

MEMORANDUM

TO: Sam May; Jamie Cole
FROM: Mike Ryan
DATE: May 28, 2026
RE Upcoming Agenda June 15 :Agenda Item Motion to Reconsider Before EC and GB

To achieve the maximum economies of scale, encourage adequate and sustained investment by industry, ensure price stability and reduced price volatility across the waste commodity streams, and achieve the paramount goals of diversion and beneficial reuse, we must be able to secure from SWA members a long-term commitment of sufficient tonnage through flow control.

In fact, as we learned in the early RFP effort, industry made clear that without long-term commitment and sufficient participation of those in the SWA as evidenced through the dedication of their respective tonnage of waste streams to the contractual term, the SWA will not achieve the best pricing and that which eliminates or mitigates the price volatility and uncertainty we face today.

While the ILA and the Master Plan formation has always rightly focused on a long-term vision that spans the next 40 years, it is apparent that there is some reticence surrounding a commitment of 40 years without an opt-out after 20 years. This issue continues to present despite the fact that the ILA and Facilities Amendment, through practicality and terms, provides unprecedented transparency for and participation of every single municipal SWA members in the deliberations and vote on all major matters.

At the May 18, 2026, Executive Committee and Governing Board meeting, there was a discussion of establishing opt-out opportunities through a Second Amendment to the ILA. There were essentially 5 options presented for consideration:

1. An opt-out after the RFP process was concluded for any reason on or before December 31, 2027.
2. An opt-out in August 2048 (which was calculated as essentially providing sufficient length of time for 20-year contracts with industry).
3. A conditional opt-out after the RFP process was concluded such that if the Governing Board awards contracts which exceed the maximum projected market prices set forth in the ILA on or before November 15, 2027, members would be permitted to opt-out thereafter by December 31, 2027.
4. Two opt-out opportunities: An opt-out after the RFP process was concluded for any reason on or before December 31, 2027, AND an opt-out in August 2048 (which was calculated as essentially providing sufficient length of time for 20-year contracts with industry).
5. Two opt-out opportunities: A conditional opt-out after the RFP process was concluded such that if the Governing Board awards contracts which exceed the maximum projected market prices set forth in the ILA on or before November 15, 2027, members would be permitted to opt-out thereafter by December 31, 2027 AND an opt-out in 2048 (which was calculated as essentially providing sufficient length of time for 20 year contracts with industry).

After significant discussion, the Executive Committee recommended to the Governing Board the adoption of Option #3. The Governing Board, also after significant discussion, adopted Option #3

However, the issue of an opt-out prior to the 40-year mark continues to be a significant discussion point for some current SWA members.

After my own deliberation, discussions with municipal elected officials who are not members of the Executive Committee or Governing Board, industry representatives, and our consultants, I will be putting on the Agenda a Motion to Reconsider the May 18, 2026, vote of the Executive Committee and the Governing Board related to the opt-out provisions.

I will be seeking Executive Committee recommendation that the Governing Board adopt Option 5 and also seeking to have the Governing Board adopt Option 5 as the Second Amendment provision.

This will provide (1) the conditional opt-out if the Governing Board awards a contract exceeding the commitment we made in the Master Plan; AND (2) an opt-out in August 2048, which should provide sufficient guarantees of tonnage and term to achieve long-term contracts with industry.