

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS )  
 by LISA MADIGAN, Attorney General )  
 of the State of Illinois, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 RELIABLE MATERIALS LYONS, LLC, an )  
 Illinois limited liability company, GSG )  
 CONSULTANTS, INC., an Illinois corporation, )  
 O.C.A. CONSTRUCTION, INC., an Illinois )  
 corporation, SPEEDY GONZALEZ )  
 LANDSCAPING, INC., an Illinois corporation, )  
 PUBLIC BUILDING COMMISSION OF )  
 CHICAGO, an Illinois municipal corporation, )  
 BOARD OF EDUCATION OF THE CITY OF )  
 CHICAGO, a body politic and corporate, )  
 )  
 Respondents. )

PCB No. 12-52  
 (Enforcement - Land)

**NOTICE OF FILING**

TO: See Attached Service List

PLEASE TAKE NOTICE that on the 26th day of September, 2011 I filed with the Clerk of the Illinois Pollution Control Board two Stipulations and Proposals for Settlement in this matter: 1) the Public Building Commission of Chicago and the Board Of Education of The City of Chicago Only; and 2) Speedy Gonzalez Landscaping, Inc. Only, and a Motion to Request Relief from Hearing Requirement, copies of which are attached hereto and are hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS  
 by LISA MADIGAN  
 Attorney General of the State of Illinois

BY:   
 STEPHEN J. SYLVESTER  
 Assistant Attorney General  
 Environmental Bureau North  
 69 W. Washington St., Suite 1800  
 Chicago, Illinois 60602  
 (312) 814-2087  
[ssylvester@atg.state.il.us](mailto:ssylvester@atg.state.il.us)

DATE: September 26, 2011

**SERVICE LIST**

Mr. Bradley P. Halloran, Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center, Suite 11-500  
Chicago, Illinois 60601

**Reliable Materials Lyons, LLC**

Brian Lansu, Registered Agent  
Reliable Materials Lyons, LLC  
2250 Southwind Blvd.  
Bartlett, IL 60103-1304

**GSG Consultants, Inc.**

Arturo Saenz, Registered Agent  
GSG Consultants, Inc.  
855 W. Adams St., Suite 200  
Chicago, IL 60607

**O.C.A. Construction, Inc.**

David T. Cohen, Registered Agent  
O.C.A. Construction, Inc.  
10729 W. 159th St.  
Orland Park, IL 60467

**Board of Education of the City of Chicago**

James A. Vega  
Board of Education of the City of Chicago  
Law Department  
125 S. Clark Street, Suite 700  
Chicago, IL 60603-5200  
[jvega@cps.k12.il.us](mailto:jvega@cps.k12.il.us)

**Public Building Commission of Chicago**

Claire A. Manning  
Brown, Hay & Stephens, LLP  
205 S. Fifth Street, Suite 700  
P.O. Box 2459  
Springfield, IL 62705  
[cmanning@bhslaw.com](mailto:cmanning@bhslaw.com)

**Speedy Gonzalez Landscaping, Inc.**

Kevin B. Hynes  
O'Keefe, Lyons & Hynes, LLC  
30 N. LaSalle Street, Suite 4100  
Chicago, IL 60602  
[kevinhynes@okeefe-law.com](mailto:kevinhynes@okeefe-law.com)

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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 Respondents. )

PCB No. 12-52  
 (Enforcement - Land)

**MOTION TO REQUEST RELIEF FROM HEARING REQUIREMENT  
 AS TO RESPONDENTS SPEEDY GONZALEZ LANDSCAPING, INC.,  
 PUBLIC BUILDING COMMISSION OF CHICAGO, AND  
BOARD OF EDUCATION OF THE CITY OF CHICAGO ONLY**

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and requests relief from the hearing requirement in the above-captioned matter as to the following Respondents only, SPEEDY GONZALEZ LANDSCAPING, INC., an Illinois corporation, PUBLIC BUILDING COMMISSION OF CHICAGO, an Illinois municipal corporation, BOARD OF EDUCATION OF THE CITY OF CHICAGO, a body politic and corporate. In support thereof, the Complainant states as follows:

1. On September 26, 2011, a Complaint was filed with the Illinois Pollution Control Board ("Board") in this matter. On September 26, 2011, two Stipulations and Proposals for

Settlement were filed with the Board in this matter: 1) the Public Building Commission of Chicago and the Board Of Education of The City of Chicago Only; and 2) Speedy Gonzalez Landscaping, Inc. Only.

2. Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2010), effective August 1, 1996, allows the parties in certain enforcement cases to request relief from the mandatory hearing requirement where the parties have submitted to the Board a stipulation and proposal for settlement.

3. Section 31(c)(2) of the Act, 415 5/31(c)(2) (2010), provides as follows:

Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

4. No hearing is currently scheduled in the instant case.

5. The Complainant requests the relief conferred by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2010).

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, requests relief from the requirement of a hearing pursuant to 415 ILCS 5/31(c)(2) (2010).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

by LISA MADIGAN

Attorney General of the State of Illinois

BY:



STEPHEN J. SYLVESTER

Assistant Attorney General

Environmental Bureau North

69 W. Washington St., Suite 1800

Chicago, Illinois 60602

(312) 814-2087

[ssylvester@atg.state.il.us](mailto:ssylvester@atg.state.il.us)

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS )  
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 BOARD OF EDUCATION OF THE CITY OF )  
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 Respondents. )

PCB No. 12-52  
 (Enforcement - Land)

**STIPULATION AND PROPOSAL FOR SETTLEMENT  
 WITH RESPONDENT SPEEDY GONZALEZ LANDSCAPING, INC. ONLY**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency ("Illinois EPA"), and SPEEDY GONZALEZ LANDSCAPING, INC., only ("Parties to the Stipulation"), have agreed to the making of this Stipulation and Proposal for Settlement ("Stipulation") and submit it to the Illinois Pollution Control Board ("Board") for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board's approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 *et seq.* (2010), and the Board's Waste Disposal Regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the

Stipulation that it be a final adjudication of this matter.

## **I. STATEMENT OF FACTS**

### **A. Parties**

1. On June \_\_\_, 2011, a Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2010), against Respondents, Reliable Materials Lyons, LLC ("Reliable"), GSG Consultants, Inc., O.C.A. Construction, Inc., Speedy Gonzalez Landscaping, Inc. ("SGL"), Public Building Commission Of Chicago ("PBC"), and Board Of Education Of The City Of Chicago ("CPS").

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2010).

3. At all times relevant to the Complaint, SGL is an Illinois corporation in good standing.

4. At all times relevant to the Complaint, CPS owned a 7.5 acre parcel of land located at 401 North Sawyer Avenue, Chicago, Cook County, Illinois ("Site"), where the Westinghouse Vocational High School was being constructed.

5. At all times relevant to the Complaint, OCA was the general contractor of the project at the Site.

6. At all times relevant to the Complaint, SGL was a subcontractor to OCA. SGL's duties at the Site included excavating soil and arranging for the transportation and disposal of soils off-site.

7. At all times relevant to the Complaint, Reliable owned and operated a clean construction or demolition debris ("CCDD") fill operation located at 4401 First Avenue, Lyons,

Cook County, Illinois ("CCDD Facility").

8. On or about March 10, 2006, Reliable entered into a contract with SGL for the disposal of soils, which were excavated from the Site, at Reliable's CCDD Facility.

**B. Allegations of Non-Compliance**

Complainant contends that SGL has violated the following provision of the Act and Board Waste Disposal Regulations:

Count I: OPEN DUMPING: Violation of Section 21(a) of the Act, 415 ILCS 5/21(a);

Count II: VIOLATION OF THE SPECIAL WASTE REGULATIONS: Violation of Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010), and Sections 808.121(a)(b) and (c), 808.122, and 809.301 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a)(b) and (c), 808.122, and 809.301.

**C. Non-Admission of Violations**

SGL represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, SGL does not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

**II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. SGL shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against SGL in any subsequent enforcement action or permit proceeding as proof of



a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2010).

### **III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE**

Section 33(c) of the Act, 415 ILCS 5/33(c) (2010), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Complainant alleges the following:

1. The environment was threatened by SGL allowing waste, in the form of contaminated soils, to be deposited at the CCDD Facility.
2. There is social and economic benefit to the Site and the CCDD Facility.
3. Operations at the Site and the CCDD Facility were suitable for the areas in which they occurred.
4. Disposing of waste, in the form of contaminated soils, at a waste disposal facility permitted to accept such waste was both technically practicable and economically reasonable.

5. SGL has subsequently complied with the Act and the Board Regulations.

#### **IV. CONSIDERATION OF SECTION 42(h) FACTORS**

Section 42(h) of the Act, 415 ILCS 5/42(h) (2010), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency; and
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform.

In response to these factors, the Complainant alleges as follows:

1. From at least April 4, 2006 to at least July 19, 2006, SGL allowed waste, in the form of contaminated soils, to be deposited at the CCDD Facility. The potential for the contaminants in the soil to impact the groundwater at and around the CCDD Facility poses a risk

to the environment.

2. Once the Illinois EPA notified the Respondents, including SGL, of their noncompliance, the disposal of waste, in the form of contaminated soils, from the Site to the CCDD Facility ceased.

3. The civil penalty obtained includes any economic benefit that SGL may have accrued as a result of the disposal of waste, in the form of contaminated soils, at the CCDD Facility, which was not permitted to accept such wastes.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Ten Thousand Dollars (\$10,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, SGL has no previously adjudicated solid waste violations of the Act.

6. Self-disclosure is not at issue in this matter.

7. The settlement of this matter does not include a supplemental environmental project.

## **V. TERMS OF SETTLEMENT**

### **A. Penalty Payment**

SGL shall pay a civil penalty in the sum of Ten Thousand Dollars (\$10,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

### **B. Interest and Default**

1. If SGL fails to make any payment required by this Stipulation on or before the date upon which the payment is due, SGL shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of

default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by SGL not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

**C. Payment Procedures**

All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF").

Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

The name, case number and SGL's federal tax identification number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Stephen J. Sylvester  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

**D. Future Compliance**

1. This Stipulation in no way affects the responsibilities of SGL to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board

Regulations.

2. SGL shall cease and desist from future violations of the Act and Board

Regulations that were the subject matter of the Complaint.

**E. Release from Liability**

In consideration of the SGL's payment of the \$10,000.00 penalty, its commitment to cease and desist as contained in Section V.D. above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges SGL from any further liability or penalties for the violations of the Act and Board Waste Disposal Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on June \_\_, 2011. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against SGL with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on SGL's failure to satisfy the requirements of this

Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than SGL.

**F. Enforcement of Stipulation**

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

**G Execution of Stipulation**

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

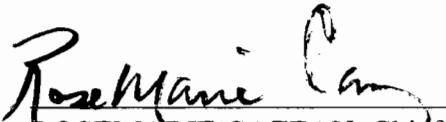
WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS, THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN  
Attorney General State of Illinois

LISA BONNETT, Interim Director  
Illinois Environmental Protection Agency

MATTHEW J. DUNN, Chief  
Environmental Enforcement/  
Asbestos Litigation Division

BY:   
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

BY:   
JOHN J. KIM  
Chief Legal Counsel

DATE: 6/16/11

DATE: 6/14/11

**SPEEDY GONZALEZ  
LANDSCAPING, INC.**

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS, THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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Attorney General State of Illinois

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BY: \_\_\_\_\_  
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

BY: \_\_\_\_\_  
JOHN J. KIM  
Chief Legal Counsel

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**SPEEDY GONZALEZ  
LANDSCAPING, INC.**

BY: \_\_\_\_\_

DATE: 8-15-11

Name: Jose R. Gonzalez

Title: Pres



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Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency ("Illinois EPA"), and PUBLIC BUILDING COMMISSION OF CHICAGO, and BOARD OF EDUCATION OF THE CITY OF CHICAGO, only ("Parties to the Stipulation"), have agreed to the making of this Stipulation and Proposal for Settlement ("Stipulation") and submit it to the Illinois Pollution Control Board ("Board") for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board's approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act ("Act"),

415 ILCS 5/1 *et seq.* (2010), and the Board's Waste Disposal Regulations, alleged in the Complaint, except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter as to PBC and CPS.

## **I. STATEMENT OF FACTS**

### **A. Parties**

1. On August \_\_\_, 2011, a Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2010), against Respondents, Reliable Materials Lyons, LLC ("Reliable"), GSG Consultants, Inc., O.C.A. Construction, Inc., Speedy Gonzalez Landscaping, Inc., Public Building Commission Of Chicago ("PBC"), and Board Of Education Of The City Of Chicago ("CPS").

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2010).

3. At all times relevant to the Complaint, PBC is an Illinois municipal corporation, created pursuant to Section 2 of the Public Building Commission Act; 50 ILCS 20/2 (2010).

4. PBC manages public construction projects, within the City of Chicago, when a unit of local government and the PBC have entered into an intergovernmental agreement for the PBC to construct a project for that unit of government.

5. At all times relevant to the Complaint, PBC managed the construction of the Westinghouse Vocational High School pursuant to the terms and conditions of an intergovernmental agreement between PBC and the CPS.

6. At all times relevant to the Complaint, GSG Consultants Inc. was an engineering and consulting company contracted by PBC to provide environmental consulting services on the

Westinghouse project, including services related to the determination of appropriate disposal of construction debris, soil, waste, etc.

7. The Board of Education of the City of Chicago is a body politic and corporate, organized and operating under Section 342 of the School Code, 105 ILCS 5/342, and is more commonly referred to as "CPS." CPS is designated School District No. 299 by the Illinois State Board of Education.

8. At all times relevant to the Complaint, CPS owned a 7.5 acre parcel of land located at 401 North Sawyer Avenue, Chicago, Cook County, Illinois ("Site"), where the Westinghouse Vocational High School was being constructed.

9. At all times relevant to the Complaint, Reliable owned and operated a permitted clean construction or demolition debris ("CCDD") fill operation located at 4401 First Avenue, Lyons, Cook County, Illinois ("CCDD Facility").

**B. Allegations of Non-Compliance**

Complainant contends that PBC and CPS have violated the following provision of the Act:

Count I: OPEN DUMPING: Violation of Section 21(a) of the Act, 415 ILCS 5/21(a).

Complainant contends that CPS has violated the following provision of the Act and Board Waste Disposal Regulations:

Count II: VIOLATION OF THE SPECIAL WASTE REGULATION: Violation of Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2010), and Sections 808.121(a)(b) and (c), 808.122, and 809.301 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 808.121(a)(b) and (c) and (c), 808.122, and 809.301.

**C. Non-Admission of Violations**

PBC and CPS represent that they have entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, PBC and CPS do not admit the allegations of violation within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including any such admission.

**II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. PBC and CPS shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of their officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation.

**III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE**

Section 33(c) of the Act, 415 ILCS 5/33(c)(2010), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. Improper disposal of contaminated soil poses a risk to the environment.

2. There is social and economic benefit to the Site and the CCDD Facility.

3. Operations at the Site and the CCDD Facility were suitable for the areas in which they occurred.

4. Disposing of waste, in the form of contaminated soils is technically practicable and can be economically reasonable.

5. PBC and CPS have subsequently complied with the Act and the Board Regulations, and have developed procedures to address characterization of (and proper transfer and disposal of) excavated soil.

#### **IV. CONSIDERATION OF SECTION 42(h) FACTORS**

Section 42(h) of the Act, 415 ILCS 5/42(h)(2010), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;

5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency; and
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform.

In response to these factors, the Parties to the Stipulation state as follows:

1. From approximately April 4, 2006 to July 19, 2006, PBC and CPS allowed certain excavated contaminated soils from the Westinghouse construction project to be deposited at the Reliable CCDD Facility. Improper disposal of contaminated soil can pose a risk to the environment.

2. PBC and CPS acted pursuant to its consultant's determination, and the CCDD facility's assertion, that the CCDD facility could properly receive the soils. Once the Illinois EPA notified the Respondents, including PBC and CPS, of the Illinois EPA's belief that the contaminated soils could not properly be disposed of in the CCDD facility, the PBC and CPS immediately ceased the transfer of contaminated Westinghouse soils to the Reliable facility. The PBC and CPS have since sought further clarification of the requirements for the proper characterization and disposal of excavated soil and have developed new procedures to be utilized by PBC contractors prior to the offsite transfer of soils.

3. PBC and CPS did not accrue any economic benefit as a result of the disposal of the contaminated Westinghouse soils in the Reliable CCDD facility, which is not permitted to accept such wastes.

4. Complainant has determined, based upon the specific facts of this matter, that a

penalty of Seventeen Thousand Five Hundred Dollars (\$17,500.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge PBC and CPS have no previously adjudicated solid waste violations of the Act.

6. Self-disclosure is not at issue in this matter.

7. The settlement of this matter does not include a supplemental environmental project.

#### **V. TERMS OF SETTLEMENT**

##### **A. Penalty Payment**

PBC and CPS shall jointly pay a civil penalty in the sum of Seventeen Thousand Five Hundred Dollars (\$17,500.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

##### **B. Interest and Default**

1. If PBC and CPS fail to make any payment required by this Stipulation on or before the date upon which the payment is due, PBC and CPS shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by PBC and CPS not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

**C. Payment Procedures**

All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF").

Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

The name, case number and PBC's and CPS's federal tax identification numbers shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Stephen J. Sylvester  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

**D. Future Compliance**

1. This Stipulation in no way affects the responsibilities of PBC and CPS to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

2. PBC and CPS shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.



**E. Release from Liability**

In consideration of the PBC's and CPS's payment of the \$17,500.00 penalty, their commitment to cease and desist as contained in Section V.D. above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges PBC and CPS from any further liability or penalties for the violations of the Act and Board Waste Disposal Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on August \_\_, 2011. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than PBC and CPS.

**F. Enforcement of Stipulation**

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

**G Execution of Stipulation**

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.


WHEREFORE, the Parties to the Stipulation\_request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

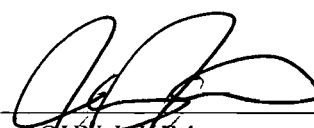
PEOPLE OF THE STATE OF ILLINOIS, THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN  
Attorney General State of Illinois

LISA BONNETT, Interim Director  
Illinois Environmental Protection Agency

MATTHEW J. DUNN, Chief  
Environmental Enforcement/  
Asbestos Litigation Division

BY:   
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

BY:   
JOHN J. KIM  
Chief Legal Counsel

DATE: 8/18/11

DATE: 8/11/11

**PUBLIC BUILDING COMMISSION OF CHICAGO**

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**BOARD OF EDUCATION OF THE CITY OF CHICAGO**

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

Name: Patrick J. Rocks

Title: General Counsel

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS, THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN  
Attorney General State of Illinois

LISA BONNETT, Interim Director  
Illinois Environmental Protection Agency

MATTHEW J. DUNN, Chief  
Environmental Enforcement/  
Asbestos Litigation Division

BY: \_\_\_\_\_  
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

BY: \_\_\_\_\_  
JOHN J. KIM  
Chief Legal Counsel

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**PUBLIC BUILDING COMMISSION  
OF CHICAGO**

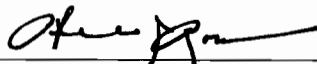
BY: \_\_\_\_\_

DATE: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**BOARD OF EDUCATION OF THE  
CITY OF CHICAGO**

BY:   
Name: Patrick J. Rocks

DATE: 8-19-2011

Title: General Counsel

WHEREFORE, the Parties to the Stipulation\_request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS, THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN  
Attorney General State of Illinois

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ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

BY: \_\_\_\_\_  
JOHN J. KIM  
Chief Legal Counsel

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

PUBLIC BUILDING COMMISSION  
OF CHICAGO

BY:  DATE: 9/16/11

Name: ERIN LAVIN CARBONARI

Title: ~~EXECUTIVE DIRECTOR~~

BOARD OF EDUCATION OF THE  
CITY OF CHICAGO

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

Name: Patrick J. Rocks

Title: General Counsel

**CERTIFICATE OF SERVICE**

I, STEPHEN J. SYLVESTER, an Assistant Attorney General in this case, do certify that I caused to be served this 26th day of September, 2011, the foregoing two Stipulations and Proposals for Settlement in this matter: 1) the Public Building Commission of Chicago and the Board Of Education of The City of Chicago Only; and 2) Speedy Gonzalez Landscaping, Inc. Only,, Motion to Request Relief from Hearing Requirement and Notice of Filing upon the persons listed on the Service List by depositing same in an envelope, first class postage prepaid, with the United States Postal Service at 100 West Randolph Street, Chicago, Illinois, at or before the hour of 5:00 p.m.

  
STEPHEN J. SYLVESTER