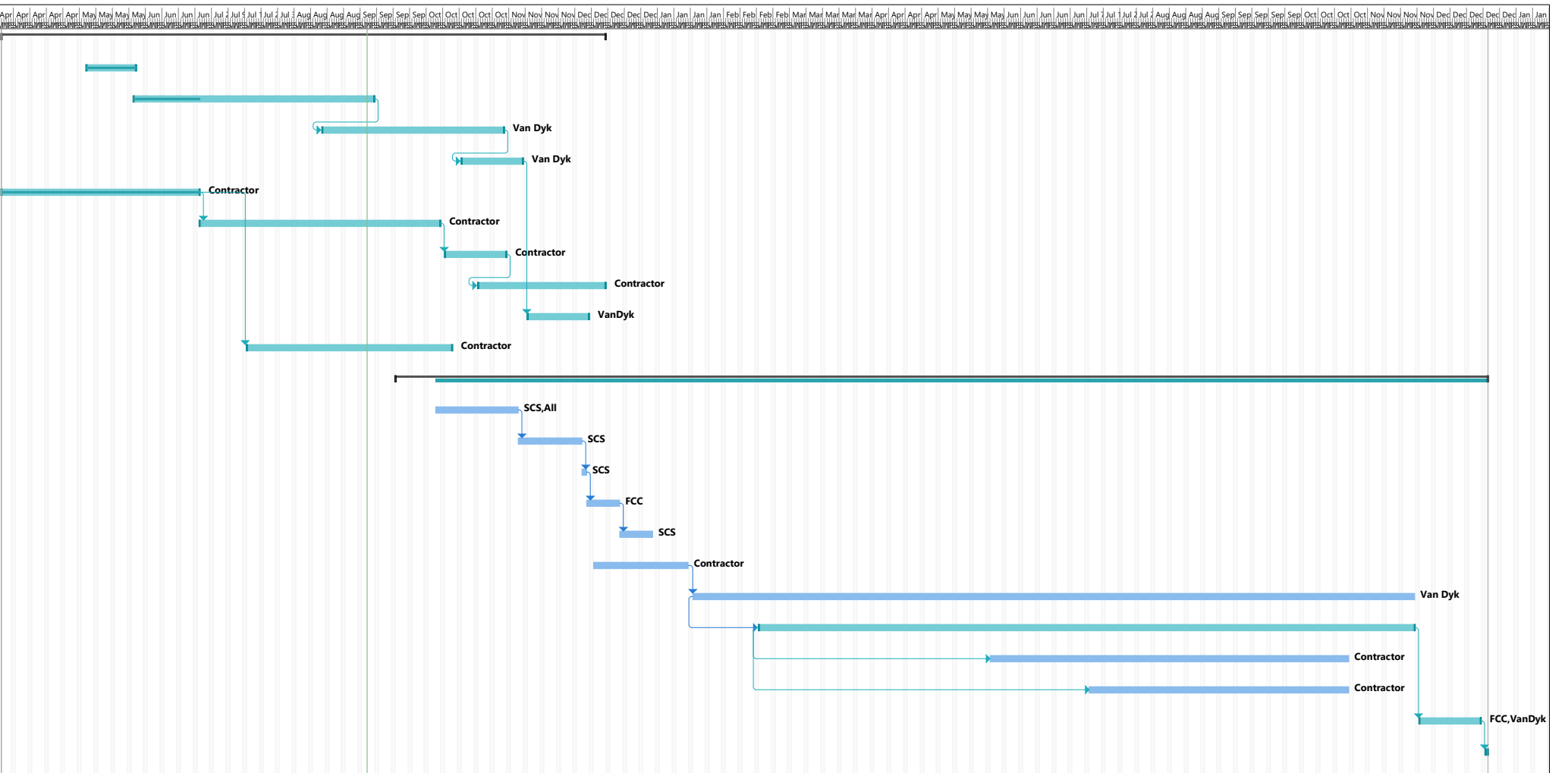
RECOMMENDED ACTION:

None. This report is for information purposes only.

BACKGROUND:

The following information was prepared independently by FCC Environmental Services California, LLC (FCC) and was submitted to the WPWMA on September 6, 2023. The attached is presented to your Board as it was received by WPWMA staff. As such, subjective statements are those of FCC and do not necessarily represent the opinions of WPWMA staff.

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors	Resource Names	
1		C&D Improvements	184 days	Tue 4/4/23	Fri 12/15/23			
2		Sawcut and remove existing concrete	15 days	Wed 5/10/23	Tue 5/30/23			
3		Subgrade Prep/Curing/Slab for Van Dyk	74 days	Tue 5/30/23	Fri 9/8/23			
4		Van Dyk Equipment Mechanical Installation	55 days	Fri 8/18/23	Thu 11/2/23	3FS+1 day	Van Dyk	
5		Van Dyk Equipment - Electrical and Automation Installation	20 days	Mon 10/16/23	Fri 11/10/23	4	Van Dyk	
6		PEMB - Canopy Submittals/Shop Drawings & Review Comments	60 days	Tue 4/4/23	Mon 6/26/23		Contractor	
7		PEMB - Canopy Fabrication & Delivery	74 days	Tue 6/27/23	Fri 10/6/23	6	Contractor	
8		PEMB - Canopy Installation	20 days	Mon 10/9/23	Fri 11/3/23	7	Contractor	
9		PEMB - Electrical	40 days	Mon 10/23/23	Fri 12/15/23	8FS-10 days	Contractor	
10		VanDyk C&D Equipment Testing	20 days	Mon 11/13/23	Fri 12/8/23	5	VanDyk	
11		Compressor Building	63 days	Mon 7/17/23	Wed 10/11/23	6FS+14 days	Contractor	
12		MRF RETROFIT CONSTRUCTION	331 days	Mon 9/18/23	Mon 12/23/24			
13		Prepare Bid Package 9/15/2023	25 days	Thu 10/5/23	Wed 11/8/23		SCS,All	
14		Bid Advertisement	19 days	Thu 11/9/23	Tue 12/5/23	13	SCS	
15		Evaluate Bid/FCC Recommendation	2 days	Wed 12/6/23	Thu 12/7/23	14	SCS	
16		FCC - Contracting	10 days	Fri 12/8/23	Thu 12/21/23	15	FCC	
17		FCC - Issue Notice to Proceed to Contractor	10 days	Fri 12/22/23	Thu 1/4/24	16	SCS	
18		Existing Equipment Removal	30 days	Mon 12/11/23	Fri 1/19/24		Contractor	
19		MRF Retrofit - Contractor	220 days	Mon 1/22/24	Fri 11/22/24	18	Van Dyk	
20		MRF Retrofit - Van Dyk	200 days	Mon 2/19/24	Fri 11/22/24	19SS+20 days		
21		Electrical Improvements	110 days	Mon 5/27/24	Fri 10/25/24	20SS+70 days	Contractor	
22		Seismic Anchors	80 days	Mon 7/8/24	Fri 10/25/24	20SS+100 days	Contractor	
23		VanDyk MRF Equipment Testing & Commissioning	20 days	Mon 11/25/24	Fri 12/20/24	20	FCC, VanDyk	
24		MRF Start-up	1 day	Mon 12/23/24	Mon 12/23/24	23		



**MEMORANDUM
WESTERN PLACER WASTE MANAGEMENT AUTHORITY**

TO: **WPWMA BOARD OF DIRECTORS** DATE: **SEPTEMBER 14, 2023**
FROM: **KEN GREHM / ERIC ODDO** 
SUBJECT: **FY 2022/23 CREDITABLE RECOVERY RATES**

RECOMMENDED ACTION:

None. This report is for information purposes only.

BACKGROUND:

In April 2022, your Board approved the MRF Operating Agreement (Agreement) with FCC Environmental Services California, LLC (FCC). Similar to the previous MRF operating agreement with Nortech Waste, LLC, the Agreement requires FCC to achieve minimum recovery levels from municipal solid waste (MSW) and construction and demolition debris (C&D) of 22% and 50%, respectively. Unlike the Nortech agreement wherein the recovery rates were computed based only on the quantity of materials sent to the MRF for processing, the recovery rates required of FCC are computed on the total quantity of MSW and C&D received at the facility regardless of whether the material was sent to the MRF for processing to reduce the potential for materials to be sent directly to the landfill.

In response to the November 2021 MRF fire, WPWMA and FCC negotiated the First Addendum to the Agreement modifying the minimum MSW recovery rate to 8% during the “Fire Recovery Period”¹ which lasted from July 1, 2022 through January 15, 2023. The 22% MSW recovery rate resumed January 16, 2023 and will be in place until completion of facility upgrades, at which time the minimum MSW and C&D recovery rates will increase to 60% and 65%, respectively.

To encourage FCC to exceed the minimum recovery rates, the Agreement provides for an incentive payment equal to \$20 per ton of materials recovered in excess of the contractual requirements^{2,3}. In the event FCC fails to meet the minimum recovery rates, the Agreement establishes a disincentive adjustment equal to 1% of the applicable annual processing fees paid for each percentage point, or portion thereof, below the required minimum recovery rate. The MSW and C&D recovery rates and incentive/disincentive payments are calculated annually, coinciding with the WPWMA’s fiscal year.

MSW

During the Fire Recovery Period, FCC achieved an MSW recovery rate of 8.60%. However, per the First Addendum, although they exceeded the minimum MSW recovery rate they were not entitled to an incentive payment during the Fire Recovery Period. Following the Fire Recovery Period (January 16 – June 30, 2023), FCC achieved 22.20% MSW recovery which entitled them to an incentive payment of \$4,899.88.

¹ During the Fire Recovery Period, only MSW directed to the MRF for processing was included in the creditable recovery rate computations.

² Approximately equal to the avoided cost of landfilling these materials.

³ Per the First Addendum to the Agreement, FCC was not eligible for or subject to any MSW-related incentive or disincentive payments during the Fire Recovery Period.

C&D

Between July 1, 2022 and June 30, 2023, FCC achieved a C&D recovery rate of 34.82%. Since FCC did not meet the minimum recovery rate of 50%, they are subject to a disincentive payment of \$530,039.54.

As noted in Item 7d of this agenda package, FCC has proposed investing in the facility at its sole cost and to market recovered organic materials in a manner adequate to meet the Member Agency's SB 1383 procurement requirements in lieu of the WPWMA assessing the C&D disincentive payment and pursuing the remedies for default identified in the Agreement.

This report includes revisions dated Monday September 11, 2023.



WESTERN PLACER WASTE MANAGEMENT AUTHORITY
Minutes of August 10, 2023

Meetings of the Western Placer Waste Management Authority Board of Directors are held in the WPWMA Board Chambers at 3013 Fiddlyment Road, Roseville, CA.

Directors Present:

Scott Alvord
Shanti Landon
Bonnie Gore
Ken Broadway
Dan Karleskint

Staff Present:

Kevin Bell
Eric Oddo
Robert Sandman
Heather Wilden

1. Call Meeting to Order: Chairman Alvord called the meeting to order at 5:00 PM.
2. Pledge of Allegiance: Director Broadway led the Pledge of Allegiance.
3. Roll Call: All Directors were present.
4. Statement of Meeting Procedures: Heather Wilden read the procedures for in-person and virtual meeting participation.
5. Public Comment: None.
6. Announcements & Information
 - a. Reports from Directors: None.
 - b. Report from the Executive Director:
 1. Kevin Bell provided a summary of the recent landfill subsurface oxidation event noting that SCS has been monitoring gas wells in the area three times per week for the presence of carbon monoxide and overall gas temperature and will conduct a surface emission sweep of the affected area.
 2. Kevin reported that upon launching the new website, the WPWMA received a Gold Award from dotCOMM administered by the Association of Marketing and Communications Professionals. The award honors excellence in web creativity and digital communications.
 3. Kevin apprised the Board of a visit scheduled for Friday, August 18 at 9:30 AM with Assemblymember Joe Patterson to tour the WPWMA's facilities.
 - c. Monthly Tonnage Reports: Eric Oddo summarized the report. There were no questions from the Board.
 - d. MRF Improvements Project Update: Andrea Rodriguez of FCC Environmental Services California summarized the report. There were no questions from the Board.
7. Consent Agenda
 - a. Minutes of the Board Meeting held July 13, 2023

Staff recommended approving the minutes as submitted.

b. Memorandum of Understanding Between the WPWMA and the Placer County Auditor-Controller:

Staff recommended the Board:

1. Authorize the Chair and the Executive Director or designee, upon review and approval by WPWMA Counsel, to sign a Memorandum of Understanding with the Placer County Auditor-Controller related to providing ongoing financial and accounting services for an annual cost of \$93,695.
2. Determine that the recommended action is not a project pursuant to California Environmental Quality Act Guidelines Section 15378 Placer Waste Action Plan and development of a local circular economy.

MOTION TO APPROVE THE CONSENT AGENDA: Broadway/Karleskint

ROLL CALL VOTE: AYES: Karleskint/Broadway/Gore/Landon/Alvord

8. Action Items:

a. Future WPWMA Organization:

Staff recommended the Board:

1. Provide feedback and direction to staff on proposed changes to WPWMA's organizational structure to align with the WPWMA's Strategic Plan including potential parameters for a Memorandum of Understanding with Placer County and the process for selecting a General Manager.
2. Authorize the Executive Director to solicit proposals for Executive Recruiter services to assist in the hiring of a full-time General Manager.
3. Determine that the proposed action is exempt from environmental review pursuant to California Environmental Quality Act Guidelines Section 15320.

Kevin Bell provided a summary of the report and answered questions from the Board. The Board requested that staff return at a future meeting with the top three ranked firms, final MOU, and recommended action. The Board also requested a workshop with the selected Executive Recruiter firm to develop a job description and determine the compensation for the General Manager position.

MOTION TO APPROVE ITEM 8a: Gore/Landon

ROLL CALL VOTE: AYES: Karleskint/Broadway/Gore/Landon/Alvord

9. Upcoming Agenda Items: None.

10. Adjournment: Meeting was adjourned at 5:44 PM.

Respectfully Submitted,



Heather Wilden, Clerk of the Board

**MEMORANDUM
WESTERN PLACER WASTE MANAGEMENT AUTHORITY**

TO: **WPWMA BOARD OF DIRECTORS** DATE: **SEPTEMBER 14, 2023**
FROM: **KEN GREHM / EMILY HOFFMAN** *eh*
SUBJECT: **GROWTH FACTORY SPONSORSHIP**

RECOMMENDED ACTION:

1. Authorize the Executive Director or designee, upon review and approval by WPWMA Counsel, to sign a sponsorship agreement with the Growth Factory for the GFX Conference for a total cost of \$5,000.
2. Determine that the recommended action is not a project pursuant to California Environmental Quality Act Guidelines Section 15378.

BACKGROUND:

Through the WPWMA's partnership with the Carlsen Center for Innovation & Entrepreneurship, staff were introduced to the Growth Factory and had the opportunity to learn more about how the WPWMA and Growth Factory share goals and could mutually benefit from continued engagement. In April 2023, the Growth Factory hosted the WPWMA's inaugural Final Pitch for the Circular Economy Innovation Competition at their Roseville Venture Lab.

The GFX Conference is the Growth Factory's annual venture conference and startup showcase that brings together talented and innovative minds from the Greater Sacramento region to connect, learn, support business startups, and build a robust startup ecosystem. Staff believe these efforts align with the WPWMA's goals to foster a local circular economy as outlined in both the WPWMA's 2023 – 2027 Strategic Plan and the Renewable Placer Waste Action Plan.

As the WPWMA looks to expand outreach efforts and improve its economic development efforts, staff believes it is important to consider supporting events and opportunities that align with the WPWMA's overall goals and position itself to engage in pilot projects or public-private partnerships in the local community and the entrepreneurial/manufacturing industry.

Should your Board approve the recommended sponsorship, the WPWMA will be afforded a reserved and branded table at the event's Backyard Awards Lunch, an Expo table to share information and materials about the WPWMA with event attendees, the opportunity to introduce or moderate the Civic Innovation Panel, placement of the WPWMA's logo on digital signage at the event and the GFX website, inclusion in various social media promotions, and more. Additionally, WPWMA staff have been invited to be guests on an episode of a podcast hosted by one of the founders of the Growth Factory, Mark Haney, to discuss fostering a local circular economy and investing in compatible manufacturing technologies.

ENVIRONMENTAL CLEARANCE:

The recommended action is not considered a “project” under CEQA guidelines Section 15378.

FISCAL IMPACT:

The fiscal impact of supporting the Growth Factory’s GFX Conference is \$5,000. Sufficient funding is available in the FY23-24 Preliminary Budget to cover this cost.

STRATEGIC PLAN/GOALS:

GOAL 1 – Improve outreach, public education, and customer experience/service.

GOAL 2 – Enhance economic development and investment in innovation.

GROWTH FACTORY SPONSORSHIP AGREEMENT

This Sponsorship Agreement (the “Agreement”) is made and entered into as of 7/7/2023 by and between the Growth Factory with an office located at 4465 Granite Drive, Rocklin, CA (hereinafter referred to as “Company”) and Western Placer Waste Management Authority with an office located at 3013 Fiddymont Road, Roseville, CA (hereinafter referred to as “Sponsor”).

WHEREAS Sponsor desires to receive the Sponsorship Benefits outlined in Attachment A, and Company desires to have Sponsor as a Sponsor of certain activities.

NOW, THEREFORE, in consideration of the premises and the mutual agreements contained herein and the mutual benefits to be derived from this Agreement, the parties hereby agree as follows:

- 1. Purpose.** The purpose of this Agreement is to define the terms pursuant to which Sponsor will be entitled to receive the Sponsorship Benefits.
- 2. Term of Agreement.** This Agreement shall commence 7/7/23 and continue in full force and effect until 10/31/2023 (the “Initial Term”).
- 3. Sponsor Brands.** Subject to the terms and conditions of this Agreement and any other written guidelines provided by Sponsor to Company from time to time, Sponsor hereby grants to Company a non-exclusive, non-sublicensable, non-transferable, revocable right and license to use Sponsor’s trademarks, service marks, trade names, logos, business names, and/or slogans (the “Sponsor Brands”) for purposes of identification and the promotion of Activities. All goodwill that accrues from Bangerter Financial Services' use of the Sponsor Brands shall inure to the benefit of Sponsor.
- 4. Sponsorship.** In consideration of Sponsor’s payment of the Sponsorship fees (the “Fees”) set forth in this Agreement, Company will provide Sponsor with the benefits set forth in Attachment A to this Agreement. The parties hereby agree that the terms of Attachment A are incorporated into, and made a part of, this Agreement by this reference.
- 5. Sponsorship Fee.** The Fees payable by Sponsor to the Company are set forth in Attachment A and are non-refundable. Sponsor will pay all Fees due hereunder no later than thirty (30) days from the date of Company’s invoice. Payment not received by the due date will constitute Sponsor’s default under this Agreement.
- 6. Termination.** Either party may terminate this Agreement for cause: (a) upon 30 days’ written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (b) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- 7. Limitation of Liability.** In no event shall either party be liable to the other party for any incidental, consequential, indirect, or punitive damages (including but not limited to lost profits) regardless of whether such liability is based on breach of contract, tort, strict liability, breach of warranties, failure of essential purpose or otherwise and even if advised of the possibility of such damages. Company’s aggregate liability arising out of this Agreement, whether in contract, tort (including negligence) or otherwise will not exceed the Fees paid by Sponsor to Company for the then-current Term.
- 8. Force Majeure; Substantial Damage.** Each party shall be excused from performance of their obligations under this Agreement if such a failure to perform results from compliance with any requirement of applicable law, acts of God, fire, strike, embargo, terrorist attack, war, insurrection or riot or other causes beyond the reasonable control of such party. Any delay resulting from any of such causes shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable under the circumstances.

GROWTH FACTORY SPONSORSHIP AGREEMENT

9. Assignment. This Agreement may not be assigned by Sponsor without Company's prior written consent, which approval will not be unreasonably withheld.

10. Notices. Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated: (a) by personal delivery, when delivered personally; (b) by overnight courier, upon written verification of receipt; or (c) by certified or registered mail, return receipt requested, upon verification of receipt. Notices shall be sent to the addresses provided above, and any notices sent to Sierra Health & Wellness shall be sent to the attention of the [Ixel Morell]. Either Party may designate a different address by providing written notice to the other party.

11. Applicable Law; Venue. This Agreement shall be governed by the laws of the State of California, and each party irrevocably consents and submits to the exclusive personal jurisdiction of the state and federal courts located in the State of California for any matter arising out of or relating to this Agreement.

12. Waiver. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

13. Relationship of the Parties. The parties will perform hereunder as independent contractors. Nothing contained in this Agreement shall be deemed to create any association, Sponsorship, joint venture, or relationship of principal and agent between the parties.

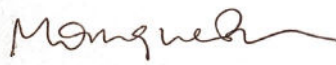
14. Non-exclusivity. This is not an exclusive agreement. Sponsor acknowledges that Growth Factory uses (and reserves the right to continue to use) other potential Sponsors and vendors to provide goods and services that are similar or related to the benefits as set forth in this agreement. Bangerter Financial Services will, to the extent reasonably requested by Growth Factory, cooperate in good faith and in a timely manner with Growth Factory's other Sponsors to allow the Sponsors to efficiently perform services for Growth Factory and its stakeholders.

15. Entire Agreement. This Agreement, including all Attachments hereto, constitutes the entire agreement between the parties, and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning the subject matter hereof. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by an authorized representative of each party. The titles of the articles, section, and subsections of this Agreement are for convenience only, and do not define or limit the contents. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one Agreement.

[Signature page to follow]

GROWTH FACTORY SPONSORSHIP AGREEMENT

In Witness Whereof, the parties hereto have executed this Agreement by having their duly authorized representative(s) sign his/her/their name(s) in the respective spaces provided below:

Growth Factory	Sponsor Company: Western Placer Waste Management
Signature: 	Signature:
Date: 7/7/23	Date:
Name of Signer: Monique Brown	Name of Signer:
Title of Signer: Managing Director	Title of Signer:
Address: 4465 Granite Dr., Rocklin Ca	Address:
Email: Monique@growthfactory.us	Email:
Phone:	Phone:

GROWTH FACTORY SPONSORSHIP AGREEMENT

Attachment A

1. **Sponsorship Level:** Build + Backyard Awards Lunch Sponsor
2. **Sponsorship Fees:** \$5,000
3. **Sponsorship Benefits:** Listed Below
 - Reserved and branded table for 10 at Backyard Awards Lunch
 - 14 tix to GFX & Happy Hour
 - VIP Lounge Access
 - Expo Table
 - Introduce or moderate Civic Innovation Panel
 - Digital signage & GFX website
 - Social media promotion

**MEMORANDUM
WESTERN PLACER WASTE MANAGEMENT AUTHORITY**

TO: **WPWMA BOARD OF DIRECTORS** DATE: **SEPTEMBER 14, 2023**
FROM: **KEN GREHM / ERIC ODDO** 
SUBJECT: **SETTLEMENT AGREEMENT WITH PLACER COUNTY AIR
POLLUTION CONTROL DISTRICT**

RECOMMENDED ACTION:

1. Authorize the Executive Director or designee to sign the attached Settlement Agreement with the Placer County Air Pollution Control District (PCAPCD) resolving Notice of Violation (NOV) 3635 related to omissions and errors in landfill gas related reports submitted to the PCAPCD for the Western Regional Sanitary Landfill (WRSL).
2. Determine that the recommended action is not a project pursuant to California Environmental Quality Act Guidelines Section 15378.

BACKGROUND:

On March 28, 2023, the PCAPCD issued the attached NOV 3635 to the WPWMA for not submitting a final notice confirming that corrective actions were completed for surface methane emission exceedances recorded in 2020 and for omissions in the WPWMA's 2021 WRSL Annual Report demonstrating that positive wellhead pressures recorded for three gas extraction wells were corrected within the required regulatory timeframes. The NOV included a proposed Settlement Agreement that would require the WPWMA remit \$17,570 to the PCAPCD.

On May 17, 2023, staff met with PCAPCD to discuss the NOV, which led to the WPWMA's issuance of the attached June 12, 2023 letter providing additional details for PCAPCD's consideration. As a result of these discussions and additional information, the PCAPCD revised and reissued the attached proposed Settlement Agreement, reducing the payment to \$10,500.

Staff have had follow-up discussions with PCAPCD proposing to utilize the proposed Settlement Agreement payment amount of \$10,500 towards projects at the WRSL that could help reduce air-related impacts associated with operations. Examples of potential projects include replacement of gas-powered generators used to operate the leachate pumping network with solar-powered pumping units. On August 29, PCAPCD notified the WPWMA that it would be amenable to allowing the WPWMA to utilize 50% of the payment amount to such a project with the remainder (i.e., \$5,250) remitted as a direct payment to the district.

As noted in the WPWMA's June 12, 2023 letter, staff have included a provision in the current landfill gas operations and maintenance agreement with SCS Field Services to coordinate and schedule quarterly meetings with the PCAPCD. Staff believes conducting regular meetings with the PCAPCD will help to resolve administrative matters such as those noted in the NOV in a timelier manner and reduce the potential for future NOV's.

Staff recommend your Board approve the proposed Settlement Agreement and authorize the Executive Director or designee to execute the Settlement Agreement on behalf of the WPWMA. Staff have notified the PCAPCD that, pending your Board's approval and authorization to sign, the WPWMA would remit the executed Settlement Agreement following tonight's meeting.

ENVIRONMENTAL CLEARANCE:

Executing a Settlement Agreement to resolve the NOV is not considered a project under the California Environmental Quality Act.

FISCAL IMPACT:

Sufficient funding to cover the cost identified in the proposed Settlement Agreement is available in the FY 2023/24 Preliminary Budget.

STRATEGIC PLAN/GOALS:

GOAL 4 – Establish well-planned facility infrastructure and ensure it proper maintenance and operation.

GOAL 6 – Establish internal policy and information regional policy.

ATTACHMENT: EXHIBIT A – NOTICE OF VIOLATION 3635
EXHIBIT B – WPWMA RESPONSE LETTER
EXHIBIT C – REVISED SETTLEMENT AGREEMENT



NOTICE OF VIOLATION

March 28, 2023

Attn: Eric Oddo
Western Placer Waste Management Authority
3013 Fiddymment Road
Roseville, CA 95747

Notice of Violation:

Number: 3635
Date(s): Various between July 2020 and November 2021
Location: 3033 Fiddymment Road, Roseville, California

This letter is your notice that the Placer County Air Pollution Control District (District), authorized and established by California Health and Safety Code Section 40002, has made the finding that you are responsible for violations of District rules and regulations and/or state/federal air pollution laws. You can find District rules at <http://www.placerair.org/rules>.

Violation Circumstances:

Integrated average surface methane emissions at the following Western Regional Sanitary Landfill grids were found to be above the limit of 25 ppmv and were not corrected (and confirmed) within the required time period (120 days following two 10-day rechecks):

Grid #	Date exceedance first detected	Date measured in compliance	Days out of compliance
121	07/31/20	03/02/21	74
129	07/31/20	03/12/21	84
137	07/31/20	06/01/21	164
144	07/31/20	06/01/21	164
151	10/25/20	06/01/21	77
152	10/25/20	08/13/21	147
158	10/25/20	06/01/21	77
173	10/25/20	06/11/21	87
180	10/25/20	06/01/21	77
181	10/25/20	06/01/21	77
186	10/25/20	06/01/21	77
187	10/25/20	06/11/21	175
194	07/31/20	06/01/21	165
199	10/25/20	06/11/21	87

California Code of Regulations, Title 17, Section 95495, Surface Methane Emission Standards, (a) requires that average MSW landfill surface methane concentration not exceed 25 ppmv as determined by integrated surface emissions monitoring.

California Code of Regulations, Title 17 Section 95469, Monitoring Requirements, (a) (2) requires that if re-monitoring shows a third exceedance the owner/operator must achieve compliance no later 120 days after detecting the third exceedance, or it is a violation of this sub-article.

Pressures at the following Western Regional Sanitary Landfill wells were found to be positive and were not corrected within the required time period (120 days following 5- and 15-day rechecks):

Well #	Date exceedance first detected	Date measured in compliance	Days out of compliance
16VERA81	03/02/21	11/11/21	75
16VERA82	03/09/21	11/11/21	75
16VERA83	05/04/21	?	?

California Code of Regulations, Title 17, Section 95495, Surface Methane Emission Standards, (c) requires well head pressure be negative.

California Code of Regulations, Title 17 Section 95469, Monitoring Requirements, (c) (2) requires that if re-monitoring shows a third exceedance the owner/operator must achieve compliance no later 120 days after detecting the third exceedance, or it is a violation of this sub-article.

Additionally, well positive pressure events that were not corrected with the required time period were not reported to the District as soon as practicable or within 75 days of the initial determination, as required under 40 CFR Section 60.767(j).

Settlement Offer:

Based upon our investigation, there is sufficient information to proceed with a civil action pursuant to California Health and Safety Code, Article 3, Section 42402 et seq. As is provided for in State law, it is the District's policy to settle these matters through a mutual settlement process in lieu of pursuing this case in court.

Accordingly, the District offers to settle this matter pursuant to the conditions listed in the proposed settlement agreement (enclosed), including a monetary penalty of **Seventeen Thousand Five Hundred and Seventy Dollars (\$17,570)**. For the violations, you are strictly liable for a monetary penalty of up to \$10,000 per each separate day of violation, pursuant to California Health and Safety Code Section 42402(b)(2)(B). The offer is reduced from the maximum to encourage settlement out of court and in consideration of the severity and circumstances of the violation(s).

If the terms listed in the agreement are acceptable, you are requested to sign and return the enclosed Settlement Agreement, with a check payable to the Placer County Air Pollution Control District in the amount of the penalty, or a receipt showing that you have paid the penalty online at <http://www.placer.ca.gov/departments/air/onlinepayments>. Payment must be received no later than **May 15, 2023**. Upon receipt of the signed agreement and your payment, you will be provided with a letter acknowledging settlement of this matter.

Alternatively, if you would like to present additional facts or circumstances for the District to consider in settling this matter, you may contact me at (530) 745-2337 to discuss this matter or request a time to meet at our office.

Notice of Violation Number 3635
March 28, 2023
Page 3

If this case is not settled by **May 15, 2023**, then the settlement offer is withdrawn. For cases that are not settled through this mutual settlement process the District will seek resolution through court action.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Bruce Springsteen', with a stylized flourish at the end.

Bruce Springsteen
Compliance and Enforcement Manager

Attachment: Settlement Agreement

AGREEMENT

Notice of Violation No. 3635

Western Placer Waste Management Authority shall pay a settlement of **Seventeen Thousand Five Hundred and Seventy Dollars (\$17,570)** in lieu of civil penalties determined pursuant to California Health and Safety Code Section 42402 et seq. The total monetary settlement is to be paid no later than **May 15, 2023**.

Return of this agreement is requested by May 15, 2023

Failure to meet any of these agreement conditions shall void this agreement. In consideration of this settlement, the District agrees to refrain from seeking additional penalties with regard to the violation(s) set forth in this Notice of Violation letter. Notwithstanding this agreement, any evidence used in this matter may also be used in subsequent, but separate, enforcement actions. The signatures below signify agreement with the stated terms and conditions. By agreeing to these terms the alleged violator does not indicate acceptance of guilt.



Bruce Springsteen
Compliance and Enforcement Manager
Placer County Air Pollution Control District

03/28/23

Date

Alleged Violator
Western Placer Waste Management Authority

Date

Please return this form, with a check payable to the *Placer County Air Pollution Control District* in the amount of the penalty, or a receipt showing that you have paid the penalty online at <http://www.placer.ca.gov/departments/air/onlinepayments>, to the *Placer County Air Pollution Control District, 110 Maple Street, Auburn, CA 95603*, in acknowledgment that these terms of settlement are acceptable.

RETURN THIS AGREEMENT WITH YOUR PAYMENT



June 12, 2023

Mr. Bruce Springsteen
Placer County Air Pollution Control District
3091 County Center Drive, Suite 240
Auburn, CA 95603

**RE: SETTLEMENT OF NOTICE OF VIOLATION NO. 3635 – FOLLOW UP
INFORMATION REQUEST**

Dear Mr. Springsteen:

On May 17, 2023, the Western Placer Waste Management Authority (WPWMA) met with the Placer County Air Pollution Control District (PCAPCD) to discuss Notice of Violation No. 3635 (NOV). The violation cited the WPWMA for not correcting the integrated average surface methane emissions exceedances that were detected on July 31, 2020, and October 29, 2020, and for the positive wellhead pressures that were detected on March 2, 9 and May 4, 2021, within the required timeframes, which is in violation of California Code of Regulation, Title 17, Sections 95495 and 95469. PCAPCD requested that the WPWMA provide a summary of items discussed, including the events and corrective actions taken to address the exceedances and steps the WPWMA will take moving forward to prevent delay in notifying PCAPCD of finalized remediation efforts in the future.

According to the WPWMA's records and as outlined in the attached timeline, WPWMA staff notified and kept PCAPCD staff apprised of the corrective measures being taken to address the integrated average surface methane emissions noted in the NOV, by submitting Non-Compliance Event Forms, quarterly and annual landfill gas reports, and providing updates via email and phone; however, WPWMA staff did not submit a final notice confirming that the corrective actions had been completed and that the exceedances returned to below compliance thresholds. Based on this, the WPWMA is requesting that the PCAPCD reduce the \$17,570 monetary penalty of the NOV since the reason for being in violation was a result of an administrative error rather than inaction.

Additionally, it was noted by WPWMA staff during the meeting, that the positive wellhead pressures included in the NOV were based on erroneous information included in the 2021 Annual Methane Emissions Report (Report) submitted by WPWMA staff. After reviewing the monthly landfill gas reports, WPWMA staff confirmed that the positive wellhead pressures for landfill gas wells 16VERA81, 16VERA82 and 16VERA83 were corrected within the required timeframe. Attached is a revised copy of the Report indicating all wellheads returned below compliance thresholds within the required timeframes.

As stated by WPWMA staff in the meeting, moving forward the WPWMA plans to hold quarterly meetings with the WPWMA's landfill gas contractor SCS Engineers and PCAPCD staff, so that accurate information is disseminated between entities in a timely manner. The WPWMA has included this item in the new landfill gas collection operations and maintenance contract that was approved by the WPWMA's Board on June 8, 2023, and is anticipated to begin July 2023.

Please contact Jennifer Snyder at (916) 543-3997 should you have any questions or wish to discuss this matter.

Sincerely,

Eric Oddo

[Eric Oddo \(Jun 14, 2023 10:12 PDT\)](#)

Eric Oddo, P.E.
Program Manager

ATTACHMENTS: APCD NOV 3635 TIMELINE
2021 ANNUAL METHANE EMISSIONS REPORT (REVISED MAY 2023)

APCD NOV 3635 Timeline

July 31, 2020

- SCS conducted the third quarter 2020 initial surface emissions monitoring event. Exceedances were detected in grids 113, 121, 129, 137, 144, 159, 167, 181, 187 and 194.

August 10, 2020

- First 10-day re-monitoring for third quarter 2020 was conducted. Grids 113, 167 and 181 returned below compliance limits. Grids 121, 129, 137, 144, 159, 187 and 194 remained in exceedance.

August 20, 2020

- Second 10-day re-monitoring for third quarter 2020 was conducted and grids 121, 129, 137, 144, 159, 187 and 194 remained in exceedance.
- Since these grids were still above the 25 ppmv threshold after the second re-monitoring event, remedial actions were required and included either expanding the gas collection system or performing surface repair activities within 120 days. Remedial activities were to be completed and grids were required to return below compliance thresholds by December 18, 2020.

October 2, 2020

- SCS replaced a deteriorated hose on the Borehole Emissions Control System (BECS) at well 41R to address exceedances detected on 7/31/2020.
- WPWMA submitted Non – Compliance Event (NCE) form 2020-001 to APCD that included a summary about the surface emissions exceedances during the third quarter 2020, initial remediation plans that involved a combination of cover improvements and establishing a second well connection and that if these improvements were not successful at bringing the areas back into compliance then the WPWMA would have SCS design and install additional wells/pipelines to improve gas collection in the affected area. WPWMA staff also noted that additional time may be requested beyond the 120-day timeframe if needed.
- WPWMA staff also notified and discussed the NCE form information with APCD staff via telephone.

October 5, 2020

- APCD staff acknowledged NCE form 2020-001 submittal.

October 29, 2020

- SCS conducted the fourth quarter 2020 initial surface emissions monitoring event. Exceedances were detected in grids 151, 152, 158, 173, 180, 181, 186, 193, 194 and 199. Results indicated that grids 144, 159 and 187 returned below compliance limits.
- SCS was unable to collect measurements for grids 121, 129 and 137 during the quarter due to these becoming active areas.

November 2, 2020

- WPWMA submitted the Third Quarter 2020 Surface Emissions Monitoring (SEM) report to APCD. The report included the July 2020 surface emission exceedance results and how SCS and the WPWMA were evaluating remediation plans that may include expansion of the gas collection system or cover repairs.

November 6, 2020

- First 10-day re-monitoring for the fourth quarter 2020 was conducted for grids 151, 152, 158, 173, 180, 181, 186, 193, 194 and 199. Results indicated that the grids remained in exceedance.

November 16, 2020

- Second 10-day re-monitoring for the fourth quarter 2020 was conducted for grids 151, 152, 158, 173, 180, 181, 186, 193, 194 and 199. Results indicated that the grids remained in exceedance.

Mid – Nov 2020

- Before Thanksgiving, APCD and WPWMA staff discussed via telephone the integrated surface emissions that were measured on 11/16/2020 and that the WPWMA was not seeing improvements to approximately 10 grids (151, 152, 158, 173, 180, 181, 186, 193, 194 and 199) after completing the two follow-up monitoring events for the fourth quarter 2020. (Exact date of phone call is unknown).

December 11, 2020

- After receiving the final numerical results for the two follow-up monitoring events discussed during the 11/2020 phone call, the WPWMA submitted NCE form 2020-003 stating staff was working with SCS to design and install additional wells/pipelines to improve gas collection in the affected area. The WPWMA also noted that it may take longer than 120 days to build the wells and bring the grids into compliance. Based on previous well installations, WPWMA staff have discovered that the wet season inhibits drilling activities at the landfill due to saturated soil conditions.

- APCD acknowledged the NCE form submittal and notified WPWMA staff that the incorrect form had been attached to the email submittal.

December 12, 2020

- WPWMA staff followed up with APCD and resubmitted the correct NCE form.

December 18, 2020

- Deadline for grids 121, 129, 137, 144, 159, 187 and 194 to be compliant.

February 1, 2021

- WPWMA submitted the Fourth Quarter 2020 SEM report to APCD. The report included the October 2020 surface emission exceedance results for each grid and that SCS and the WPWMA were evaluating remediation plans that may include expansion of the gas collection system or cover repairs.

March 1, 2021

- WPWMA staff sent an email to APCD providing an update to the NCE form 2020-003, notifying them of the eight proposed additional gas wells. This notification included the well design drawings and that drilling was expected to start on 3/3/2021 due to recent dry weather that made the area accessible for staging equipment and well installation.

March 2, 2021

- SCS conducted the first quarter 2021 initial surface emissions monitoring event. Results indicated that grids 121 and 159 returned below compliance limits and grids 120, 122, 129, 136, 137, 138, 143, 151, 158, 166, 167, 168, 173, 174, 180, 181, 186, 187, 193, 194, 199 and 205 were in exceedance.
- SCS was unable to collect measurements for grids 144 and 152 during the quarter due to these becoming active areas.

March 11, 2021

- WPWMA submitted the 2020 Annual Methane Emissions Report to APCD that contained partial information about remediation efforts for the remaining exceedances including details about bringing well 15-inv-001 online and the installation of eight new wells. The majority of the 2020 exceedances (14 of 17) were corrected in 2021 after this report was submitted.

March 12, 2021

- First 10-day re-monitoring for the first quarter 2021 was conducted. Grids 120, 122, 129, 138, 167, 168, 193, 199 and 205 returned below compliance limits. Grids 136, 137, 143, 151, 158, 166, 173, 174, 180, 181, 186, 187 and 194 remained in exceedance.

March 22, 2021

- Second 10-day re-monitoring for the first quarter 2021 was conducted. Grids 136, 137, 143, 151, 158, 166, 173, 174, 180, 181, 186, 187 and 194 remained in exceedance.
- Since these grids were still above the 25 ppmv threshold after the second re-monitoring event, remedial actions were required and included either expanding the gas collection system or performing surface repair activities within 120 days. Remedial activities were to be completed and grids were required to return below compliance thresholds by July 20, 2021.

April 16, 2021

- WPWMA submitted NCE form 2021-002 to APCD updating them on the well installations and exceedances and explained that the wells had been installed by the 120-day requirement (before March 16th) but could not establish control quick enough to bring the area into compliance by then.

April 30, 2021

- WPWMA submitted the First Quarter 2021 SEM report to APCD. The report included the March 2021 surface emission exceedance results for each grid and how SCS and the WPWMA were evaluating remediation plans that may include expansion of the gas collection system or cover repairs.

June 1, 2021

- SCS conducted the second quarter 2021 initial surface emissions monitoring event. Results indicated that grids 136, 137, 143, 144, 151, 158, 166, 174, 180, 181, 186 and 194 returned below compliance thresholds and grids 173, 187 and 199 were in exceedance.
- SCS was unable to collect measurements for grid 152 during the quarter due to this becoming an active area.

June 9, 2021

- WPWMA staff held a meeting with APCD to discuss a variety of topics including how the WPWMA was tuning the new wells for compliance and APCD had no comment.

June 11, 2021

- First 10-day re-monitoring for the second quarter 2021 was conducted and results indicated that grids 173, 187 and 199 returned below compliance thresholds.

July 20, 2021

- Deadline for grids 136, 137, 143, 151, 158, 166, 173, 174, 180, 181, 186, 187, and 194 to be compliant.

August 4, 2021

- WPWMA submitted the Second Quarter 2021 SEM report to APCD. The report included the June 2021 surface emission monitoring results indicating that all but one grid (Grid 152) had returned below compliance thresholds. SCS was unable to perform surface emission monitoring for Grid 152 because it was in an active area.

August 13, 2021

- SCS conducted the third quarter 2021 initial surface emissions monitoring event. SCS was able to collect monitoring data for Grid 152 since it was no longer in the active fill area and results indicated that it had returned below compliance thresholds.
- At this time all surface emission exceedances that were initially detected in 2020 had returned to below compliance thresholds.

March 15, 2022

- WPWMA submitted the 2021 Annual Methane Emissions Report to APCD that included numerical data for the surface emission exceedances for the 2021 calendar year. These exceedances were all corrected in June 2021, but that information was inadvertently not included in the annual report.

January 5, 2023

- APCD requested revisions to the 2020 and 2021 Annual Methane Emissions Reports.

January 19, 2023

- Per the APCD's request, WPWMA submitted revised copies of the 2020 and 2021 Annual Methane Emissions Reports that included new tables outlining compliance dates for SEM exceedances and corresponding topographic maps showing the locations.



NOTICE OF VIOLATION

July 13, 2023

Attn: Eric Oddo
Western Placer Waste Management Authority
3013 Fiddyment Road
Roseville, CA 95747

Subject: Revised Settlement of Notice of Violation Number 3635

Dear Mr. Oddo:

Thank you for providing additional information concerning the subject violation notice, in a meeting with the District on May 17, 2023, and letter dated June 12, 2023.

You indicate the three well positive pressure events were corrected within the allowable time (120 days of the second 10-day re-monitoring event). They appeared to not have been because of omissions and errors you made in your preparation of the 2021 Annual Report. You have provided a revised Report with the proper information documenting well pressures were returned to vacuum within the required time.

For the surface methane emissions exceedances which were not corrected in the allowable time (120 days of the second re-monitoring), we acknowledge you provided us “Non-Compliance Event” notifications when unable to return surface emissions to compliance within the second re-monitoring event, as we agreed was required to satisfy Title V deviation reporting. However, the District has determined the inability to ultimately correct the surface emissions within the 120 day extension period are not the result of an “upset” or “breakdown” condition out of your control. Further, the District did not receive (or evaluate or approve) any request from you for time extension beyond the 120 day limit (for example, a request for variance or stipulated compliance agreement). Based on further information you provided on your monitoring results, the following grids did not meet the allowable time (and/or became repetitive in failure over multiple quarters):

Grid #	Date exceedance first detected	Date measured in compliance	Days out of compliance	Considerations
121	07/31/20	03/02/21	74	Unable to measure during 2020 Q4, active cell
129	07/31/20	03/12/21	84	Unable to measure during 2020 Q4, active cell
137	07/31/20	06/01/21	164	Unable to measure during 2020 Q4, active cell
151	10/29/20	06/01/21	77	
152	10/29/20	08/13/21	147	Unable to measure during 2020 Q4 and 2021 Q1, active cell
158	10/29/20	06/01/21	77	

July 13, 2023

Page 2

167				Failure/pass in both 2020 Q3 and 2021 Q1
173	10/29/20	06/11/21	87	
180	10/29/20	06/01/21	77	
181	10/29/20	06/01/21	77	Also, earlier failure/pass on 07/31/20
186	10/29/20	06/01/21	77	
187	07/31/20	06/11/21	175	Passed on 10/24/20, exceedance measured again 3/2/21
194	07/31/20	06/01/21	165	
199	10/29/20	06/11/21	87	Passed on 03/12/21, exceedance measured again 6/1/21

Considering the above, the District is revising our offer to settle for **Ten Thousand Five Hundred Dollars (\$10,500)**, see attached proposed settlement agreement with deadline of August 31, 2013.

Please contact me at (530) 745-2337 with any questions.

Sincerely,



Bruce Springsteen
Compliance and Enforcement Manager

Attachment: Settlement Agreement

AGREEMENT

Notice of Violation No. 3635

Western Placer Waste Management Authority shall pay a settlement of **Ten Thousand Five Hundred Dollars (\$10,500)**, in lieu of civil penalties determined pursuant to California Health and Safety Code Section 42402 et seq. The total monetary settlement is to be paid no later than **August 31, 2023**.

Return of this agreement is requested by August 31, 2023

Failure to meet any of these agreement conditions shall void this agreement. In consideration of this settlement, the District agrees to refrain from seeking additional penalties with regard to the violation(s) set forth in this Notice of Violation letter. Notwithstanding this agreement, any evidence used in this matter may also be used in subsequent, but separate, enforcement actions. The signatures below signify agreement with the stated terms and conditions. By agreeing to these terms the alleged violator does not indicate acceptance of guilt.



Bruce Springsteen
Compliance and Enforcement Manager
Placer County Air Pollution Control District

07 / 13 / 23

Date

Alleged Violator
Western Placer Waste Management Authority

Date

Please return this form, with a check payable to the *Placer County Air Pollution Control District* in the amount of the penalty, or a receipt showing that you have paid the penalty online at <http://www.placer.ca.gov/departments/air/onlinepayments>, to the *Placer County Air Pollution Control District, 110 Maple Street, Auburn, CA 95603*, in acknowledgment that these terms of settlement are acceptable.

RETURN THIS AGREEMENT WITH YOUR PAYMENT

**MEMORANDUM
WESTERN PLACER WASTE MANAGEMENT AUTHORITY**

TO: **WPWMA BOARD OF DIRECTORS** DATE: **SEPTEMBER 14, 2023**
FROM: **KEN GREHM / KEVIN BELL**
SUBJECT: **CONSTRUCTION & DEMOLITION DEBRIS RECOVERY RATES**

RECOMMENDED ACTION:

1. Authorize staff to negotiate an amendment to the Material Recovery Facility Operating Agreement with FCC Environmental Services California, LLC (FCC) related to the Construction and Demolition Debris recovery rate consistent with the attached proposed deal points.
2. Determine that the recommended action is not a project pursuant to California Environmental Quality Act Guidelines Section 15378.

BACKGROUND:

As noted in Item 6f of this agenda package, FCC did not meet the contractual C&D guaranteed minimum recovery level (C&D GMRL) performance metric for FY 2022/23 and is subject to a disincentive payment of approximately \$530,000.

In discussions with staff, FCC has proposed the following in lieu of the WPWMA formally imposing a disincentive payment:

1. FCC will market, distribute and maintain records on the sale of recovered organic material to direct service providers in an amount and manner adequate to meet the procurement target of each Member Agency per 14 CCR Section 18993 of the SB 1383 regulations.
2. FCC will design, permit, bid and build additional mutually agreed upon infrastructure improvements at the WPWMA's facility equal to equal to a minimum of between \$730,000 and \$830,000.
3. Reduce the C&D GMRL from 50% to between 35 and 40%, to be determined based on a review of recent performance, for the period of July 1, 2023 through December 31, 2023.

In discussions with the WPWMA's Technical Analysis Group (TAG) on this topic, there is general consensus that FCC's proposal provides value directly to the Member Agencies and to the WPWMA. As a result, the TAG is supportive of FCC's proposal. If your Board authorizes staff to negotiate an amendment with FCC consistent with the deal points staff will draft the amendment and return to your Board for final approval.

Alternatively, your Board could authorize staff to proceed with imposing the C&D disincentive payment for FY 2022/23 or negotiate an amendment based on a revised series of deal points.

ENVIRONMENTAL CLEARANCE:

The recommended action is not considered a “project” under CEQA guidelines Section 15378(b)(5).

FISCAL IMPACT:

Staff believe that it is appropriate and necessary that if the WPWMA agrees to the proposal put forth by FCC, that the economic value received by the WPWMA be equal to or greater than the economic impacts associated with a reduced diversion rate (and commensurate increase in landfill disposal).

As noted above, FCC is subject to a disincentive payment approximately \$530,000 for not meeting the C&D GMRL in FY 2022/23. Should the WPWMA maintain the 50% C&D GMRL for the first half of FY 2023/24, and FCC achieve a 40% diversion rate during the same period, they could be subject to a disincentive payment of approximately \$200,000. A 35% diversion rate would correspond to a disincentive payment of approximately \$300,000. As a result, staff values the proposed six-month reduction in the C&D GMRL between \$200,000 and \$300,000.

Although FCC marketing recovered organic material to direct service providers on behalf of Member Agencies provides direct and quantifiable value to these entities, this element of FCC’s proposal does not have a direct benefit to the WPWMA. As such, staff have not included an estimate of this value for the purposes of quantifying the fiscal impact to the WPWMA.

Therefore, staff recommends that any subsequent amendment with FCC on this topic demonstrate a minimum of \$730,000 to \$830,000 of direct value to the WPWMA.

STRATEGIC PLAN/GOALS:

Goal 5 – Maintain fiscally responsible systems.

ATTACHMENT: PROPOSED DEAL POINTS

PROPOSED DEAL POINTS

1. FCC, for the duration of the Agreement, will market recovered organic materials in a manner adequate to meet the procurement target of each Member Agency per Article 12 of the SB1383 regulations.
 - a. FCC will maintain the necessary documentation to demonstrate its efforts and provide such documentation to the WPWMA for distribution to the Member Agencies.
 - b. FCC will be liable to the Member Agencies for any monetary fines or penalties issued by CalRecycle directly associated with the Member Agencies' failure to meet the mandated recovered organic procurement requirements, to the extent such liability is within FCC's reasonable control and such liability is a direct result of FCC's failure.
2. FCC will design, permit, bid and build additional mutually agreed upon infrastructure improvements at the WPWMA's facility in the range of between \$730,000 and \$830,000 in direct value to the WPWMA, to be determined based on a review of recent performance. Such infrastructure improvements may include, but are not necessarily limited to, the following:
 - a. Improvements at the public tipping area to improve the recovery and storage of carpet and electronic wastes.
 - b. An automated scalehouse kiosk system to improve the efficiency for processing customer transactions associated with the City of Roseville, City of Lincoln and Recology haul vehicles.
 - c. A viewing gallery and catwalk or other improvements in the Materials Recovery Facility that would provide the opportunity for interested parties to tour the facility and observe the updated MRF operations.
3. Reduce the C&D Guaranteed Minimum Recycling Level ("GMRL") from the current 50% to a range of 35 to 40%, to be determined based on a review of recent performance, for the period of July 1, 2023 through December 31, 2023. Effective January 1, 2024, the C&D GMRL will return to 50%.

PAGE INTENTIONALLY LEFT BLANK

**MEMORANDUM
WESTERN PLACER WASTE MANAGEMENT AUTHORITY**

TO: **WPWMA BOARD OF DIRECTORS** DATE: **SEPTEMBER 14, 2023**
FROM: **KEN GREHM / ERIC ODDO** 
SUBJECT: **WPWMA BOARD VOTING METHODOLOGY**

RECOMMENDED ACTION:

Provide direction to staff regarding possible adjustments to the WPWMA Board of Directors' voting methodology.

BACKGROUND:

At the July 13, 2023 meeting, your Board directed staff to gather additional information and examples of voting practices from other agencies and return to discuss potential changes to voting methodology and/or expansion of the number of Directors on the WPWMA Board.

Historically, your Board has utilized a non-weighted voting method wherein each vote by an individual Director has the same weight with a simple majority resulting in a passing motion. The WPWMA's original Joint Powers Authority (JPA) Agreement provided for five voting Directors; one from each of the four Member Agencies and one that would rotate among the Member Agencies. An amendment to the JPA Agreement was approved by the Member Agencies on August 25, 1987 replacing the rotating member with a second representative from the Placer County Board of Supervisors.

A weighted voting system would involve each Director having a defined number of votes based on a mutually agreed upon metric. At the July 13 meeting, your Board indicated a preference for using tipping fees as the metric should your Board implement a weighted voting methodology.

In addition to the weighting metric, your Board may consider the voting threshold to pass WPWMA matters (simple majority or some level of super majority) and whether an alternative voting method applies to all or only specific Board actions.

Based on feedback and direction provided by your Board at the July 13 meeting, staff prepared the attached tipping fee summary that provides insight into the relative total contribution of each Participating Agency, as well as a table summarizing the Board composition and voting practices of other California public agencies.

Should your Board wish to pursue changes to the WPWMA's voting methods and/or increasing the number of Board members, staff will review and suggest necessary changes to the JPA Agreement for your Board's and each Member Agencies' consideration.

ENVIRONMENTAL CLEARANCE:

The recommended action is not considered a "project" under CEQA guidelines Section 15378.

FISCAL IMPACT:

There is no direct fiscal impact to the WPWMA associated with the recommended action.

STRATEGIC PLAN/GOALS:

GOAL 6 – Establish internal policy and inform regional policy.

ATTACHMENT: PARTICIPATING AGENCY TIP FEE SUMMARY
BOARD COMPOSITION AND VOTING METHOD SUMMARY FOR VARIOUS AGENCIES

**PARTICIPATING AGENCY TIPPING FEE CONTRIBUTION SUMMARY
 FISCAL YEAR 2022/23**

Agency	Tipping Fees	Relative Contribution
Auburn	\$1,712,902	3.75%
Colfax	\$250,338	0.55%
Lincoln	\$5,868,356	12.85%
Loomis	\$1,271,593	2.78%
Placer County	\$10,504,372	23.00%
Rocklin	\$6,771,169	14.83%
Roseville	\$17,802,857	38.98%
Out of County ¹	\$1,488,792	3.26%
Total	\$45,670,379	100.00%

SUMMARY METRICS

Customer Group	Tipping Fees	Relative Contribution
Member Agency	\$40,946,755	89.66%
Non-Member Agency	\$3,234,832	7.08%
Out of County	\$1,488,792	3.26%
Total	\$45,670,379	100.00%

¹ Includes materials received from the Thunder Valley Casino Resort and self-haul loads from Butte, El Dorado, Nevada, Sacramento, Sutter, and Yuba counties.

California Agency Comparison Summary

Agency	No. Members (No. Directors)	Voting Method	Pros	Cons
Monterey Regional Waste Management Authority	8 (8)	<ul style="list-style-type: none"> Each Member has one vote Simple majority 	<ul style="list-style-type: none"> Simple 	All agencies have equal weight
Salinas Valley Solid Waste Authority	6 (9)	<ul style="list-style-type: none"> Board Members: Salinas (3), Monterey (2), Gonzales (1), Greenfield (1), King (1) Soledad (1) Each Member has one vote Simple majority; one vote must be from Salinas 	<ul style="list-style-type: none"> Relative power determined by number of Board members 	One vote from Salinas required which is a potential veto
Merced County Regional Waste Management Authority	7 (11)	<ul style="list-style-type: none"> All 5 members of Merced BOS; 1 member from each the of 6 cities Simple majority 	<ul style="list-style-type: none"> Simple 	
California State Association of Counties	58 (58-62)	<ul style="list-style-type: none"> Each County has one member Simple majority need except on changes to constitution, issue campaigns, and state ballot positions Weighted voting can be called by a member and must be seconded by another member Weighted voted based on dues structure with ceiling and floor 	<ul style="list-style-type: none"> Simple Weighted voting when 2 or more entities request 	
Sacramento Area Council of Governments	6 Counties, 22 Cities (31)	<ul style="list-style-type: none"> Board Members: County of Sacramento (3) City of Sacramento (2), all others (1) Most votes require all the following: <ul style="list-style-type: none"> Majority of members by population Majority of votes from Cities Majority of vote from Counties 	<ul style="list-style-type: none"> Recognizes size differences Multiple criteria require building more consensus 	May require more time at meeting to determine result
San Diego Association of Governments	19 (19)	<ul style="list-style-type: none"> One member from each local government Simple majority Weighted vote may be called by any two members Weighted metric based on population but no entity can have more than 50% 	<ul style="list-style-type: none"> Simple Weighted voting when 2 or more entities request Limit individual to no more than 50% of vote 	

Agency	No. Members (No. Directors)	Voting Method	Pros	Cons
Metropolitan Water District of Southern California	26 (38)	<ul style="list-style-type: none"> • One member from each agency • Additional members based on Agencies' assessed valuation • Weighted voting by assessed valuation 	<ul style="list-style-type: none"> • Weighted voting recognizing extreme difference in constituency size 	More complicated especially with agencies with multi-members
Reclamation District 1000	N/A (7)	<ul style="list-style-type: none"> • 3 Board members (parcel seats) elected by each landowner voter • 4 Board Members (land assessment seats) each landowner assigned votes based on the parcels O&M assessments 	<ul style="list-style-type: none"> • Simple voting at Board level • Relative power of constituencies handled at the election 	
Pioneer Community Energy ²	10 (11)	<ul style="list-style-type: none"> • Board Members: Placer County BOS (2), one member from 9 other agencies • Simple majority needed 	<ul style="list-style-type: none"> • Simple 	Larger jurisdictions' power may be diluted by number of smaller jurisdictions
Tahoe Regional Planning Agency	8 (14)	<ul style="list-style-type: none"> • Board Members: State of California (4), State of Nevada (4), one member from each six local agencies. • Amending Codes and plans require 4 members from each State • Projects require 5 members from the state in which project is located and 9 overall members • Routine business requires majority of total members 	<ul style="list-style-type: none"> • Clear guidelines • For projects, recognizes some additional importance of local control and voice 	More complicated

² Had weighted voting based on electrical usage. Removed weighted voting in 2021.

PAGE INTENTIONALLY LEFT BLANK

**MEMORANDUM
WESTERN PLACER WASTE MANAGEMENT AUTHORITY**

TO: **WPWMA BOARD OF DIRECTORS** DATE: **SEPTEMBER 14, 2023**
FROM: **ROBERT SANDMAN, ASSISTANT AUTHORITY COUNSEL**
SUBJECT: **MRF EXPANSION PROJECT/SUBCONTRACTOR SUBSTITUTION
HEARING/SKUTLEY CONTRACTING CORPORATION**

RECOMMENDED ACTION:

1. Conduct a subcontractor substitution hearing regarding Skutley Contracting Corporation.
2. Render a decision regarding subcontractor substitution following the conclusion of the hearing listed in Action Item No. 1.
3. Determine that that proposed actions are each not a project pursuant to CEQA Guidelines Section 15378.

BACKGROUND:

On April 22, 2022, the WPWMA and FCC Environmental Services, LLC (“FCC Environmental”) entered into an Agreement for Design-Build Services relating to design and construction of the WPWMA Material Recovery Facility Expansion. The design-build agreement allowed FCC Environmental to hire a contractor to build the subject improvements. FCC Environmental later assigned the design-build agreement to FCC Environmental Services California, LLC (“FCC California”).

In 2023, FCC California conducted a bid process to select a contractor for construction of the subject improvements (the “Project”). Cambridge Companies, Inc. (“Cambridge”) bid on the Project as a general contractor. On March 17, 2023, Skutley Contracting Corporation (“Skutley”) submitted a bid to Cambridge to perform the concrete portion of the Project. In its bid to FCC California, Cambridge listed Skutley as a subcontractor to perform the identified concrete portion.

Following the bid process, FCC California awarded the contract for the Project to Cambridge. On or about April 18, 2023, Cambridge sent Skutley a proposed subcontract for the concrete portion of the Project. A dispute arose between Cambridge and Skutley regarding the terms of the proposed subcontract. WPWMA staff and counsel understand that Cambridge interpreted a May 15, 2023 e-mail from Skutley as Skutley’s refusal to sign the identified subcontract. Cambridge then sought out other subcontractors to perform the concrete portion of the Project. Cambridge sought to substitute Skutley pursuant to California Public Contract Code Section 4107(a)(1) and sent a letter to FCC California requesting to substitute Skutley on the Project. Skutley opposed being substituted.

On or about June 16, 2023, Skutley was provided with notice of Cambridge’s substitution request and was provided five (5) working days to submit a written objection pursuant to California Public Contract Code Section 4107. On or about June 23, 2023, Skutley, provided a written objection to Cambridge’s substitution request. On or about

July 7, 2023, FCC California provided notice to Cambridge and Skutley setting a July 20, 2023 hearing date for Cambridge's substitution request. WPWMA Counsel notified FCC California counsel on July 14, 2023 that WPWMA did not object to FCC Environmental or FCC California conducting the subcontractor substitution hearing.

On July 20, 2023, a hearing on the substitution request was held with counsel for FCC California acting as the hearing officer. Cambridge and Skutley were represented by counsel at the hearing. FCC California counsel heard arguments from counsel for Skutley and Cambridge, with additional testimony from representatives from Cambridge and Skutley. The matter was submitted to FCC California counsel for decision at the conclusion of the hearing.

The FCC California hearing officer issued a written decision on August 4, 2023. That decision stated that, "After having had a reasonable opportunity to do so, Skutley refused to execute a written subcontract for the scope of work specified in Skutley's bid at the price specified in the Skutley's bid, when that written subcontract was based on the general terms, conditions, plans and specifications for the Project". The FCC California hearing officer determined that, under California Public Contract Code Section 4107(a), Cambridge was entitled to substitute Skutley as a subcontractor on the Project. The August 4 decision included notification that either Cambridge or Skutley could request within five (5) business days that the matter be considered by WPWMA Board of Directors. Skutley filed a timely request on August 9, 2023 that the matter go before your Board. In that request, Skutley requested a hearing *de novo*.

Copies of the hearing officer's August 4 decision and Skutley's August 9 request are attached. WPWMA Counsel will provide an outline of proceedings to your Board at the commencement of this item.

ENVIRONMENTAL CLEARANCE:

The proposed actions are each not a project pursuant to CEQA Guidelines Section 15378.

FISCAL IMPACT:

There is no fiscal impact associated with your Board conducting a hearing.

ATTACHMENT: EXHIBIT A: AUGUST 4, 2023 CORRESPONDENCE FROM FCC CALIFORNIA TO DAUER McCANDLESS LLP AND COOK BROWN, LLP
EXHIBIT B: AUGUST 9, 2023 CORRESPONDENCE FROM COOK BROWN, LLP TO WPWMA

August 4, 2023

Eileen Diepenbrock
DIEPENBROCK ELKIN
DAUER McCANDLESS LLP
555 University Avenue, Suite 200
Sacramento, CA 95825

Stephen R. McCutcheon, Jr.
COOK BROWN, LLP
2407 J Street, Second Floor
Sacramento, CA 95816

emd@diepenbrock.com

smccutcheon@cookbrown.com

**Re: Cambridge Companies, Inc.’s Request to
Substitute Skutley Contracting Corporation**

Ms. Diepenbrock and Mr. McCutcheon:

Attached please find the decision with regard to Cambridge Companies, Inc.’s request to substitute Skutley Contracting Corporation.

I. PROCEDURAL BACKGROUND

On June 12, 2023, Brian Young from Cambridge Companies, Inc. (“Cambridge”) sent a letter to FCC Environmental Services California, LLC (“FCC”) requesting to substitute Skutley Contracting Corporation (“Skutley”) as a subcontractor on the Western Placer Waste Management Authority (“WPWMA”) Recycling Center Improvement Project (the “Project”). Mr. Young’s letter enclosed as support for its request a June 12, 2023, declaration of Lenny Zelms, the Director of Preconstruction for Cambridge. WPWMA requested that Joel Blake, the General Counsel of FCC Environmental Services California, LLC, act as the hearing officer.

On June 16, 2023, Skutley was provided with notice of Cambridge’s request, a copy of Mr. Young’s letter and Mr. Zelms declaration, and provided five working days to submit a written objection, pursuant to Public Contract Code section 4107. On June 23, 2023, Skutley, provided a written objection to Cambridge’s request to substitute it as a subcontractor, and included with its objection the declaration of Joe Skutley, the Owner of Skutley. On July 7, 2023 FCC provided notice to Cambridge and Skutley setting the hearing on Cambridge’s substitution request on July 20, 2023.

At the request of Skutley and Cambridge on July 14, 2023, FCC sent a letter requesting that the parties submit any additional evidence or argument relating to the substitution by 2:00 pm on July 18, 2023. On July 18, 2023, Cambridge submitted a letter from Eileen Diepenbrock in support of its request to substitute Skutley, along with a declaration of Joshua Barnhorst, the Project Manager for Cambridge. Skutley submitted a letter from Stephen McCutcheon in support of its objection to the substitution request.

On July 20, 2023, a hearing on the substitution was held and Joel Blake acted as the hearing officer. Eileen Diepenbrock and Nicholas Brummel appeared as counsel for Cambridge. Also present for Cambridge was Mr. Barnhorst. Stephen McCutcheon appeared as counsel for Skutley. Also

present for Skutley was Mr. Skutley, and Chris Worth, a subcontractor of Skutley, was present for a part of the hearing.

Mr. Blake heard argument from counsel for Skutley and Cambridge and then Mr. Barnhorst provided testimony on behalf of Cambridge in support of the request to substitute. Mr. Skutley provided testimony on behalf of Skutley in objection to the request.

After providing testimony, counsel were provided the ability to provide additional argument and confirmed they had no more evidence to submit. The matter was deemed submitted to Mr. Blake for decision at the conclusion of the hearing on July 20, 2023.

II. FACTUAL BACKGROUND

Cambridge bid on the Project as a general contractor. As part of preparing its bid, Cambridge set up a document depository that it shared with subcontractors it invited to bid on the Project. The document depository included the bidding documents, addenda, and contract documents. The information in the depository also included the project sequence and project schedule, including the project milestones. Skutley was provided access to the document depository and downloaded the documents in the depository starting on February 15, 2023.

On March 17, 2023, Skutley submitted a bid to Cambridge to perform the concrete portion of the Project. In its bid to FCC, Cambridge listed Skutley as a subcontractor to perform the concrete portion of the Project.

After Cambridge was determined to be the low bidder, on March 27, 2023, Cambridge notified Skutley it would be using Skutley for the concrete portion of the Project. Then, on April 18, 2023, Cambridge sent Skutley a proposed subcontract for the Project. According to the testimony of Mr. Barnhorst, the proposed subcontract was based upon the bid documents. Moreover, the proposed subcontract was for the scope of work provided in Skutley's proposal and for the same price as in Skutley's proposal. Skutley and Cambridge had some back and forth regarding the contract language, including a call between Joe Skutley and Cambridge's legal counsel.

At the same time the parties were discussing the subcontract language, Skutley was meeting with Cambridge and e-mailing Cambridge requesting the final Issued For Construction drawings. Skutley was requesting these drawings due to the fact that at bid time the drawings used for bid purposes were not the final Issued for Construction drawings. Ultimately, the Issued for Construction drawings—or at least a portion of them—were provided to Skutley on May 5, 2023.

Subsequently, on May 15, 2023, Skutley sent Cambridge an e-mail outlining what Skutley believed were its understanding of the project complexities. Skutley outlined five issues in its e-mail, and with each item it sought an increase in its bid price. Skutley indicated in its e-mail that if Cambridge wanted to enter into a contract with Skutley, then “the project will need to be Rebid with Real Time/Current Information.” Cambridge took the May 15, 2023, e-mail as Skutley's refusal to sign a subcontract.

After the May 15, 2023, e-mail from Skutley, Cambridge sought out other subcontractors as it believed Skutley was refusing to sign a subcontract. Cambridge did not provide those other subcontractors Skutley's bid—it only provided the same bid documents that it had provided to Skutley prior to bid. Ultimately it received a bid from Demcon for \$52,000 more than Skutley's bid.

Cambridge now seeks to substitute Skutley pursuant to Public Contract Code section 4107(a)(1), and Skutley opposes being substituted.

III. LEGAL ANALYSIS

A. **FCC's Authority to Act As A Hearing Officer.**

FCC is contracted with WPWMA to operate the Recycling Center and Landfill. Moreover, FCC agreed to provide upgrades to Recycling Center and Landfill for which it selected Cambridge to perform a portion of the work, after accepting bids from various contractors. As part of its bid to FCC, Cambridge listed Skutley as a subcontractor on the Project. Now, Cambridge has requested to substitute Skutley as a subcontractor pursuant to Public Contract Code section 4107. WPWMA requested FCC as the Operator of the facility, and as well as the entity that has more knowledge of the Project to oversee the substitution hearing. Skutley objects to Mr. Blake overseeing the hearing arguing that FCC is not an “Awarding Authority” or “Authorized Officer” under Public Contract Code section 4107, and thus cannot oversee the hearing. Skutley further argues that FCC, unlike a public owner, is not “interested in obtaining the results contracted for, which in this situation is to obtain a fully constructed facility within the time set forth in the Design-Build Agreement.” (McCutcheon July 18, 2023 Letter.) And, thus it should be conflicted out of overseeing this substitution request.

The Hearing Officer has considered Skutley's objections and finds that there is no basis to find the Hearing Officer cannot oversee the substitution hearing. Public Contract Code section 4107 provides that a public agency is entitled to appoint an agent to handle a substitution hearing under section 4107. (See *JMS Air Conditioning & Appliance Service, Inc. v. Santa Monica Community College Dist.* (2018) 30 Cal.App.5th 945, 957 [“Nothing in the record, nor the Act's history, nor its overall structure suggests that preventing an awarding authority's agent from conducting a substitution hearing might help combat bid shopping or bid peddling.”].) The Hearing Officer was delegated the task by WPWMA to handle the substitution hearing, given his background in construction and knowledge of the Project. Furthermore, contrary to the allegations of Skutley, FCC as the Operator of the facility for potentially the next 20 years, does have the same incentive as any other public agency. Given that FCC will be the Operator of this facility for the next 20 plus years, it does have a substantial incentive in ensuring that the work is completed in a professional and workmanlike manner, in accordance with the plans and specifications, as well as that it is timely completed. FCC is not like a general contractor who is simply building a project and will walk away as soon as the project is completed. FCC—like a public owner—will have to operate and maintain the facility after construction for many years to come. FCC's interests are the same as any public owner.

Furthermore, the Subletting and Subcontracting Fair Practices Act (the “Act”) express and singular purpose is to prevent bid shopping and bid peddling. (*JMS, supra*, 30 Cal.App.5th at p. 958.) Here, FCC is in the same position as any public agency in a substitution hearing. It has a lump sum contract with Cambridge, pursuant to which Cambridge is required to timely complete the Project in accordance with the plans and specifications. There is nothing to indicate that FCC, or the Hearing Officer, have any incentive to overlook any bid shopping or bid peddling. Finally, the court in *Synergy Project Management, Inc., v. City and County of San Francisco* (2019) 33 Cal.App.5th 21, did not find any conflict when a public agency can demand removal of a subcontractor, prosecute the hearing to substitute the subcontractor, as well as oversee and rule on the hearing. Given that a public agency does not have a conflict ruling on its own substitution request, the Hearing Officer does not see any basis to claim FCC who has no interest in the

substitution of Skutley, other than the same interest as any other project owner or operator, cannot oversee this hearing. (*Id.* at p. 35-37.)

B. Substitution Under Public Contract Code Section 4107 (a)(1).

Cambridge seeks to substitute Skutley pursuant to Public Contract Code section 4107 (a)(1), which provides:

When the subcontractor listed in the bid, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract for the scope of work specified in the subcontractor's bid and at the price specified in the subcontractor's bid, when that written contract, based on the general terms, conditions, plans and specifications for the project involved or the terms of that subcontractors written bid, is presented to the subcontractor by the prime contractor.

Cambridge claims that it presented Skutley with a subcontract for the work specified in Skutley's bid and for the price in Skutley's bid, and after having a reasonable opportunity to do so, Skutley failed or refused to execute a subcontract with Cambridge. Skutley disputes Cambridge's claim, and argues that Cambridge never presented it with a subcontract that complied with all of the terms of Skutley's bid. Skutley claims that, by listing Skutley, Cambridge is required to accept all of Skutley's bid terms, citing *Flintco Pacific, Inc. v. TEC Management Consultants, Inc.* (2016) 1 Cal.App.5th 727.

On February 15, 2023, and again on February 20, 2023, Skutley downloaded Addendum No. 1, from Cambridge's download site. Addendum No. 1 included the General Conditions for the Project, as well as the Project milestones, and the proposed contract between Cambridge and FCC. Additionally, between February 14, 2023 and March 16, 2023, Skutley downloaded the available Project plans. (Barnhorst Ex. 1.) On March 17, 2023, Skutley provided a bid to Cambridge to perform the concrete work for the Project. (Skutley Ex. 1.) Skutley's proposal broke down the different scopes of concrete work it was proposing to perform and provided a price for each. It proposed to do the following work: C&D Compressor Office Building concrete for \$2,988,140.00; Maintenance Building concrete for \$311,711; C&D site concrete for \$597,830; ADA and Civil site concrete \$402,533; and Maintenance site concrete \$181,577, for a total of \$4,480,791.00. Skutley also proposed a deduct of \$93,457.00, if the Push Wall was removed. (Skutley Ex. 1.)

Cambridge in its bid to FCC listed Skutley as its proposed concrete subcontractor. On March 27, 2023, after bid opening and after Cambridge was determined to be low bidder, it sent Skutley a letter of intent indicating it was Cambridge's intent to use Skutley as the concrete subcontractor on the Project for a subcontract price of \$4,387,334, which was Skutley's price including the deduct of the Push Wall.

On April 18, 2023, Cambridge sent Skutley a written subcontract. The scope of work specified in the proposed subcontract was concrete, and Exhibit A to the subcontract listed the same scope of work that Skutley listed in its proposal. (Barnhorst Ex. 4.) The price in the subcontract was \$4,387,334.00, which is the price in Skutley's proposal, including the deduct for removal of the Push Wall. (Barnhorst Ex. 4 ¶6.1; & Ex A.) Furthermore, the subcontract Exhibit A, Scope of Work, references the "contract documents provided by Cambridge Companies, Inc. and designed

by SCS Engineers, Asplundh Engineering Associates, Arcon Structural Engineers, Terry Engineering, Ko Architects, per bid documents . . .” (Barnhorst Ex. 4.)

At the time the Project bid, the final Issued for Construction drawings had not been issued. Thus, beginning in April, Skutley began requesting the Issued for Construction drawings from Cambridge. On May 5, 2023, the Issued For Construction Drawings were provided to Skutley.

On May 15, 2023, approximately one month after being provided with the subcontract and after his review of what portion of the Issued for Construction drawings he had been provided, Joe Skutley sent an e-mail to Cambridge providing a list of what he called the “current understanding of the projects complexities.” Mr. Skutley’s May 15, 2023, e-mail went through about five separate items Mr. Skutley believed were issues on the Project. Mr. Skutley provided a cost increase Skutley was seeking for each item and the total additional funds requested were \$950,877. Mr. Skutley’s e-mail went on to state, “If CCI is desiring SCC to enter into a Contractual Agreement preceding sufficient Project Documents the project will need to be Rebid with Real Time/Current Information.”

Cambridge took the May 15, 2023, e-mail as a refusal by Skutley to sign the subcontract. Mr. Skutley testified at the hearing that his May 15, 2023, e-mail was not a refusal to sign a subcontract, but simply an e-mail to highlight issues with the Project to further negotiations with Cambridge. Skutley argued that it never refused to sign a subcontract, because it was never given any indication by Cambridge that the subcontract was “its last best and final” offer.

Mr. Barnhorst, the Project Manager for Cambridge testified at the hearing that Cambridge prepared the subcontract it sent to Skutley based on the Project documents available at bid time. Mr. Barnhorst further testified that the schedule provided as Exhibit D to the subcontract had the same durations and sequencing as outlined in the bid documents provided to Skutley. Mr. Barnhorst testified that the Issued For Construction documents were not the basis of the subcontract, and that Cambridge recognized that if the Issued For Construction documents changed Skutley’s work, it could request a change order per the terms of the subcontract.

Based on the evidence presented at the hearing, including, but not limited to, the testimony of Mr. Skutley and Mr. Barnhorst, the Hearing Officer finds that Skutley refused to sign a subcontract, that was based upon the general terms, conditions, plans and specifications for the Project. Mr. Skutley’s May 15, 2023, e-mail makes an unequivocal statement that if Cambridge desires Skutley to sign a subcontract, “the project will need to be Rebid with Real Time/Current Information.” That statement indicates that Skutley is not signing the subcontract provided by Cambridge, unless Skutley gets to provide an updated bid number. Nothing requires Cambridge to follow up Skutley’s unequivocal statement with a further demand that Skutley sign the subcontract. Even if Skutley had not refused to sign the subcontract, it is clear that after four weeks of having the subcontract Skutley failed to sign it. The evidence supports the finding that Cambridge provided Skutley a subcontract that contained the scope of work specified in Skutley’s bid as well as the price specified in Skutley’s bid. And that the subcontract was based on the general terms, conditions, plans and specifications for the Project.

Therefore, Cambridge is entitled substitute Skutley pursuant to Public Contract Code section 4107(a)(1).

Skutley argues that the subcontract provided by Cambridge was not consistent with Skutley’s bid proposal and, therefore, Skutley cannot be substituted for failing to sign a subcontract. Skutley

claims under *Flintco* by listing Skutley Cambridge had to accept all of Skutley's bid conditions, including, its exclusions. *Flintco*, is not applicable because it was a case dealing with whether a subcontractor could be held to its bid price under the theory of promissory estoppel, not a subcontractor substitution, under Section 4107. (*Flintco, supra*, 1 Cal.App.5th at 730.) In *Flintco*, the subcontractor (TEC) submitted a written bid to the general contractor (Flintco) to perform glazing work for \$1,272,090 on a project to construct a new building at Diablo Valley College. (*Id.* at p. 729.) The bid contained terms and conditions that affected the bid price, such as a deposit of 35% of the bid amount to lock in prices with suppliers. (*Id.* at p. 730.) Other conditions included that the bid could be withdrawn if not accepted within 15 days, and that the proposed price was subject to a 3% minimum escalation, per quarter, after the 15-day acceptance period. (*Ibid.*)

Flintco used TEC's bid price in compiling its own bid to the owner, but admitted on bid day it disregarded the terms and conditions in TEC's bid. (*Id.* at p. 729.) After Flintco was awarded the contract, it sent a standard-form subcontract to TEC that differed materially from its bid. (*Ibid.*) TEC refused to enter the subcontract. (*Id.* at p. 730.) Flintco hired another subcontractor to complete the work and sued TEC on a theory of promissory estoppel for \$327,050, the difference between TEC's bid and contract price paid to the replacement subcontractor. (*Ibid.*) The Court of Appeal found that Flintco could not pursue a promissory estoppel claim against TEC, because Flintco did not reasonably rely upon TEC's bid to its detriment, since Flintco's reliance on the bid price alone, without the conditions was not reasonable. (*Id.* at p. 735.) The Court found that Flintco's subcontract to TEC was a counter offer to TEC's bid, and thus Flintco lost the power to accept TEC's bid. (*Id.* at p. 736.) *Flintco*, did not, however address the language of Section 4107, or even mention the Act.

As outlined above, the substitution of Skutley is governed by the language of section 4107 (a)(1), which provides the subcontract must be "for the **scope** of work specified in the subcontractor's bid and at the **price** specified in the subcontractor's bid, when that written contract, based on the **general terms, conditions, plans and specifications for the project** involved **or** the terms of that **subcontractors written bid . . .**" Section 4107 (a)(1) calls out that the subcontract must contain the price of the subcontractor's bid and the scope from the subcontractor's bid. It then says it must contain the general terms, conditions, plans and specifications for the Project **or** the terms of the subcontractors written bid. It does not mandate that all terms of the subcontractors written bid be included in the subcontract, only the price and scope. Provided the subcontract contains the general terms conditions, plans and specifications for the project, or the terms of the subcontractors written bid. Here the subcontract met the former condition.

Interior Systems, Inc. v. Del E. Webb Corp. (1981) 121 Cal.App.3d 312, 317, which is relied upon by Skutley, supports the above conclusion. In *Del E. Webb*, a general contractor listed defendant as a subcontractor in its bid to the public agency. The subcontractor's bid contained various exclusions. After the general contractor was awarded the project it provided a written contract to the subcontractor, which did not include the exclusions contained in the subcontractor's bid. (*Id.* at p. 314.) The subcontractor refused to sign and therefore the general requested that the subcontractor be substituted. In considering the propriety of the substitution the Court of Appeal stated

[T]he content of the pleading discloses a fact on which permission may be given by the administrative authority, i. e. failure to sign a subcontract. **Although not containing the terms of appellant-subcontractor's bid**, the written contract submitted to appellant was 'based upon the general terms, conditions, plans and specifications for the project involved' and which respondent used in its bid on the prime contract. Failure to sign such a contract when tendered is ground on which the public agency may give permission to substitute.

(*Id.* at p. 317 (bold added).)

As the Court found in *Del E Webb* the subcontract presented to Skutley need not include all of Skutley's exclusions from its bid, provided it is "based upon the general terms, conditions, plans and specifications for the project involved". (*Id.* at p. 317.) As outlined above, the Hearing Officer finds that the subcontract presented to Skutley met that criteria and thus Skutley's refusal to sign is a basis for its substitution.

IV. CONCLUSION

After having had a reasonable opportunity to do so, Skutley refused to execute a written subcontract for the scope of work specified in Skutley's bid at the price specified in the Skutley's bid, when that written subcontract was based on the general terms, conditions, plans and specifications for the Project. Therefore, under Public Contract Code section 4107(a), Cambridge is entitled to substitute Skutley as a subcontractor on the Project.

As outlined above, the Hearing Officer had authority to conduct this hearing. However, should either party believe this matter needs to be considered by WPWMA Board of Directors, they can—within five business days of the date of this Ruling—notify the Executive Director of WPWMA at 3013 Fiddymont Road Roseville, CA 95747, and info@wpwma.ca.gov, in writing that they are requesting this matter go before the Board.

Very truly yours,



Joel Blake

ATTORNEYS AT LAW

Dennis B. Cook
 Ronald W. Brown
 Brian D. Bertossa
 Terry A. Wills
 Carrie E. Bushman
 Barbara A. Cotter
 Lisa V. Ryan
 Stephen R. McCutcheon, Jr.
 Alexis M. Gabrielson
 Daniel F.C. Kozieja
 Zachary H. Rankin
 Patrick E. White III

August 9, 2023

SENT VIA USPS AND ELECTRONIC MAIL

Ken Grehm
 Executive Director
 Western Placer Waste Management Authority
 3013 Fiddymment Road
 Roseville, CA 95747
info@wpwma.ca.gov

**Re: WPWMA Facility Improvements:
 Skutley Contracting Corporation's Request for Hearing**

Dear Mr. Grehm:

Skutley Contracting Corporation (“SCC”) has previously notified Western Placer Waste Management Authority (“WPWMA”) of its objections to Cambridge Companies, Inc.’s (“Cambridge”) request to substitute SCC from the WPWMA Facility Improvements Project (“Project”), and its objections to the claimed authority of FCC Environmental, Inc. (“FCC”) to rule upon Cambridge’s request. Notwithstanding these objections WPWMA allowed Cambridge’s request to substitute SCC to be decided by FCC, the “Contractor” for performance of the “Agreement for Design-Build Services” for the construction of the Project.

On August 4, 2023, FCC issued its “decision with regard to Cambridge Companies, Inc.’s request to substitute Skutley Contracting Corporation,” stating that either party could request the matter go before the Board. SCC hereby requests a hearing *de novo* before the Board.

For the sake of clarity, SCC confirms that it considers the record to include the following documents:

- June 16, 2023, letter from Matthew J. Weber to SCC.
- June 23, 2023, letter from Stephen McCutcheon to WPWMA and FCC and Declaration of Joe Skutley with attached exhibits.
- July 7, 2023, letter from Matthew J. Weber to Eileen Diepenbrock and Stephen McCutcheon.
- July 13, 2023, letter from Stephen McCutcheon to WPWMA and Matthew Weber.

August 9, 2023
Page 2

- July 14, 2023, letter from Eileen Diepenbrock to Matthew Weber and WPWMA.
- July 18, 2023, letter from Stephen McCutcheon to Matthew Weber and WPWMA and exhibits.
- July 18, 2023, letter from Eileen Diepenbrock to Matthew Weber and WPWMA and J. Barnhorst Declaration and exhibits.
- August 4, 2023, decision by Joel Blake on behalf of FCC.

SCC reserves the right to submit additional documents and testimony to the Board prior to any hearing on Cambridge's request for substitution.

Sincerely,
COOK BROWN, LLP

A handwritten signature in blue ink, appearing to read 'S. McCutcheon, Jr.', with a long horizontal flourish extending to the right.

Stephen R. McCutcheon, Jr.

cc: Matthew J. Weber (FCC) mweber@downeybrand.com
Eileen Diepenbrock (Cambridge) emd@diepenbrock.com