

Bob Carling, **WMA President**

City of Livermore, WMA, EC

Francisco Zermeño, **WMA 1<sup>st</sup> Vice President**

City of Hayward, WMA, EC

Tracy Jensen, **WMA 2<sup>nd</sup> Vice President**

City of Alameda, WMA, EC

David Haubert, **EC President**

County of Alameda, WMA, EC

Michael Hannon, **EC 1<sup>st</sup> Vice President**

City of Newark, WMA, EC

David Mourra, **EC 2<sup>nd</sup> Vice President**

City of Emeryville, WMA, EC

Jennifer Hansen-Romero, City of Albany, WMA, EC

Susan Wengraf, City of Berkeley, WMA, EC

Dave Sadoff, Castro Valley Sanitary District, WMA

Melissa Hernandez, City of Dublin, WMA, EC

Yang Shao, City of Fremont, WMA, EC

Dan Kalb, City of Oakland, WMA, EC

Shelia Young, Oro Loma Sanitary District, WMA

Jen Cavanaugh, City of Piedmont, WMA, EC

Jack Balch, City of Pleasanton, WMA, EC

Fred Simon, City of San Leandro, WMA, EC

Jeff Wang, City of Union City, WMA, EC

Timothy Burroughs, Executive Director

## **AGENDA**

# **MEETING OF THE ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY (WMA) BOARD AND THE ENERGY COUNCIL (EC)**

**Wednesday, July 26, 2023  
3:00 P.M.**

***IN-PERSON MEETING LOCATION*  
STOPWASTE BOARDROOM  
1537 WEBSTER STREET, OAKLAND, CA**

This meeting will be conducted in a hybrid model with both in-person attendance and Teleconference participation:

- Teleconference location #1: 3300 Capitol Ave. Building A, Fremont, CA
- Teleconference location #2: Operations Services Department, Conf Rm 1, 3333 Busch Road, Pleasanton, CA
- Teleconference location #3: 118 Glashaus Loop, Emeryville, CA
- Teleconference location #4: Scott Haggerty Heritage House, 4501 Pleasanton Ave, Pleasanton, CA
- Teleconference location #5: 1404 LeRoy Ave., Berkeley, CA
- Teleconference location #6: David W. Smith City Hall, 37101 Newark Blvd., Conf. Rm #1, Newark, CA
- Teleconference location #7: Heron Bay regatta park, 2296 Regatta Way San Leandro, CA

Members of the public may attend in person at the Board Room or the addresses listed above or by:

1. Calling US+1 669 900 6833 and using the webinar id 840 5056 1527
2. Using the [Zoom](#) website or App and entering meeting code 840 5056 1527

During the meeting the chair will explain the process for members of the public to be recognized to offer public comment. The process will be described on the StopWaste website at <http://www.stopwaste.org/virtual-meetings> no later than noon, Wednesday, July 26, 2023. The public may also comment by sending an e-mail to [publiccomment@stopwaste.org](mailto:publiccomment@stopwaste.org). Written public comment will be accepted until 3:00 p.m. on the day prior to the scheduled meeting. Copies of all written comments submitted by the deadline above will be provided to each Board Member and will be added to the official record. Comments will not be read into the record.

In accordance with the Americans with Disabilities Act, if you need assistance to participate in this meeting due to a disability, please contact the Clerk of the Board at (510) 891-6517. Notification 24 hours prior to the meeting will enable the agency to make reasonable arrangements to ensure accessibility to this meeting.

## **AGENDA**

### **I. CALL TO ORDER**

### **II. ROLL CALL OF ATTENDANCE**

### **III. ANNOUNCEMENTS BY PRESIDENTS -** *(Members are asked to please advise the board or the council if you might need to leave before action items are completed.)*

### **IV. OPEN PUBLIC DISCUSSION FROM THE FLOOR**

An opportunity is provided for any member of the public wishing to speak on any matter within the jurisdiction of the board or council, but not listed on the agenda. Total time limit of 30 minutes with each speaker limited to three minutes unless a shorter period of time is set by the President.

### **V. CONSENT CALENDAR** - The Consent Calendar contains routine items of business. Items in this section will be acted on in one motion for both the WMA and EC, unless removed by a member of either Board. Members of the WMA who are not members of the EC will vote as part of the Consent Calendar vote, but their votes will not be considered in connection with any EC items. Any member of the public may speak on an item on the Consent Calendar at this time. Public Speakers are limited to three (3) minutes.

Page

**1        1. Approval of the Draft WMA & EC Minutes of June 28, 2023**

**5        2. Enforcement Ordinance Amendment (Else Lebsack)**

Staff recommends that the WMA Board adopt the ordinance set forth in Attachment A. The ordinance makes minor revisions to the WMA's 2013 enforcement ordinance to facilitate enforcement of violations of Authority legislation together with various typographical revisions.

### **VI. REGULAR CALENDAR**

**19       1. Alameda County Recycling Markets Network and SB 54 (Michelle Fay & Timothy Burroughs)**  
This item is for information only.

**25       2. Bay Area Construction Innovation Cluster Update (Karen Kho & Matt Zimbalist)**  
This item is for information only.

**3. Interim appointment(s) to the Recycling Board for WMA appointee unable to attend future Board Meeting(s) (Arliss Dunn)**  
(The Planning Committee/Recycling Board meeting on Thursday, August 10, 2023 at 4:00 p.m. at StopWaste, and Thursday, September 14, 2023 at 6:00 p.m., Civic Center Meeting Hall 1016 S. Livermore Avenue, Livermore, CA)

**27       4. Climate Pollution Reduction Grant Contract (Timothy Burroughs & Miya Kitahara) (EC only)**  
Adopt the attached Resolution authorizing the Executive Director to enter into a contract for Climate Pollution Reduction Grant and other related actions.

### **VII. MEMBER COMMENTS AND COMMUNICATIONS FROM THE EXECUTIVE DIRECTOR**

### **VIII. ADJOURNMENT – to SEPTEMBER 27, 2023 at 3:00 P.M.**

**DRAFT**

**MINUTES OF THE MEETING OF THE  
ALAMEDA COUNTY WASTE MANAGEMENT  
AUTHORITY BOARD (WMA)  
AND  
ENERGY COUNCIL (EC)**

**Wednesday, June 28, 2023**

**3:00 P.M.**

***IN PERSON MEETING LOCATION:*  
STOPWASTE BOARD ROOM  
1537 WEBSTER STREET, OAKLAND, CA**

**I. CALL TO ORDER**

Interim President Carling called the meeting to order at 3:00 p.m. Timothy Burroughs explained the process that would be utilized during the meeting. A link to the process is available here: [Virtual-Meetings- Instructions.](#)

**II. ROLL CALL OF ATTENDANCE**

**WMA & EC**

County of Alameda	David Haubert, WMA, EC
City of Alameda	Tracy Jensen, WMA, EC
City of Albany	Jennifer Hansen-Romero, WMA, EC
City of Berkeley	Susan Wengraf, WMA, EC
City of Dublin	Melissa Hernandez, WMA, EC
City of Emeryville	David Mourra, WMA, EC
City of Fremont	Yang Shao, WMA, EC
City of Hayward	Francisco Zermeño, WMA, EC
City of Livermore	Bob Carling, WMA, EC, RB (WMA First Vice President)
City of Newark	Mike Hannon, WMA, EC
City of Oakland	Treva Reid, WMA, EC, RB (alternate)
Oro Loma Sanitary District	Shelia Young, WMA
City of Piedmont	Jen Cavanaugh, WMA, EC
City of Pleasanton	Jack Balch, WMA, EC (EC President)
City of San Leandro	Fred Simon, WMA, EC
City of Union City	Jeff Wang, WMA, EC

**Absent**

Castro Valley Sanitary District	Dave Sadoff, WMA
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**Staff Participating**

Timothy Burroughs, Executive Director  
Pat Cabrera, Administrative Services Director  
Justin Lehrer, Operations Manager  
Jennifer West, Program Manager  
Elese Lebsack, Program Manager  
Arliss Dunn, Clerk of the Board  
Adrienne Ramirez, Assistant Clerk of the Board  
Richard Taylor, WMA Legal Counsel

**Others Participating:**

Pricilla Quiroz, Shaw Yoder Antwih Schmelzer & Lange

### III. ANNOUNCEMENTS BY PRESIDENTS

There were none.

### IV. OPEN PUBLIC DISCUSSION FROM THE FLOOR

Arthur Boone provided public comments. There were no other public comments.

### V. CONSENT CALENDAR

#### 1. Approval of the Draft Joint WMA & EC Minutes of May 24, 2023

There were no public comments for the Consent Calendar. Board member Young moved approval of the Consent Calendar and Board member Zermeño seconded.

The Clerk called the roll: WMA Vote: 14-0 and EC Vote: 15-0.

(Ayes: Balch, Carling, Cavanaugh, Hannon, Hansen-Romero, Hernandez, Jensen, Mourra, Sadoff, Shao, Simon, Wang, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: Haubert, Kalb, Sadoff)

### VI. REGULAR CALENDAR

#### 1. Executive Director Contract Amendment (Bob Carling, WMA Interim President)

That the Waste Management Authority Board amend the Executive Director Employment Agreement.

Interim President Carling provided a brief overview of the staff report. A link to the report is available here: [ED-Contract-Amendment](#). Based on the outstanding performance of Mr. Burroughs and input from the full Board, the Evaluation Team recommended a 5.0% salary increase (\$13,676) for fiscal year 2024, effective the first pay period for FY 2024. In addition, the evaluation team recommended that the employment agreement be amended to reflect that he shall earn 80 hours per year of management leave. Interim President Carling thanked the evaluation committee and staff for their participation.

There were no public comments on this item. Board member Zermeño moved approval that the Waste Management Authority Board amend the Executive Director Employment Agreement. Board member Wengraf seconded, and the motion carried 14-0. The Clerk called the roll:

(Ayes: Balch, Carling, Cavanaugh, Hannon, Hansen-Romero, Hernandez, Jensen, Mourra, Shao, Simon, Wang, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: Haubert, Kalb, Sadoff)

#### 2. Public Hearing and Annual Adoption of Fee Collection Report for Household Hazardous Waste Fee (Pat Cabrera)

That the WMA Board hold a public hearing on the Fee Collection Report and approve by resolution the Fee Collection Report for FY 2024.

Timothy Burroughs introduced the item and Pat Cabrera provided a brief overview of the staff report. A link to the report is available here: [HHW-FCR-memo.pdf](#). Additional time was provided to the Board for discussion and for clarifying questions. An audio link to the discussion is available here: [HHW-FCR-Discussion](#)

Interim President Carling opened the public hearing. There were no public comments, and the public hearing was closed. Board member Kalb moved approval of the HHW Fee Collection Report for FY 2024 and Board member Jensen seconded. The motion carried 16-0. The Clerk called the roll:

(Ayes: Balch, Carling, Cavanaugh, Hannon, Hansen-Romero, Hernandez, Jensen, Kalb, Mourra, Simon, Wang, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: Haubert, Sadoff, Shao)

#### 3. Enforcement Ordinance Proposed Changes (Elese Lebsack & Rachel Balsley)

Staff recommends that following the public hearing, the WMA Board introduce and waive the first reading of the attached ordinance and direct staff to place it on the consent calendar for adoption at the next regular meeting of the Board. The ordinance makes minor revisions to the WMA's 2013 enforcement ordinance to facilitate enforcement of violations of Authority legislation together with various typographical revisions.

Timothy Burroughs introduced the item and Else Lebsack provided an overview of the staff report and presented a PowerPoint presentation. A link to the report and the presentation is available here: [Enforcement-Ordinance-memo.pdf](#). Additional time was provided to the Board for discussion and for clarifying questions. An audio link to the discussion is available here: [Enforcement-Ordinance-Discussion](#).

Interim President Carling opened the public hearing. There were no public comments, and the public hearing was closed. Board member Cavanaugh moved approval to introduce and waive the first reading of the attached ordinance and direct staff to place it on the consent calendar for adoption at the next regular meeting of the Board. Board member Young seconded, and the motion carried 16-0. The Clerk called the roll:

(Ayes: Balch, Carling, Cavanaugh, Hannon, Hansen-Romero, Hernandez, Jensen, Kalb, Mourra, Simon, Wang, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: Haubert, Sadoff, Shao)

#### **4. Legislative Positions Update for 2023 – Energy-Related Bills (Jennifer West)**

Staff recommend that the Board adopts the stated positions on the bills identified in the staff memo.

Timothy Burroughs provided an overview of the staff report. A link to the report is available here: [Legislative-Positions-memo.pdf](#). Priscilla Quiroz, Agency lobbyist, was present to answer any questions. Additional time was provided to the Board for discussion and clarifying questions. An audio link to the discussion is available here: [Legislative-Positions-Discussion](#).

Board member Kalb made a motion for the Board to approve a support position for SB 233 and remain neutral on SB 420 and SB 619. Interim President Carling asked for a roll call on the motion. The Clerk called the roll and the motion failed by a vote of: 6 ayes, 9 nays and 5 absent.

(Ayes: Kalb, Cavanaugh, Simon, Zermeño. Nays: Balch, Carling, Jensen, Hansen-Romero, Hannon, Mourra, Wang, Wengraf, Young. Abstained: None. Absent: Haubert, Hernandez, Sadoff, Shao)

There were no public comments on this item. Board member Mourra moved approval of the staff recommendation. Board member Young seconded, and the motion carried 12-0-3. The Clerk called the roll: (Ayes: Balch, Carling, Cavanaugh, Hannon, Hansen-Romero, Jensen, Mourra, Simon, Wang, Wengraf, Young, Zermeño. Nays: None. Abstained: Kalb. Absent: Haubert, Hernandez, Sadoff, Shao)

#### **5. Appointment to fill upcoming vacancy on the Recycling Board (Timothy Burroughs)**

Staff recommends that the WMA Board fill the vacancy on the Recycling Board by June 28 or July 26, 2023.

Timothy Burroughs provided a brief overview of the staff report. Interim President Carling opened the floor for nominations. Interim President Carling nominated Board member Wang (Union City) as the WMA representative to the Recycling Board and Board member Jensen seconded. There were no other nominations. There were no public comments on this item. The Board voted 16-0 to approve the appointment. The Clerk called the roll.

(Ayes: Balch, Carling, Cavanaugh, Hannon, Hansen-Romero, Hernandez, Jensen, Kalb, Mourra, Simon, Wang, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: Haubert, Sadoff, Shao)

#### **6. Election of WMA Officers for Fiscal Year 2024 (Timothy Burroughs)**

Staff recommends that the WMA Board elect officers for Fiscal Year 2024.

Timothy Burroughs provided a brief overview of the staff report. Interim President Carling opened the floor for nominations. Board member Zermeño nominated Board member Jensen to serve as 2<sup>nd</sup> Vice President, Interim President Carling to serve as President and Board Member Zermeño as 1<sup>st</sup> Vice President. Board member Young seconded. There were no other nominations. There were no public comments on this item. The Board voted 16-0 to approve the slate of officers for FY 2024. The Clerk called the roll.

(Ayes: Balch, Carling, Cavanaugh, Hannon, Hansen-Romero, Hernandez, Jensen, Kalb, Mourra, Simon, Wang, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: Haubert, Sadoff, Shao)

**7. Election of EC Officers for Fiscal Year 2024 (Timothy Burroughs)**

Staff recommends that the Energy Council elect officers for Fiscal Year 2024.

Timothy Burroughs provided a brief overview of the staff report. Energy Council President Balch opened the floor for nominations. Board member Carling nominated Board member Haubert to serve as President, Board member Hannon to serve as 1<sup>st</sup> Vice President, and Board member Mourra to serve as 2<sup>nd</sup> Vice President. Board member Mourra seconded. There were no other nominations. Board member Cavanaugh recommended that the Board consider how term limits (some Board members have term limits at their member agency and some do not) may adversely affect the opportunity for some members to serve as officers. There were no public comments on this item. The Board voted 16-0 to approve the slate of officers for FY 2024. The Clerk called the roll:

(Ayes: Balch, Carling, Cavanaugh, Hannon, Hansen-Romero, Hernandez, Jensen, Kalb, Mourra, Simon, Wang, Wengraf, Zermeño. Nays: None. Abstained: None. Absent: Haubert, Shao)

**8. Interim appointment(s) to the Recycling Board for WMA appointee unable to attend future Board Meeting(s) (Arliss Dunn) (WMA only)**

(The Planning Committee/Recycling Board meeting on Thursday, July 13, 2023 at 6:00 p.m. LEAF C.R. Stone Garden, 55 Mowry Ave, Fremont, CA 94536)

Board member Kalb requested an interim appointment and Board member Hannon volunteered to serve. There were no public comments on this item. Board member Kalb moved approval of the appointment and Board member Hansen-Romero seconded, and the motion carried 15-0. The Clerk called the roll:

(Ayes: Balch, Carling, Cavanaugh, Hannon, Hansen-Romero, Jensen, Kalb, Mourra, Simon, Wang, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: Haubert, Hernandez, Sadoff, Shao)

**VII. MEMBER COMMENTS AND COMMUNICATIONS FROM THE EXECUTIVE DIRECTOR**

Board member Mourra suggested to the Board that, given increasing electricity costs and the implications of the high cost of electricity on efforts to advance electrification, the Board consider what role the Agency should play to advocate for state policy that helps increase clean electricity supply. Timothy Burroughs suggested that the Board schedule a discussion for later in the year for the Board to consider further. The Board agreed and staff will schedule the discussion. Board member Hannon suggested that, as part of the discussion, staff also include in the memo an overview of existing staff priorities identified by the Board.

Board member Balch announced that Alameda County Fair is in progress and encouraged everyone to attend.

Mr. Burroughs announced an HHW One-Day Event in Oakland on Sunday, July 9<sup>th</sup> from 9-1 pm. The event will be held at the Oakland Coliseum. Mr. Burroughs announced the monthly topic brief highlights the 2023 StopWaste Environmental Leadership Awards. The awards were presented at the June 8 Recycling Board meeting. A link to the topic brief is available [here](#). Board member Zermeño announced that he would not attend the July 26 meeting as he will be celebrating his 46<sup>th</sup> year wedding anniversary. President Carling wished everyone a happy 4<sup>th</sup> of July.

**VIII. ADJOURNMENT – to JULY 26, 2023 at 3:00 P.M.**



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**DATE:** July 26, 2023

**TO:** Waste Management Authority (WMA) Board

**FROM:** Elsee Lebsack, Program Manager/Enforcement Lead

**SUBJECT:** Enforcement Ordinance Amendment

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## **SUMMARY**

At the July 26 meeting, the Waste Management Authority (WMA) Board will consider adoption of Ordinance 2023-01, amending the WMA's 2013 enforcement ordinance to facilitate enforcement of violations of Authority legislation together with various typographical revisions.

## **DISCUSSION**

At the June 28, 2023, meeting, the WMA Board held a public hearing and considered the proposed amended ordinance 2023-01 and introduced and waived the first reading of the ordinance and directed staff to place it on the consent calendar for the July 26, 2023, WMA meeting. Attachment A provides the full text of the ordinance.

With the adoption of the amended ordinance, there will be more operational flexibility in the administration of enforcement, particularly in allowing enforcement letters to be sent via first class mail rather than certified mail with return receipt. There are some minor typographical revisions that will also be made in the amended ordinance.

The report submitted to the WMA Board at the June 28 meeting is available at the following link: [Enforcement Ordinance 2013-01 Proposed Amendments](#)

## **RECOMMENDATION**

Staff recommends that the WMA Board adopt the ordinance set forth in Attachment A. The ordinance makes minor revisions to the WMA's 2013 enforcement ordinance to facilitate enforcement of violations of Authority legislation together with various typographical revisions.

Attachment A: Ordinance 2023-01 Amending Ordinance 2013-01, Ordinance Regarding Enforcement of Ordinances and Resolutions

**ORDINANCE 2023-01  
AMENDING ORDINANCE 2013-01**

**ORDINANCE REGARDING ENFORCEMENT OF ORDINANCES AND  
RESOLUTIONS**

The Board of the Alameda County Waste Management Authority (“WMA”) finds that:

1. In 2013 the WMA adopted Ordinance 2013-01, the Ordinance Regarding Enforcement of Ordinances and Resolutions. Based on experience implementing the ordinance over the prior decade, the Authority wishes to make minor revisions to facilitate enforcement of violations of Authority legislation together with various typographical revisions.
2. The Board of the Alameda County Waste Management Authority held a public meeting on June 28, 2023 to consider this ordinance, and after considering all testimony and written materials provided in connection with that meeting introduced this ordinance and waived the reading thereof.

Therefore, the Board of the Authority hereby ordains as follows:

Section 1. Amendment.

Ordinance 2013-01 is hereby amended as shown in Exhibit A. Text to be added is indicated in bold underlined font (e.g., **underlined**) and text to be deleted is indicated in strikeout font (e.g., ~~strikeout~~).

Section 2. Severability.

If any provision of this Ordinance or its application to any situation is held to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

Section 3. Publication.

Within 15 days after adoption, a summary of the ordinance with the names of those voting for and against, the ordinance shall be published and a certified copy of the full text with the names of those voting for and against the ordinance shall be posted in the office of the Clerk of the Board and shall become effective thirty (30) days after adoption.

- Continued on following page -



**Following introduction on June 28, 2023, passed and adopted July 26, 2023 by the following vote:**

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

I certify that under the penalty of perjury that the foregoing is a full, true and correct copy of  
ORDINANCE NO. 2023-01.

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ARLISS DUNN  
CLERK OF THE BOARD

*Exhibit A*

**ORDINANCE 2013-01  
as amended by Ordinance 2023-01**

**AN ORDINANCE REGARDING ENFORCEMENT  
OF ORDINANCES AND RESOLUTIONS**

The Board of the Alameda County Waste Management Authority ordains as follows:

SECTION 1 (Enactment)

The Board of the Authority does hereby enact this Ordinance in full consisting of Sections 1 through 9.

SECTION 2 (Findings)

The Authority finds that:

- (a) The Authority has adopted various ordinances and resolutions requiring and proscribing various forms of conduct.
- (b) This Ordinance authorizes enforcement of those ordinances and certain resolutions that do not specifically provide for enforcement and specifies the forms of enforcement that may be used in connection with violations of Authority ordinances and certain resolutions.

SECTION 3 (Definitions)

The following definitions govern the use of terms in this Ordinance:

- (a) “Alameda County” or “County” means all of the territory located within the incorporated and unincorporated areas of Alameda County.
- (b) “Arrest” has the meaning stated in California Penal Code section 834 or the initiation of an accusatory process (for example, issuing a notice of violation).
- (c) “Authority” means the Alameda County Waste Management Authority created by the Joint Exercise of Powers Agreement for Waste Management.
- (d) “Board” means the governing body of the Authority made up of elected representatives of the member agencies pursuant to the Joint Exercise of Powers Agreement for Waste Management.

(e) “Citation” means an administrative citation that is issued to a Responsible Person pursuant to this Ordinance. “Citee” means a Responsible Person to whom a citation is issued.

(f) “Administrative fine” is the monetary sanction that is imposed by a citation.

(g) “Enforcement Officer” means the Executive Director or any officer, agent or employee of the Authority designated by the Executive Director to have the authority and responsibility to enforce Legislation.

(h) “Executive Director” means the individual appointed by the Board to act as head of staff or a person designated by the Executive Director in writing to act on his or her behalf in administering this Ordinance.

(i) “Hearing Administrator” means the individual appointed by the Executive Director to administer requests for hearings.

(j) “Hearing Officer” means a person, agency or body designated by the Hearing Administrator to consider all timely requests for an administrative hearing upon issuance of a citation.

(k) “Notice of violation” means a written notice to a Responsible Person that a violation of Legislation has occurred. This notice may include a warning that a citation assessing fines may be issued unless the violation is terminated or abated.

(l) “Legislation” means any resolution requiring submittal of information or payment to the Authority and any ordinance adopted by the Authority.

(m) “Person” means an individual, firm, Limited Liability Company, association, partnership, industry, Private Corporation, or any other non-public entity whatsoever.

(n) “Property” or “premises” means any real property, or improvements thereon, or portions thereof, as the case may be. "Property" includes any parkway or unimproved public easement abutting such real property. "Property" shall also include all forms of personal property or animals, where applicable.

(o) “Responsible Person” means any person, whether as an owner, lessee, licensee, or otherwise, that allows, causes, creates, maintains, or permits a violation of Legislation to exist or continue, by any act or the omission of any act or duty.

(p) “Violation” means an act or omission of any act, or use or condition that constitutes an offense of Legislation, as well as a breach or violation of any condition of a permit, approval or license issued pursuant to Legislation. A "transient" violation is one that is brief or spontaneous in its commission, or that is not typically confined to a fixed location. A "non-transient" violation is continuing in nature and generally present at one location and is also described as a "continuing" violation.

#### SECTION 4 In General

(a) This Ordinance shall apply to enforcement of all Legislation, provided, however, that this Ordinance supplements and does not supersede the provisions of Legislation. To the extent this Ordinance and Legislation provide for enforcement, the provisions of both the Legislation and this Ordinance shall be applied. If there is a difference between the provisions of this Ordinance and the Legislation being enforced such that the provisions cannot both be applied, the provisions of the Legislation shall be applied and the conflicting provisions of this Ordinance shall not be applied. The Executive Director is authorized to promulgate procedural rules and regulations governing the enforcement process consistent with this Ordinance and applicable law.

(b) It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of any Legislation or any rule, regulation or order promulgated or issued pursuant to such Legislation. Whenever in Legislation any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering or concealing such act or omission. Any person violating any of such provisions or failing to comply with any of such requirements shall be guilty of a misdemeanor or an infraction and subject to administrative fines and civil enforcement actions. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation is committed, continued, or permitted by such person, and shall be punishable accordingly. In the discretion of the Executive Director violations may be enforced through administrative penalties, civil enforcement, or criminal action as set forth below.

(c) A violation shall be deemed an infraction if a citation or notice to appear in court is issued specifying that the violation is an infraction, the prosecuting attorney files a complaint in the Superior Court specifying that the offense is an infraction, or the prosecuting attorney makes a motion to reduce a misdemeanor to an infraction prior to trial on the matter.

#### SECTION 5 Administrative Fines

(a) Any violation of any Legislation or any rule, regulation or order promulgated or issued pursuant to such Legislation is subject to administrative fines. Use of this Section 5 shall be at the sole discretion of the Authority and is one remedy that the Authority has to address violations of Legislation. This section establishes the administrative procedures for the imposition, enforcement, collection and administrative review of administrative fines pursuant to California Government Code Section 53069.4. Failure of a Citee to comply with a corrective action stated in any uncontested citation, or with regard to a correction order in any Hearing Officer's decision that is deemed confirmed, shall constitute a misdemeanor.

(b) An administrative fine shall be imposed by means of a citation issued by an Enforcement Officer and shall be paid directly to the Authority. Payment of a fine shall not excuse a failure to correct a violation nor shall it bar further enforcement action by the Authority.

(c) When an Enforcement Officer determines that a Responsible Person has committed a violation of Legislation, the Enforcement Officer may issue a notice of violation to the Responsible Person. Such notice shall serve as a written warning of responsibility and require immediate action by the Responsible Person to abate the violation. The notice of violation shall specify a date by which the violation can reasonably be abated. Such date shall be not less than six (6) calendar days after the notice of violation unless the violation creates an immediate danger to health or safety. If, after the date for correction specified in the notice of violation, the violation is not abated, or subsequent violations of the same type occur or re-occur, the Enforcement Officer may issue a citation assessing fines in accordance with this Ordinance.

(d) A notice of violation shall include:

- (1) Name and mailing address of the Responsible Person;
- (2) The address or description of the location of the violation;
- (3) The date of commission of the violation(s) or detection thereof by an Enforcement Officer;
- (4) Legislation provision(s) violated;
- (5) A description of the violation(s);
- (6) The action(s) required to correct the violation(s) and any deadlines or time limitations for commencing and completing such action(s);
- (7) Possible amount of the fine for each violation, and the procedure and place to pay the fine(s), and any late charge(s), if not timely paid;
- ~~(8) The name and signature of the Enforcement Officer issuing the notice of violation; and~~
- (89) Any other information deemed necessary by the Enforcement Officer.

(e) On such form as may be provided for by the Executive Director, any Responsible Person receiving a notice of violation for a violation that does not cause immediate danger to health or safety may petition the Enforcement Officer for an extension of time or amendment of the prescribed corrective action to correct the violation so long as the petition is received before the end of the period allowed for correction, as stated in the notice of violation. The Enforcement Officer may, in the Enforcement Officer's sole discretion, grant an extension of time to correct the violation or amendment of the prescribed corrective action if the Enforcement Officer determines that the Responsible Person has supplied sufficient evidence showing that the correction cannot reasonably be made within the stated period or that the amended corrective action will comply with the requirements of the Legislation. The Enforcement Officer's decision shall be final and, notwithstanding any other provision of Legislation, not subject to appeal except in an appeal challenging the issuance of a citation.

(f) Whenever an Enforcement Officer determines that a violation of Legislation has

occurred, the Enforcement Officer may issue a citation on a form approved by the Executive Director imposing an administrative fine or fines to the Responsible Person(s) in accordance with the provisions of this Ordinance. The citation shall be issued following the correction period specified in the notice of violation or, if the violation creates an immediate danger to health or safety, concurrently with the notice of violation. An Enforcement Officer may issue a notice of violation and/or a citation for a violation not committed in the Enforcement Officer's presence if the Enforcement Officer has determined, through investigation, that the Citee did commit, or is otherwise responsible for, the violation. The Enforcement Officer may dismiss a citation at any time if a determination is made that it was issued in error, in which event any deposit of a fine shall be refunded. ~~Notice of such action shall be given to the Citee in writing.~~

(g) Each day on which a transient violation occurs and each day upon which a non-transient violation continues, shall be a separate violation for which a citation may be issued. A citation may charge several violations of Legislation.

(h) Each citation shall contain the information listed in section 5(d), subsections 1-6 and:

(1) The date the notice of violation was issued ~~and the date that notice set for correction of the violation;~~

(2) Amount of the fine for each violation, and the procedure and place to pay the fine(s), and any late charge(s), if not timely paid;

(3) When appropriate, the action(s) required to correct the violation(s), and, if applicable, any deadlines or time limitations for commencing and completing such action(s);

(4) A description of the citation review process and the manner by which a hearing on a citation may be obtained (including ~~the form to be used and~~ the period in which a request must be made in order to be timely); and

~~(5) The name and signature of the Enforcement Officer issuing the notice of violation; and~~

~~(56)~~ Any other information deemed necessary by the Enforcement Officer.

(i) The Enforcement Officer may issue a notice of violation, citation, or any other notice, order, or other document required to be given by this Ordinance by personal service, mail, or posting as specified below.

(1) For personal service the Enforcement Officer shall attempt to locate and personally serve the Responsible Person and obtain the signature of the Responsible Person on the citation. If the Responsible Person served refuses or fails to sign the document(s) served, the failure or refusal to sign shall not affect the validity of the citation or of subsequent proceedings. If an agent, manager or representative of a Responsible Person is personally served, a copy of the document(s) served shall also be served by first class mail to the Responsible Person at his/her last-known business or residence address as

the same appears in the records of the Authority, or, if the Authority lacks such records, the County. In such instances, the date a copy of the document(s) served is deposited with the U.S. Postal Service shall constitute the issuance date.

(2) For service by mail the Enforcement Officer shall mail the document(s) being served by ~~certified~~ **first class** mail, ~~postage prepaid with a requested return receipt~~ at the recipient's last-known business or residence address as the same appears in ~~public~~ records of the Authority, or, if the Authority lacks such records, the records of Alameda County. ~~Simultaneously, the citation may be sent by first class mail. If the document(s) is sent by certified mail and the certification is returned unsigned, then s~~Service shall be deemed effective ~~pursuant to first class mail~~, provided the document(s) sent by first class mail is not returned.

(3) For violations involving real property, if the Enforcement Officer is not able to serve the responsible party in person or by mail, the Enforcement Officer shall post the document(s) to be served on any real property within ~~the Authority~~ **Alameda County** in which the Authority has knowledge that the Responsible Person has a legal interest or possession, dominion and control of, such property, or a portion thereof. Such posting shall be deemed effective service, and the date of posting shall constitute the date of service.

(j) Where no fine amount is specified by Legislation, the following fines shall apply:

(1) For misdemeanors a fine not exceeding five hundred dollars (\$500) per day for a first violation, a fine not exceeding seven hundred fifty dollars (\$750) per day for a second violation of the same ordinance or permit within one year from the date of the first violation; and a fine not exceeding one thousand dollars (\$1000) per day for each additional violation of the same ordinance or permit within one year from the date of the first violation; and

(2) For infractions a fine not exceeding one hundred dollars (\$100) per day for a first violation, a fine not exceeding two hundred dollars (\$200) per day for a second violation of the same ordinance or permit within one year from the date of the first violation; and a fine not exceeding five hundred dollars (\$500) per day for each additional violation of the same ordinance or permit within one year from the date of the first violation.

Separate fines shall apply for each separate violation, however, in the event that multiple violations are found to occur as a result of an investigation, each such violation listed in the first citation following the investigation shall be considered a "first violation".

(k) Administrative fines and any late charges due shall be paid to the Authority at such location or address as stated in the citation, or as may otherwise be designated by the Executive Director. The due date for the Authority's receipt of an administrative fine shall be thirty calendar days from the issuance date of a citation. Thereafter, a late charge shall be due and owing.

(l) Payment of an administrative fine shall not excuse or discharge a Citee from the duty to immediately abate a violation of Legislation, nor from any other responsibility or legal

consequences for a continuation or repeated occurrence(s) of a violation of Legislation. Abatement of a violation shall not excuse the obligation of a Citee to pay an administrative fine, or any late charge.

(m) Unpaid administrative fines and/or late charges shall constitute a debt that may be collected in any manner allowed by law.

(n) Any Citee may contest the issuance of a citation by filing a request for an administrative hearing with the Hearing Administrator of the Authority. The request for an administrative hearing shall be made on an Authority-approved form and filed within fifteen calendar days from the issuance date of a citation. If the Hearing Administrator does not receive the request in the required period, the Citee shall have waived the right to a hearing and the citation and fine shall be deemed final. No fee shall be charged for the filing of a request for a hearing.

(o) Requests for a hearing shall be accompanied by the entire amount of the fine stated in the citation. Failure to deposit a fine, or the tender of a nonnegotiable check in the required period, shall render a request for an administrative hearing incomplete and untimely. Fines that are deposited with the Authority shall not accrue interest. Fines deposited shall be returned to the person tendering the fines within thirty days in the event a citation is overturned.

(p) The Hearing Administrator shall designate or appoint, in accordance with applicable law, a Hearing Officer. The employment, performance evaluation, compensation, and benefits of the Hearing Administrator and Hearing Officer, if any, shall not be directly or indirectly conditioned upon the amount of citation fines upheld by the Hearing Officer.

(q) Hearings shall be attended by the Enforcement Officer or designee and the Citee (or authorized representative of Citee) and conducted pursuant to reasonable procedures to be established by the Hearing Officer. After considering all of the testimony and evidence submitted at a hearing, the Hearing Officer shall issue an administrative order at the conclusion of the hearing or within fifteen days to uphold or overturn the citation and shall state the reasons thereof. If the citation is upheld and the violation has not been fully corrected as of the date of the hearing, the Hearing Officer shall order correction thereof in the decision and state deadline(s) to complete such action(s). The decision of the Hearing Officer shall be final. All fines shall become immediately due and owing to the Authority in the full amount and if not paid may be collected in accordance with law.

(r) The Superior Court is the sole reviewing authority and an appeal from a Hearing Officer's decision is not appealable to the Authority Board. If a Responsible Person prevails on appeal, the Authority shall reimburse that person's fine deposit in accordance with the court judgment. These monies shall be mailed to the Responsible Person within thirty calendar days of the Authority's receipt of a notice of judgment or ruling from the Superior Court Clerk.

(s) The Authority may use all available legal means to collect past due fines and other related costs. Any person who fails to pay any fine shall be liable in any action or collection procedure brought by the Authority for all costs incurred to obtain payment of the delinquent amount, including, but not limited to, administrative costs, collection costs, and attorneys' fees. Collection costs shall be in addition to any penalties, interest and late charges imposed upon the



delinquent obligation. Commencement of an action to collect a delinquent fine shall not preclude issuance of one or more additional citations to the legally Responsible Person if the violation or violations persist after the date for correcting them as stated in the administrative order.

## SECTION 6 Civil Enforcement

(a) The amount of any fee or charge of any nature whatsoever imposed by any Legislation or any rule, regulation or order promulgated or issued pursuant to such Legislation, shall be deemed a civil debt owing to the Authority. An action may be commenced in the name of the Authority in any court of competent jurisdiction for the collection of the amount of any such delinquent or unpaid fee or charge together with any penalties applicable thereto in addition to injunctive relief. The remedy prescribed by this Section shall be cumulative and the use of a civil action to collect such amount as a debt shall not bar the use of any other remedy available to the Authority for the collection thereof.

(b) Wherever the Authority Counsel is authorized or directed to commence or sustain any civil action or proceeding, either at law or in equity, to enforce any Legislation, or any rule, regulation or order promulgated or issued pursuant to such Legislation, or to enjoin or restrain any violation thereof, or otherwise to abate any public nuisance, or to collect any sums of money on behalf of the Authority, then the Authority shall be entitled to collect all the costs and expenses of the same. The prevailing party shall be entitled to recover reasonable attorneys' fees and costs; provided that attorneys' fees shall only be available in an action or proceeding in which the Authority has elected, at the commencement of such action or proceeding, to seek recovery of its own attorneys' fees. In no action or proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the Authority in the action or proceeding.

## SECTION 7 Criminal Enforcement

(a) It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of Legislation, or any rule, regulation or order promulgated or issued pursuant to such Legislation. Any person violating any of such provisions or failing to comply with any of such requirements shall be guilty of a misdemeanor or if specified as such in the Legislation, an infraction. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation is committed, continued, or permitted by such person, and shall be punishable accordingly.

(b) Notwithstanding subsection (a) of this Section or any other provision of Legislation, any violation constituting a misdemeanor may, in the discretion of the Enforcement Officer or the prosecuting attorney be charged and prosecuted as an infraction.

(c) Where no specific penalty is provided therefore, any person convicted of a misdemeanor under the provisions of Legislation shall be punishable by a fine of not more than five hundred dollars (\$500) for the first violation, of not more than seven hundred and fifty dollars (\$750) for the second violation within one year, and of not more than one thousand dollars (\$1000) for each additional violation within one year or by imprisonment in the County Jail for a period not

exceeding six months, or by both such fine and imprisonment.

(d) Any person convicted of an infraction shall be punishable for a first conviction by a fine of not more than one hundred dollars (\$100), for a second conviction of the same ordinance within a period of one year by a fine of not more than two hundred dollars (\$200), and for a third or any subsequent conviction of the same ordinance within a period of one year by a fine of not more than five hundred dollars (\$500).

(e) Enforcement Officers are hereby authorized, pursuant to Section 836.5 of the Penal Code, to arrest a person without a warrant whenever any such Enforcement officer has reasonable cause to believe that the person to be arrested has committed a misdemeanor or infraction in the presence of the Enforcement Officer which is a violation of Legislation or any rule, regulation or order promulgated or issued pursuant to such Legislation which the Enforcement Officer is authorized to enforce.

(f) Each Enforcement Officer is authorized to enforce the provisions of this Ordinance, other Legislation, and any rule, regulation or order promulgated or issued pursuant to such Legislation. The Executive Director, may, from time to time, add to, change or modify the duties of Enforcement Officers, and may create priorities of enforcement to protect the public health, safety, and welfare.

(g) If any person is arrested for a violation of any provision of Legislation, or any rule, regulation or order promulgated or issued pursuant to such Legislation, and such person is not immediately taken before a magistrate as prescribed by the Penal Code, the arresting Enforcement Officer shall prepare in duplicate a written notice to appear in court, containing the name and address of such person arrested, and the offense charged. If the violation is designated as a misdemeanor, the notice shall also specify the time and place where the arrested person shall appear in court, which shall be a date at least ten days after the date of arrest. The arresting Enforcement Officer shall deliver one copy of the notice to the arrested person, and the arrested person, in order to secure release, must give ~~his~~their written promise to appear in court by signing the duplicate notice which shall be retained by the arresting Enforcement Officer. Thereupon the arresting Enforcement Officer shall release the person arrested from custody. The arresting Enforcement Officer shall, as soon as practicable, file the duplicate notice with the magistrate specified in such notice.

(h) Upon any guilty plea or judgment of conviction in any criminal proceeding brought for the violation of any provision of Legislation, or any rule, regulation or order promulgated or issued pursuant to such Legislation, wherein the Authority has or will incur costs and expenses in removing or abating a nuisance caused, committed or maintained by the defendant as a result of such violation for which the defendant is prosecuted, if the defendant is otherwise entitled by law to probation, then the court may require the payment to the Authority of such costs and expenses as one of the conditions of such probation.

## SECTION 8 Severability

If any provision of this Ordinance or its application to any situation is held to be invalid,

the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 9    Effective Date

      This Ordinance shall be posted at the Authority Office after its second reading by the Board for at least thirty (30) days and shall become effective thirty (30) days after the second reading.

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**DATE:** July 26, 2023

**TO:** Waste Management Authority (WMA) Board

**FROM:** Michelle Fay, Program Manager  
Timothy Burroughs, Executive Director

**SUBJECT:** Alameda County Recycling Markets Network and SB 54

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## SUMMARY

Since 2018, StopWaste has convened a network of haulers, processors, and local government staff to collaborate around the topic of recycling. Known as the Alameda County Recycling Markets Network, the mission is to “convene private and non-profit recycling entities serving Alameda County with their public agency partners to discuss recycling markets, how to increase recovery and decrease contamination, and strengthen the economics of recycling.”

New state law, SB 54, the Plastic Pollution Prevention and Packaging Producer Responsibility Act, will have extensive implications for local governments, haulers, and processors, making the Recycling Markets Network an important forum for discussing and informing the regulatory process. At the July 26 Waste Management Authority meeting, staff will provide an overview of the Alameda County Recycling Markets Network and provide an update on the SB 54 rulemaking process.

## DISCUSSION

Members of the Alameda County Recycling Markets Network, or RMN, include member agency staff, representatives from Alameda County recycling haulers and processors, as well as staff from CalRecycle and neighboring jurisdictions such as the City of San Ramon, Contra Costa County, and City of Palo Alto. The network is a unique model, where for-profit and non-profit recyclers, franchisees and franchisors, and competitors alike come together in a neutral and constructive space to discuss a variety of topics such as recycling commodity pricing, shifting international markets, logistical concerns (i.e., port labor disruptions), emerging technology, recycling transparency, and solid waste legislation.

In 2019, Governor Newsom signed into law AB 1583, requiring CalRecycle to convene a Statewide Commission on Recycling Markets and Curbside Recycling. This collaborative concept was modeled after StopWaste’s Alameda County Recycling Markets Network. The commission was tasked with

evaluating California's state of recycling and recommending policies to restore it. The Commission ultimately provided 19 policy recommendations, many of which resulted in new laws that are helping California get back on track with achieving recycling and diversion goals while addressing market and infrastructure issues. The most groundbreaking law introduced as a result of the Commission's work is SB 54.

SB 54 sets new, ambitious goals to reduce plastic packaging and requires that all forms of packaging sold in California be recyclable or compostable by 2032. The law is the nation's most comprehensive legislation to date that reduces dependence on single-use packaging and foodware, while shifting the cost burden of collecting, processing, and recycling materials from local jurisdictions to the producers of plastic products and packaging. The law will raise \$5 billion from the plastics industry over 10 years to help mitigate the impacts of plastic pollution and support disadvantaged communities hurt most by the impacts of plastic waste and disposal.

CalRecycle commenced the informal rulemaking process in early 2023 to gather stakeholder input. StopWaste staff formed a new SB 54 project team and staff are attending regular CalRecycle topic-specific workshops and participating in several working groups hosted by the National Stewardship Acton Council (NSAC). The Agency recently submitted a formal comment letter to CalRecycle (attached) outlining an initial set of concerns and recommendations based on the topics presented by CalRecycle for input to date. The final SB 54 regulations must be approved and in place by January 1, 2025.

The statute also requires that an Advisory Board be formed to help identify barriers and solutions to creating a circular economy and to advise CalRecycle, producers, and producer responsibility organizations on the implementation of SB 54. There are 16 seats on the board with defined positions representing a range of perspectives—from environmental justice, rural communities, ocean advocacy, haulers, and composters to packaging producers and manufacturers. We are pleased to share that Timothy Burroughs, nominated by the League of California Cities, has been appointed by CalRecycle to serve a minimum three-year term on the Advisory Board to represent and advocate for local governments in Alameda County and beyond.

## **RECOMMENDATION**

This item is for information only.

Attachment:

SB 54 Comments Letter to CalRecycle, July 17, 2023



July 17, 2023

StopWaste is the Alameda County Waste Management Authority, the Alameda County Source Reduction and Recycling Board, and the Energy Council operating as one public agency.

Submitted via email to: [packaging@calrecycle.ca.gov](mailto:packaging@calrecycle.ca.gov)

**Subject: SB Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations**

Dear CalRecycle,

StopWaste helps Alameda County residents, businesses, and schools waste less, recycle properly and use water and energy and other resources efficiently. We are a Joint Powers Authority formed by the 17 local jurisdictions within Alameda County.

StopWaste appreciates the opportunity to submit comments to inform the current SB 54 informal rulemaking process.

*Member Agencies:*

Alameda County  
Alameda  
Albany  
Berkeley  
Dublin  
Emeryville  
Fremont  
Hayward  
Livermore  
Newark  
Oakland  
Piedmont  
Pleasanton  
San Leandro  
Union City  
Castro Valley  
Sanitary District  
Oro Loma  
Sanitary District

1. **PRC 42067 (d) – Developing the regulations and needs assessment “in collaboration with the PRO and a broad diversity of local jurisdictions, recycling service providers, and processors...”**

**Recommendation:** *In addition to holding centralized workshops moving forward, consider a series of regional meetings designed to make it easier for local jurisdictions and associated service providers and processors to participate. Also continue to coordinate closely with organizations that serve local jurisdictions directly and that can assist with gathering input and disseminating information, such as Joint Powers Authorities, the League of California Cities, and others.*

Obtaining diverse input will require a diverse set of opportunities.

2. **LJ Item 1: Transportation costs include staffing**

**Recommendation:** *Include in the regulations a detailed list of administrative costs for all aspects of covered materials management such as collection, processing, procurement, outreach and education.*

StopWaste appreciates the proposed inclusion of administrative costs related to transportation of covered materials. That being said, it is important that CalRecycle address both direct and indirect administrative costs of all aspects of managing covered materials.

3. **LJ Item 2: Reimbursement costs include purchasing and maintaining equipment, signage, and other similar costs**

**Recommendation 1:** *Similar to LJ Item 1, funds to cover local jurisdiction administrative costs related to receiving, consolidating, loading, and transporting covered materials should also be included.*

**Recommendation 2:** *Include specific detail regarding what costs are covered, payment method, and payment timing.*

The process for local governments and associated service providers to recoup costs must be clear, easy, and efficient in order to create the certainty needed to advance investments in managing covered materials.

4. **LJ Item 5: Exemption process**

**Recommendation:** *Include in the regulations the criteria that CalRecycle will use to evaluate requests for extensions or exemptions.*

The proposed regulation concept includes information that the local jurisdiction or designated service provider must provide extensions or exemptions but does not specify how CalRecycle would evaluate that information to make its determination.

5. **CD Item 1 – Definition of “Compostable”**

**Recommendation 1:** *Require more stringent standards than ASTM D6400 that address microplastic residue in soil.*

ASTM D6400 (as well as EN 13432) does not sufficiently reflect composting conditions in California. Composting operations run on a shorter time frame than the lab tests used to create the standard. ASTM D6400 requires a plastic product to demonstrate a satisfactory rate of biodegradation by achieving the conversion to 90% of organic carbon to carbon dioxide within 180 days. Commercial composting operations in California have reported composting residence times of 45-90 days. Further, the standard does not require complete disintegration of plastic. ASTM D6400 allows up to 10% of original dry weight to remain after screening on a 2-mm sieve, and does not measure microplastic remnants smaller than 2 mm. Recent research has found that compost can be a vehicle for compostable microplastic to enter soil (Steiner et al., 2022) and compostable microplastic has been found in soil organisms and agricultural crops with detrimental effects on both (Mo et al., 2023).

**Recommendation 2:** *Include a requirement in the definition that products be designed to facilitate capture of organics.*

It is unclear if the product must facilitate capture of additional organics (like food or green waste) to be “compostable.” The last bullet in the proposed definition in the overview of Compostable/Composting seems to suggest this is a requirement: “The product is designed to be associated with the recovery of desirable organic wastes, such as food scraps and yard trimmings, that are collected for composting.” However, the proposed definition in the regulatory concept



suggests that the product only need to be designed to be collected in the organics stream: “(4) The covered material is designed to be collected for recovery with organic waste, such as food scraps and yard trimmings.”

**6. CD Item 2 – Revised Responsible End Market concept for compostable covered materials**

**Recommendation 1:** *Clarify the implementation and enforcement of the Responsible End Market concept.*

StopWaste supports the concept that a product conform to the processing requirements of composters. However, clarification is necessary around implementation and enforcement of this requirement, and how much of the responsibility falls to individual composters. It is unrealistic to require composters to conduct monitoring and reporting of the 90% biodegradation standard. While, in concept, alignment with the ASTM D6400 standard of 90% biodegradation makes logical sense, it is not possible to measure this in the field with mixed materials in feedstock. ASTM D6400 relies on test method ASTM D5338, which is conducted in a laboratory on individual products. In addition, the test requires comparison against the biodegradation of cellulose, with 70% degradation of cellulose as the baseline (100%). In practice, samples would need to be taken for each compostable product before and after composting and sent to a lab for analysis.

**Clarifying questions:**

- i. If a composter does not achieve 90% biodegradation for covered materials, what processes are followed to identify themselves as no longer “responsible?”
- ii. If a composter achieves the 90% standard for some products but not others, are they no longer deemed responsible?
- iii. Are there consequences or penalties for not being a “responsible” end market?

**Recommendation 2:** *When composters do not accept compostable covered materials, require that they report only to the Department, who will then communicate to the PRO and independent producers.*

Requiring individual composters to communicate with the PRO and individual producers puts an unnecessary burden on composters, given the number of producers marketing covered materials in the state.

**7. General Comments related to compostability:**

**Recommendation 1:** *Replace “responsible end markets” with “responsible recycling markets.”*

This is a more accurate identification of the target entities, considering the true end markets for compost are the agriculture and landscaping sectors.


**Recommendation 2:** *Build into the regulations a process to further assess covered materials in anticipation that some covered materials will enter the market after the publication of the covered materials list in January 2024 and not perform as expected at composting facilities (this may be the intended purpose of Section iv).*

An example process could include a probation period starting once the list of covered materials list is published and “compostable” products begin being processed at end markets. If a product enters the market meeting the “compostability” definition but does not adequately break down at end markets, the material should undergo further scrutiny.

***Recommendation 3:*** *Conduct collaborative and regional discussions with composters to further workshop these and future regulatory concepts.*

Thank you for your consideration of the recommendations. Please reach out if you have questions or if you would like to discuss any of the comments.

Sincerely,

A handwritten signature in black ink, reading "Timothy Burroughs". The signature is written in a cursive, flowing style with a large initial 'T'.

Timothy Burroughs  
Executive Director

**References:**

Steiner, Thomas, et al. “Municipal biowaste treatment plants contribute to the contamination of the environment with residues of biodegradable plastics with putative higher persistence potential.” *Scientific Reports* 12, 9021 (2022), <https://doi.org/10.1038/s41598-022-12912-z>.

Mo, Aoyun, et al. “Environmental fate and impacts of biodegradable plastics in agricultural soil ecosystems.” *Applied Soil Ecology*, Volume 181 (2023), 104667, ISSN 0929-1393, <https://doi.org/10.1016/j.apsoil.2022.104667>.



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**DATE:** July 26, 2023

**TO:** Waste Management Authority

**FROM:** Karen Kho, Principal Program Manager  
Matt Zimbalist, Regional Economic Competitiveness Officer

**SUBJECT:** Bay Area Construction Innovation Cluster Update

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## SUMMARY

StopWaste and a coalition of partners are establishing a construction innovation ecosystem in the Bay Area with seed funding from the federal Build Back Better Regional Challenge (Regional Challenge). At the July 26 WMA Board meeting, staff will provide an update on the Bay Area Construction Innovation Cluster (BACIC), pursuit of federal Regional Technology and Innovation Hub (Tech Hub) designation, and current agency initiatives to advance circular building materials and waste prevention in the construction sector.

## DISCUSSION

In December 2021, the US Economic Development Administration (EDA) awarded StopWaste a \$500,000 planning grant for BACIC. This grant funded the development of a Phase 2 proposal for the Regional Challenge and the hiring of a Regional Economic Competitiveness Officer to advance the formation of a construction innovation ecosystem in the Bay Area. Although our coalition did not receive Phase 2 funding, EDA has continued to support the Regional Challenge finalists through technical assistance and a Community of Practice.

BACIC is now pursuing Designation and a Strategy Development grant from the EDA Tech Hubs program, which was authorized by Congress last year. Like the Regional Challenge, this program consists of two phases with planning grants of up to \$500,000 and implementation awards ranging from \$50-75 million. Phase 1 proposals are due on August 15, 2023. BACIC is focusing on a core technology area of high-performance industrialized construction, including circular building materials. Industrialized construction adapts principles, processes, and technologies from the manufacturing industry to holistically improve building construction and performance. It commonly involves prefabrication, digitization, standardization, and integrated project management, which minimizes the generation of construction waste and optimizes the use of building materials on a project.

## DISCUSSION

This item is for information only.

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**DATE:** July 26, 2023

**TO:** Energy Council

**FROM:** Timothy Burroughs, Executive Director  
Miya Kitahara, Program Manager

**SUBJECT:** Climate Pollution Reduction Grant Contract

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## SUMMARY

Staff is requesting Energy Council approval to enter into a contract of \$240,000 with the Association of Bay Area Governments (ABAG) for a scope of work funded by the U.S. Environmental Protection Agency's Climate Pollution Reduction Grant. The scope of work includes local government engagement across the Bay Area and technical support on identifying and refining Climate Action Plan measures.

## DISCUSSION

The Bay Area Air Quality Management District (Air District) is a recipient of the Climate Pollution Reduction Grant (CPRG), a new program of the U.S. Environmental Protection Agency funded through the Inflation Reduction Act. The CPRG supports states, local governments, tribes, and territories to develop and implement Climate Action Plans to reduce greenhouse gas emissions. The program has two phases:

- 1) Planning: non-competitive funding for development of a targeted priority climate action plan and a more comprehensive climate action plan.
- 2) Implementation: competitive funding for projects to implement the measures in the targeted priority climate action plan (total \$4.6 billion).

The Air District has received \$1 million from the planning phase to lead the effort for the 5-county Metropolitan Statistical Area (MSA) referred to by the EPA as "San Francisco-Oakland-Berkeley" that includes the counties of Alameda, Contra Costa, Marin, San Francisco, and San Mateo. As deliverables for this grant, the Air District will develop a Priority Climate Action Plan by March 2024 and a Comprehensive Climate Action Plan by September 2025. The Priority CAP is limited in scope to immediately actionable measures, whereas the Comprehensive CAP must include all sectors and strategies to achieve climate action outcomes defined by the MSA, such as GHG reduction targets consistent with the State's targets. The implementation grant is expected to be opened for competitive proposals in September 2023. To be eligible for implementation funding, proposed projects must be included in a Priority Climate Action Plan developed through the planning phase grant.

The Bay Area is unique among MSAs in its advanced climate action planning efforts. Whereas other recipients of the CPRG planning grant may be developing a climate action plan for the first time, the 5-county Bay Area MSA contains dozens of local government climate action plans, including those from each Alameda County local government. Therefore, the planning process in the Bay Area seeks to leverage these existing plans to develop opportunities for more effective regional collaboration and potential fund seeking through the CPRG implementation grant phase. The Advisory Workgroup will meet regularly, provide technical advising, and be a conduit to engage Bay Area local governments.

The Air District has convened an Advisory Workgroup to guide the process to develop the Priority and Comprehensive Climate Action Plans. The Advisory Workgroup includes staff representatives from the five counties, the three cities named in the MSA (San Francisco, Oakland, Berkeley), and regional agencies including the Bay Area Regional Collaborative, Metropolitan Transportation Commission, and Association for Bay Area Governments for its work on the Bay Area Regional Energy Network (BayREN).

StopWaste staff have been monitoring the CPRG funding opportunity in close collaboration with the Air District. Staff have provided updates on the process and presented opportunities for input to the StopWaste Technical Advisory Group (TAG) and the BayREN Coordinating Circle which includes the other MSA counties. Due to this active role, StopWaste staff are serving as representatives for Alameda County and BayREN, and have been requested by BayREN to undertake a scope of work for technical planning tasks and passing through of funding to enable participation by other Advisory Workgroup members.

The scope of this contract includes tasks for engaging local governments on identifying measures to include in the climate action plans and to develop for potential implementation grant proposals. The scope also includes participation by other BayREN county representatives and cities in the Air District's CPRG Advisory Workgroup for the duration of the planning grant.

## **RECOMMENDATION**

Adopt the attached Resolution authorizing the Executive Director to enter into a contract for Climate Pollution Reduction Grant and other related actions.

Attachments:

Energy Council Resolution #EC 2023-05  
Attachment A: Summary of Energy Council Scope of Work

**ENERGY COUNCIL  
RESOLUTION #EC 2023 –05**

**MOVED:  
SECONDED:**

**AT THE MEETING HELD JULY 26, 2023**

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO CONTRACT FOR CLIMATE  
POLLUTION REDUCTION GRANT SERVICES AND OTHER RELATED ACTIONS**

**WHEREAS**, the Energy Council recognizes that it is in the interest of local, regional, state, and federal agencies to stimulate the economy, create and retain jobs, reduce fossil fuel emissions, and reduce total energy usage and improve energy efficiency; and

**WHEREAS**, the Energy Council was formed to seek funding to develop and implement programs and policies that reduce energy demand, increase energy efficiency, advance the use of clean, efficient and renewable resources, and help create climate resilient communities; and

**WHEREAS**, the U.S. Environmental Protection Agency has established a Climate Pollution Reduction Grant (CPRG) program that provides one million dollars in a climate action planning grant to each eligible Metropolitan Statistical Area; and

**WHEREAS**, the Bay Area Air Quality Management District (Air District) is the lead agency for the five-county Metropolitan Statistical Area that includes Alameda, Contra Costa, Marin, San Francisco, and San Mateo Counties for the purposes of the CPRG planning grant; and

**WHEREAS**, the Air District has established an Advisory Workgroup to guide this effort that includes a representative from each of the five counties, three cities, and regional agencies including the Association of Bay Area Governments (ABAG); and

**WHEREAS**, the Air District has requested ABAG to support the CPRG planning process with a scope of work with a budget of \$240,000; and

**WHEREAS**, the Energy Council partnered with the ABAG and eight other county representatives to implement the Bay Area Regional Energy Network (BayREN); and

**WHEREAS**, with ongoing input from the Energy Council Technical Advisory Group (TAG), the Energy Council represents Alameda County jurisdictions within BayREN; and

**WHEREAS**, ABAG has requested the Energy Council to represent BayREN within the CPRG process and undertake the scope of work related with associated budget; and

**WHEREAS**, ABAG intends to issue a contract to Energy Council for the budget and scope of work as described in Attachment A;

**NOW THEREFORE, BE IT RESOLVED**, that the Energy Council hereby authorizes the Executive Director to:

1. Enter into all necessary contracts and agreements with ABAG and make any necessary changes to the FY 24 budget and create a new project to house these contracts.

2. Approve any required time extensions, modifications, or amendments thereto.
3. Allocate the necessary resources to implement and carry out the scope of work.

**BE IT FURTHER RESOLVED**, that the Executive Director as the Board President's designee, is hereby authorized to execute on behalf of the Energy Council all contract-related documents, including, but not limited to, applications, payment requests, agreements (including the hiring of temporary staff), and amendments necessary to secure contract funds and to implement the approved contract projects;

**ADOPTED this 26th day of July 2023, by the following votes:**

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAINED:**

I certify that under the penalty of perjury that the foregoing is a full, true and correct copy of Resolution #EC 2023 – 05

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ARLISS DUNN  
Clerk of the Board



## Attachment A

### Summary of Energy Council Scope of Work

#### Climate Pollution Reduction Grant (CPRG) Planning Process Engagement and Technical Services

##### **Bay Area Air Quality Management District (Air District) Advisory Workgroup Participation**

Energy Council staff will participate in the CPRG Advisory Workgroup (AWG), which will meet regularly to discuss and make decisions on key aspects of the project including coordination and engagement with other agencies and stakeholders, measure selection, and development of deliverables, as well as providing information and data and advising on technical analyses. Air District (AD) staff will work with Energy Council staff and other AWG members, with support of a contractor/consultant, to collect the necessary information for the GHG emissions reduction quantification estimation of the selected measures for the Priority Climate Action Plan (PCAP) and Comprehensive Climate Action Plan (CCAP). This task includes passing through funding to other Advisory Workgroup participants as needed.

##### **Support Stakeholder Engagement during development of the Priority Climate Action Plan**

The Air District will lead public and stakeholder engagement for the PCAP, working closely with the Advisory Workgroup and other partners with the support of an engagement consultant. Energy Council staff will support the process through the following tasks:

- Lead a review of existing local government climate action plans and other relevant plans
- Partner with Air District staff to review local government suggestions for PCAP measures and conduct follow up interviews/focus groups to develop written recommendations to AWG of program focus areas for the PCAP
- Partner with Air District staff to co-develop and host local government workshops for up to four sets of program design
- **Support Stakeholder Engagement during development of the Comprehensive Climate Action Plan**

Energy Council staff will continue to support the Air District after the completion of the PCAP with advising on engagement efforts and design of the Comprehensive Climate Action Plan (CCAP). Engagement on the CCAP will begin during the PCAP development phase and build upon the PCAP engagement. Whereas the PCAP is limited in scope to immediate action for implementation, the CCAP process may include a visioning process for the region for 2030 and 2045, a broader assessment of opportunities and assets, as well as barriers, to achieve the vision, and engagement on the GHG target selection, and identification of performance indicators.

#### **Budget**

Task		Labor	Expenses	Total NTE Budget
1	Advisory Workgroup Participation & Technical Support	\$25,000	\$120,000 (stipends)	\$145,000
2	PCAP Stakeholder Engagement Support	\$55,000	-	\$55,000
3	CCAP Stakeholder Engagement Support	\$15,000	\$25,000	\$40,000
Total		\$95,000	\$145,000	\$240,000

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**August 2023**  
**Meetings Schedule**

**Alameda County Waste Management Authority, the Energy Council, Source Reduction &  
Recycling Board, and Programs and Administration Committee**  
(Hybrid meetings are held at StopWaste Offices unless otherwise noted)

SUN	MON	TUES	WED	THURS	FRI	SAT
		1	2	3	4	5
6	7	8	9	10  <b>SUMMER RECESS</b> <b>Programs &amp; Administration Committee</b>  <hr/> <b>4:00 P.M.</b> <b>Planning Committee &amp; Recycling Board</b> <b>Key Items:</b> 1. Grants update 2. ColWMP 5-year update 3. Jess Ranch ColWMP Amendment	11	12
13	14	15	16	17	18	19
20	21	22	23  <b>SUMMER RECESS</b> <b>Waste Management Authority, &amp; Energy Council</b>	24	25	26
27	28	29	30	31		

**September 2023**  
**Meetings Schedule**

**Alameda County Waste Management Authority, the Energy Council, Source Reduction & Recycling Board, and Programs and Administration Committee**  
(Hybrid meetings are held at StopWaste Offices unless otherwise noted)

SUN	MON	TUES	WED	THURS	FRI	SAT
					1	2
3	4 AGENCY HOLIDAY	5	6	7	8	9
10	11	12	13	14  9:00 A.M. Programs & Administration Committee Key Items: 1. Revenue analysis 2. Schools project update 3. Muni panel – TAC/TAG  <hr/> 6:00 P.M. Planning Committee & Recycling Board Key Items: 1. Revenue analysis 2. Schools project update 3. Muni panel – TAC/TAG	15	16
17	18	19	20	21	22	23
24	25	26	27  3:00 P.M. Waste Management Authority, & Energy Council Key Items: 1. Food recovery network 2. Pacific Coast Food Waste Collaborative	28	29	30