

John Smith Road Landfill: Financial Considerations from the County's Perspective



**Presentation to the Board of Supervisors
September 27, 2022**



Presentation Overview

Presenters

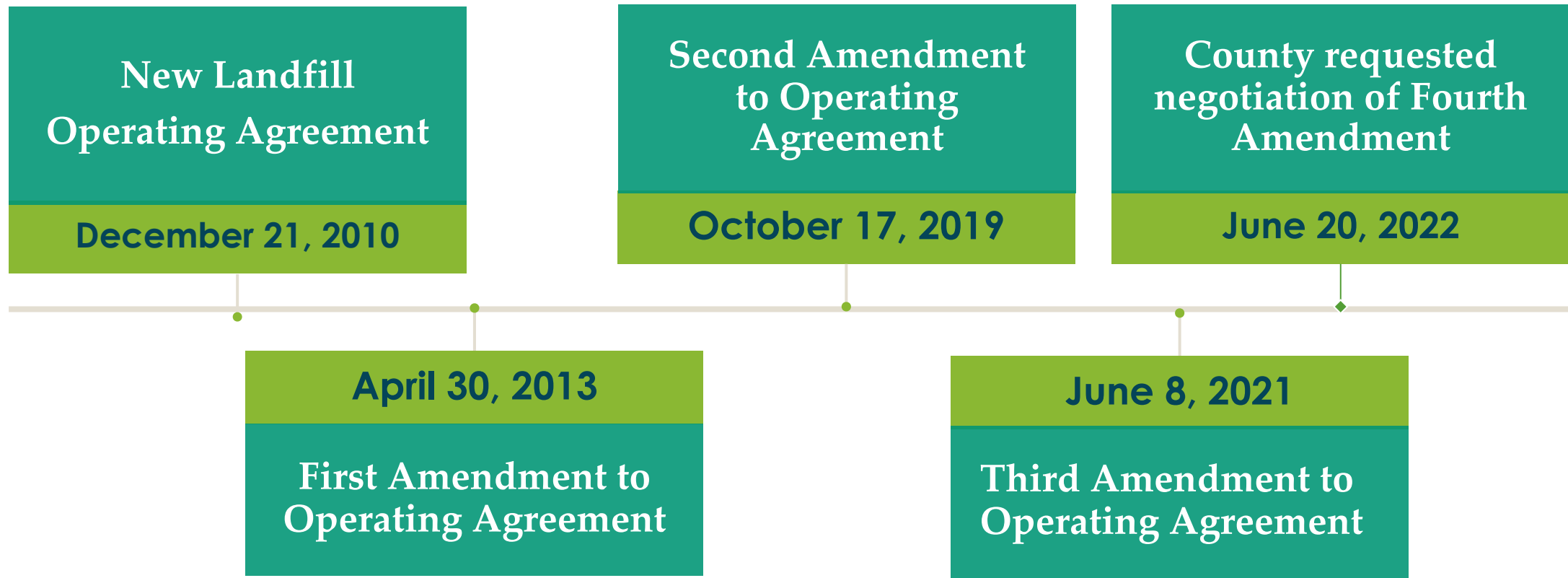
- **Celina Stotler**, County Integrated Waste Management, Manager
- **Sangeeta Lewis**, Lewis Engineering, Consultant for County
- **Bre Moebius**, Hefner, Stark & Marois, LLP, Outside Counsel for County

Topics

- Terms of the Landfill Operating Agreement
- Estimated County Revenue and Costs with and without expansion
- Status of County's request to negotiate amendments to the Operating Agreement



New Operating Agreement History



Agreements are available online at: www.cosb.us/JSRL

Context of Economic Analysis for Proposed Expansion Project

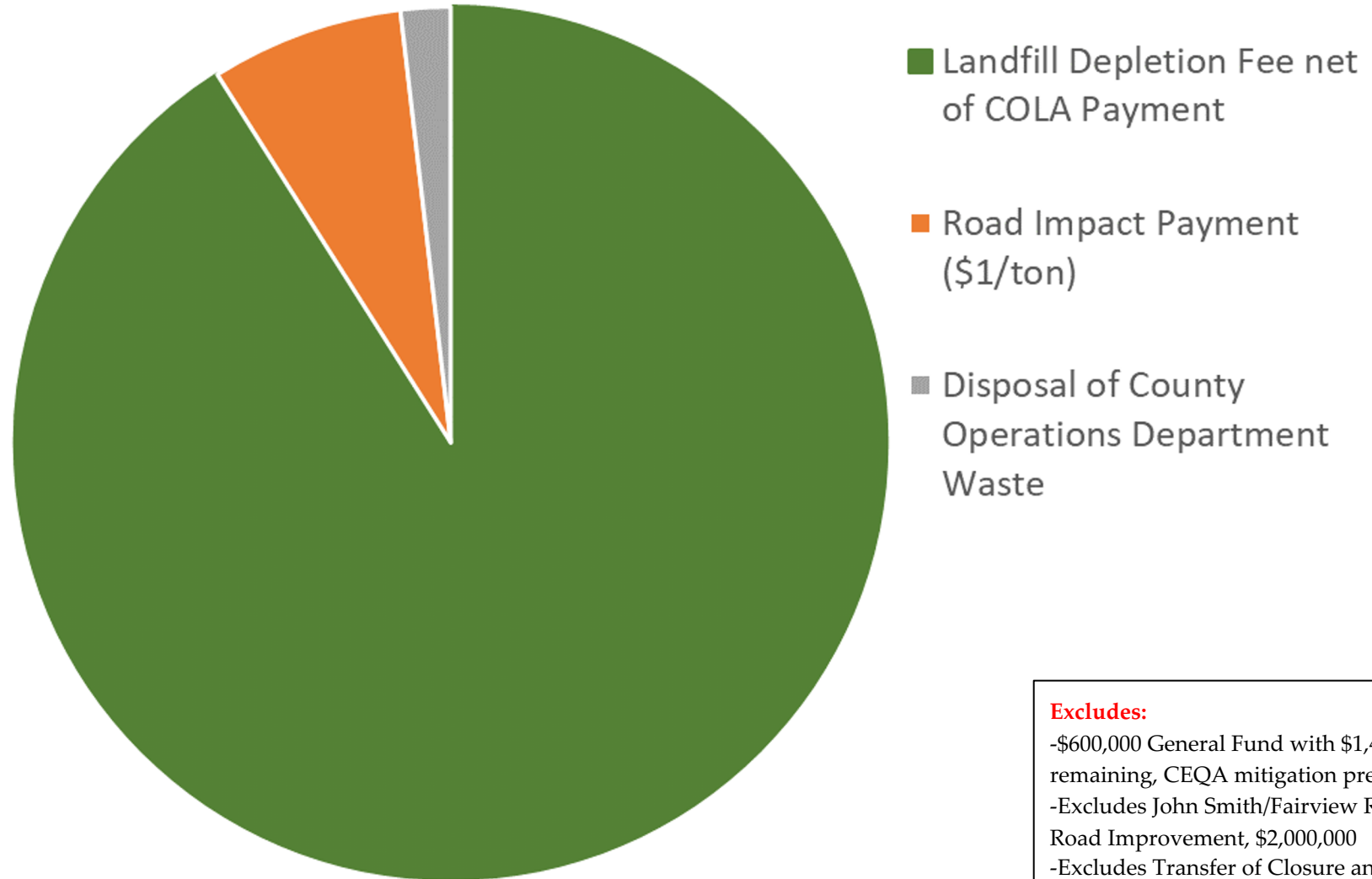


- Pending application for an expansion project is **not** before the Board today.
- Draft Environmental Impact Report (“EIR”) was circulated for public review and found significant and unavoidable impacts from an expansion project.
- When Board considers EIR in the future, will be required to make a “statement of overriding considerations” to certify the EIR, which requires the Board to:
 - Balance the unavoidable environmental risks of a project against the economic, legal, social, technological, or other benefits of the project; and
 - Determine whether the benefits outweigh the environmental impacts so that the environmental impacts are “acceptable.”
- Board is **not** engaging in this balancing today.
- Some economic aspects of EIR mitigation are not yet resolved, but will be before Board considers whether it can make a statement of overriding considerations.



Economic Analysis of Existing Operations 2010 to 2022

County Revenue Sources



Excludes:

- \$600,000 General Fund with \$1,400,000 remaining, CEQA mitigation pre-payment
- Excludes John Smith/Fairview Realignment or Road Improvement, \$2,000,000
- Excludes Transfer of Closure and Post-Closure Liability (\$13,800,000). Released County's closure fund of \$4,000,000 in 2014

Existing Landfill Depletion Fee



- Since 2010, Waste Solutions has paid a Landfill Depletion Fee per ton that has increased from \$2.81 (2010) to current \$4.18 (2022).
- Fee will increase over next year and then decrease by \$0.90 in December 2023 (assuming no approval, withdrawal, or denial of expansion).



Additional Existing County Benefits in Operating Agreement

- 15 years of capacity reserved for in-County waste.
- Free disposal of waste from County operations.
- Waste Solutions is responsible for closure and post-closure obligations, including environmental monitoring and liability.
- \$200,000 annual General Fund payments, totaling \$600,000 to date.
 - But, Waste Solutions will likely seek a credit for this amount against future payments to mitigate impacts to roads from an expansion.



Existing County Costs for JSRL

- \$40,000 annual cost for litter removal.
- Integrated Waste Management staff time.
- Compensation to Waste Solutions for Cost-of-Living Adjustments (“COLA”), which ranges from 2% to 6% each year.
 - County can pay COLA to Waste Solutions or pass cost to ratepayers.
 - COLA suspended from July 1, 2019 to July 1, 2023 or withdrawal of expansion project.
 - Waste Solutions is considering requesting retroactive reimbursement for suspended COLAs, which is inconsistent with the term in the Operating Agreement

Existing Impacts to County Roads



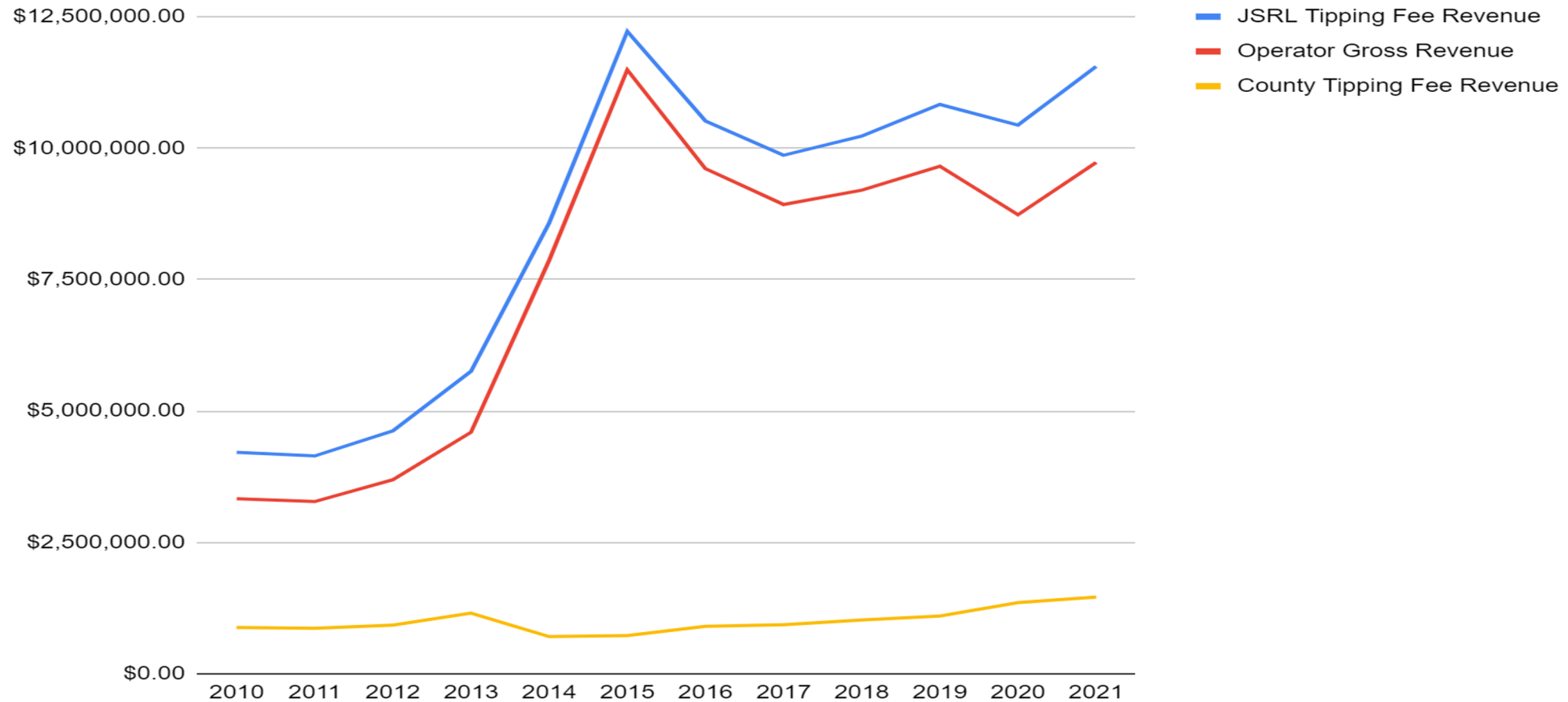
- County spent approximately \$3.1 million between 2019 to 2022 to repair and maintain roads along the haul route.
- County costs to reconstruct a road along the haul route is approximately \$1 million per mile.

Past Contributions to County Roads



- County may use landfill revenue to repair roads along the haul route.
- Between October 2019 and April 2022, Waste Solutions paid \$1.00 per ton as an additional road impact payment, totaling \$845,509.
 - \$1/ton payment ceased when out-of-County waste ended in April 2022.
 - Payment will not resume if expansion project is approved.
- Based on language in the Operating Agreement, Waste Solutions will likely seek a credit for this amount against future payments to mitigate impacts to roads from the expansion project.

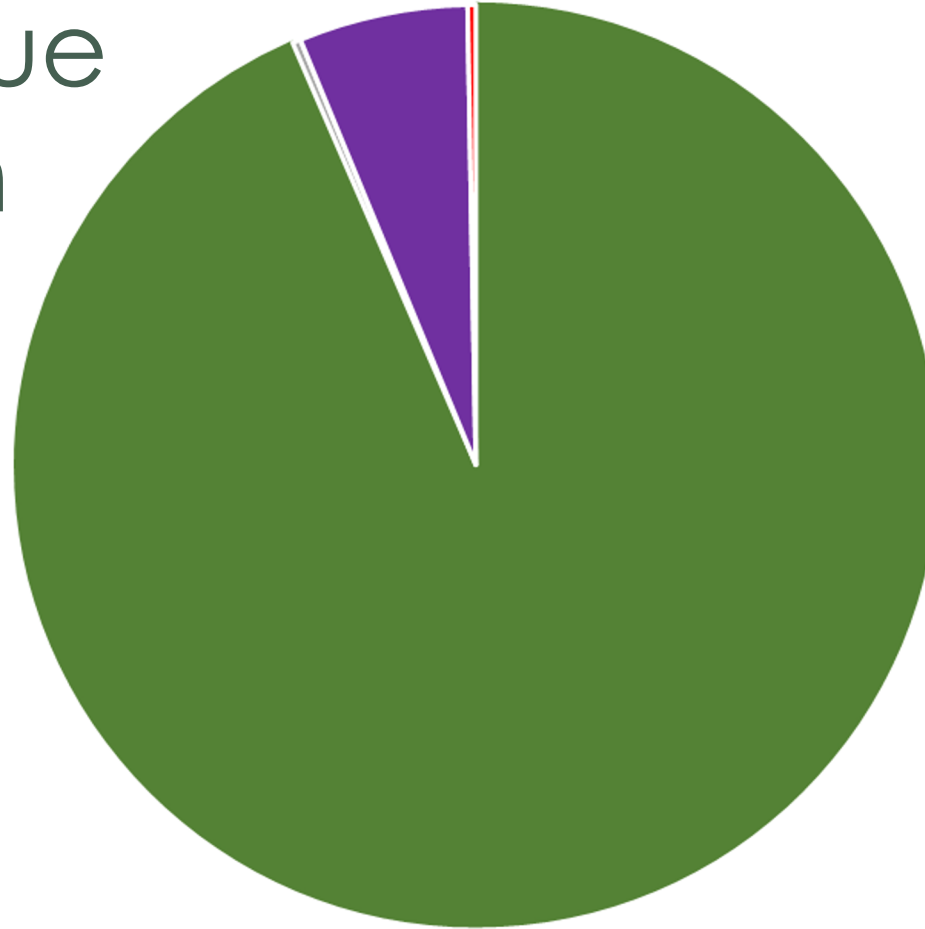
Landfill Gross Revenues





Economic Analysis and Estimates If the Expansion Project Is Approved or Denied

Estimated Sources of County Revenue With Expansion Project



Sources of County Revenue 2,300tpd scenario in 2037

- Landfill Depletion Fee net of COLA Payment
- Disposal of County Operations Department Waste
- Landfill Gas Royalty
- Community Involvement (Indirect Revenue)

Excludes:

- \$600,000 General Fund with \$1,400,000 remaining, CEQA mitigation pre-payment
- Excludes John Smith/Fairview Realignment or Road Improvement, \$2,000,000
- Excludes Transfer of Closure and Post-Closure Liability (\$12,000,000). Released County's closure fund of \$4,000,000 in 2014

Landfill Depletion Fee With Expansion Project



- If expansion project is approved, Landfill Depletion Fee will change from a per ton to a percentage of gross revenue at:
 - 16% of Gross Revenue if daily tonnage is 1,000 tons or less
 - 18% of Gross Revenue if daily tonnage is between 1,001 to 1,250 tons
 - 22% of Gross Revenue if daily tonnage is between 1,251 to 1,500 tons
 - 27% of Gross Revenue if daily tonnage is greater than 1,500 tons

Additional County Benefits With Expansion Project



- 15 years of capacity reserved for in-County waste.
- Free disposal of waste from County operations.
- \$25,000 annually for community activities and functions.
- 12% royalty for the Renewable Natural Gas facility, once constructed.

Impacts to County Roads with Expansion Project



- Draft EIR concludes that “longevity of roadway surfaces is primarily affected by the level of heavy truck traffic using the roadway” and an “increase in heavy truck trips is expected to increase local roadway maintenance requirements.” (Draft EIR at p. 4.2-12.)
- EIR Mitigation Measure 4.2-4 requires applicant to pay “fair share fee toward roadway maintenance and rehabilitation along the haul route for the life of the expansion project.”

Determination of Fair Share Road Impact Fee



- Pavement Engineering, Inc. is analyzing pavement along proposed and alternative haul routes to determine fair share repair and maintenance fee to account for the damage to County roads from haul trucks.
 - But, Waste Solutions will likely seek approximately \$1.45 million credit against the fair share fee based on amounts previously paid to County under Operating Agreement.

Responsibility for Costs of Expansion Project and EIR



- Waste Solutions purchased land for expansion project (\$7 million).
- Waste Solutions is responsible for closure and post-closure obligations, including environmental monitoring and liability.
- Waste Solutions is responsible for all costs of environmental review and preparation of the EIR, including reimbursement for County staff time and all County consultants and outside counsel costs.

County Costs for JSRL with Expansion



- Contribution of up to 70 acres of County-owned land for wildlife mitigation.
- \$40,000 annual contribution for litter removal.
- Integrated Waste Management staff time (related to landfill).
- Compensation to Waste Solutions COLA (ranges from 2% to 6% each year).



CEQA Mitigation Addressed in the Operating Agreement

Operating Agreement requires payments to County if the expansion is approved that will be credited toward Waste Solutions' costs for CEQA mitigation:

- General Fund payment of approximately \$1,200,000 for haul route.
- \$2,000,000 payment for realignment of John Smith Road and Fairview Road intersection or other improvements along the landfill haul route.

Landfill Cash Flow Model

In County Tipping Fees

Self-Haul
Refuse @
\$58.67/ton
In County
Packer @
\$44.75/ton

Out of County
Tipping Fees
Average Rate @
\$26.51/ton

Direct Cost to County

- Litter Removal - \$40,000
- Cost of Living Adjustment (COLA)
- 70 acres Wildlife Mitigation Land (CEQA)
- Staff Time
- Groundwater Extraction System Monitoring and Maintenance - \$30,000

Direct Revenue to County

- Landfill Depletion Fee (16-27% of gross revenue)
- Landfill Gas Royalty (12% of LFG revenue)
- Free Disposal of County Operations Waste

CEQA Adjustment

- Additional Road Impacts Payments* (\$1/ton)
- General Fund Payments – Haul Road Improvements (\$600k*/\$1.4M balance)
- John Smith/Fairview Realignment or Road Improvement (\$2M)

Indirect Benefit to County

- Community Involvement - \$25,000
- Transfer of Closure and Post-Closure Liability (Existing Landfill-\$4,000,000 in 2014)

Net County
Revenue

2037 Snapshot – 2,300 tpd Scenario

Total Revenue

\$30,610,000
(\$39.94/ton)

Assumed In
County
Average
Tipping Fees
(\$64.02/ton)

Assumed
Average
Out of County
Tipping Fees
(\$37.22/ton)

Direct Cost to County

- Litter Removal - \$62,000
- Cost of Living Adjustment (COLA) - \$145,500
- Staff Time - \$213,300
- Groundwater Extraction System Monitoring and Maintenance - \$44,089

Direct Revenue to County

- Landfill Depletion Fee - \$8,264,710
- Landfill Gas Royalty (12% of LFG revenue) - \$517,000
- Free Disposal of County Operations Waste - \$25,000

Net County Revenue

\$8,342,129
(\$10.89/ton)

2037 Snapshot – 1,700 tpd Scenario

Total Revenue

\$23,170,000
(\$40.90/ton)

Assumed In
County
Average
Tipping Fees
(\$64.02/ton)

Assumed
Average
Out of County
Tipping Fees
(\$37.22/ton)

Direct Cost to County

- Litter Removal - \$62,000
- Cost of Living Adjustment (COLA) - \$145,500
- Staff Time - \$213,300
- Groundwater Extraction System Monitoring and Maintenance - \$44,089

Direct Revenue to County

- Landfill Depletion Fee - \$6,255,787
- Landfill Gas Royalty (12% of LFG revenue) - \$382,000
- Free Disposal of County Operations Waste - \$25,000

Net County Revenue

\$6,198,372
(\$10.94/ton)

2037 Snapshot – 1,000 tpd Scenario

Total Revenue

\$14,489,000
(\$43.48/ton)

Assumed In
County
Average
Tipping Fees
(\$64.02/ton)

Assumed
Average
Out of County
Tipping Fees
(\$37.22/ton)

Direct Cost to County

- Litter Removal - \$62,000
- Cost of Living Adjustment (COLA) - \$145,500
- Staff Time - \$213,300
- Groundwater Extraction System Monitoring and Maintenance - \$44,089

Direct Revenue to County

- Landfill Depletion Fee - \$2,318,247
- Landfill Gas Royalty (12% of LFG revenue) - \$342,000
- Free Disposal of County Operations Waste - \$25,000

Net County Revenue

\$2,220,382
(\$6.66/ton)

2037 Snapshot – 300 tpd Scenario

Total Revenue

\$4,988,000
(\$64.02/ton)

Assumed In
County
Average
Tipping Fees
(\$64.02/ton)

Assumed
Average
Out of County
Tipping Fees
(N/A)

Direct Cost to County

- Litter Removal - \$62,000
- Cost of Living Adjustment (COLA) - \$145,500
- Staff Time - \$213,300
- Groundwater Extraction System Monitoring and Maintenance - \$44,089

Direct Revenue to County

- Landfill Depletion Fee - \$798,133
- Landfill Gas Royalty (12% of LFG revenue) – N/A
- Free Disposal of County Operations Waste - \$25,000

Net County Revenue

\$358,689
(\$4.60/ton)

2036 Snapshot – No Expansion

Total Revenue

\$4,834,000
(\$63.39/ton)

Assumed In
County
Average
Tipping Fees
(\$62.39/ton)

Assumed
Average
Out of County
Tipping Fees
(N/A)

Direct Cost to County

- Litter Removal - \$59,823
- Cost of Living Adjustment (COLA) - \$141,000
- Staff Time - \$208,000

Groundwater Extraction System Monitoring and
Maintenance - \$42,972

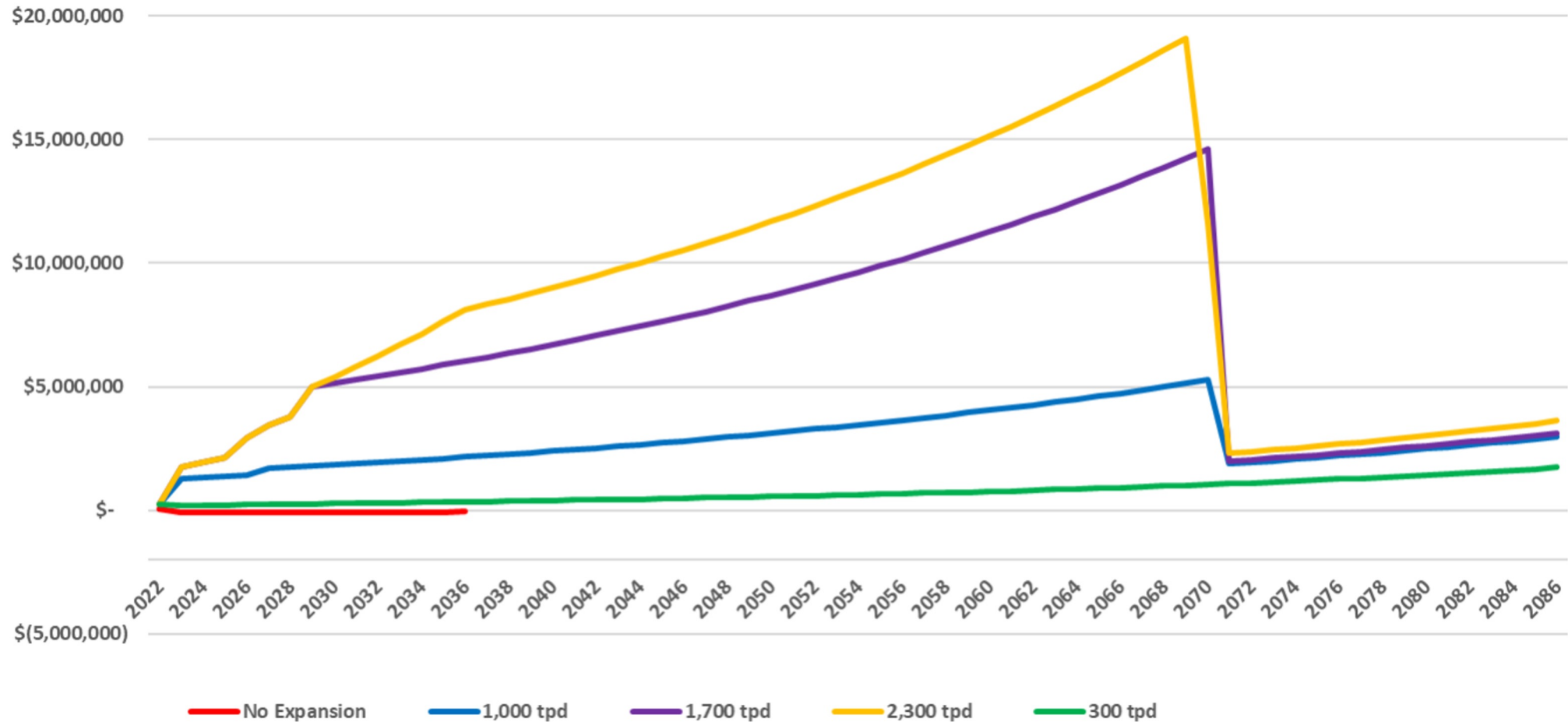
Direct Revenue to County

- Landfill Depletion Fee - \$369,317
- Landfill Gas Royalty (12% of LFG revenue) – N/A
- Free Disposal of County Operations Waste - \$24,000

Net County Revenue

\$(58,479)
((\$0.75)/ton)

Landfill Depletion Fee Annual Estimates with & without Expansion





Setting In-County Tipping Fees

In-County Tipping Fees 2010 to October 2019



- County set the In-County Tipping Fees before October 2019.
- County was required to adjust the fees or make payments to Waste Solutions to account for:
 - COLA
 - Changes in Law
 - Prevailing Wages
 - Uncontrollable Circumstances

In-County Tipping Fees November 2019 and Beyond



- Waste Solutions sets In-County Tipping Fees.
 - Rates must remain at or below 100% of average Tipping Fees at:
 - Marina Landfill (current gate rate \$70.00/ton); and
 - Salinas Valley Landfill (current gate rate \$64.75/ton)
- Current JSRL In-County refuse gate rate is \$58.67/ton.
- County may set lower rates for In-County packer (Recology) curbside collection, but County must pay the difference to Waste Solutions (\$44.75/ton).



Operating Agreement Negotiations Update



Negotiation of Amendments

- Board formed ad hoc committee on February 8, 2022 to review the Operating Agreement and potentially engage in negotiations.
 - Ad hoc committee requested that staff initiate and engage in negotiations.
- County requested amendments now that the scope of the proposed expansion project is known and impacts from the expansion project have been analyzed in the Draft EIR.
- Discussions are ongoing, but Waste Solutions has indicated it will not agree to amendments that would significantly alter the financial dynamics of the Operating Agreement negotiated in 2019 before the Draft EIR.



Questions