

**HUMBOLDT WASTE MANAGEMENT
AUTHORITY**

**AMENDED AND RESTATED
JOINT EXERCISE OF POWERS AGREEMENT**

~~(Adopted November 17, 1999,
Amended April 8, 2002
Amended July 12, 2012
Amended November 10, 2016)~~
Amended and Restated [date] 2023

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AMENDED AND RESTATED
HUMBOLDT WASTE MANAGEMENT AUTHORITY
JOINT EXERCISE OF POWERS AGREEMENT
~~(Adopted November 17, 1999~~
~~Amended April 8, 2002~~
~~Amended June 14, 2002~~
~~Amended November 10, 2016)~~

SECTION 1. DEFINITIONS

~~The terms defined in this Section that are capitalized in this AGREEMENT have the following meanings:~~

Amended and Restated [date] 2023

~~This Amended and Restated Joint Powers Agreement of the Humboldt Waste Management Authority is made and entered into pursuant to the provisions of California Government Code Section 6500 et seq., and supersedes the original Joint Powers Agreement first adopted on November 17, 1999, and amended on April 8, 2002, July 12, 2012, and November 10, 2016. This Amended and Restated Joint Powers Agreement (“Agreement”) is effective as of _____, 2023.~~

RECITALS

~~**WHEREAS**, the Cities of Arcata, Blue Lake, Eureka, Ferndale, and Rio Dell, and the County of Humboldt in 1999, entered into a Joint Powers Agreement to form the Humboldt Waste Management Authority for purposes of providing coordinated solid waste management services for the member agencies and their communities; and~~

~~**WHEREAS**, the Authority seeks to amend the Joint Powers Agreement to incorporate powers required to implement new state mandated waste diversion and material management requirements;~~

~~**WHEREAS**, the Authority believes it would be desirable and convenient to restate the Joint Powers Agreement in its entirety, including previous amendments, and amend said Joint Powers Agreement as recited herein.~~

~~**NOW, THEREFORE**, based on the mutual covenants, conditions and terms recited herein, which are made a material part of this Agreement, the undersigned public agencies, collectively referred to herein as the “Members,” enter into this Amended and Restated Joint Powers Agreement and agree as follows:~~

AGREEMENT

SECTION 1. DEFINITIONS

~~For purposes of this Agreement, the following terms have the respective definitions as set forth~~

below:

"ACT" means the California Integrated Waste Management Act of 1989 (California Public Resources Code Sections 40000 et seq.) and all regulations adopted under that legislation, as that legislation and those regulations may be amended from time to time.

"AGREEMENT" means this joint exercise of powers agreement, ~~as it may be amended~~first adopted on November 17, 1999, and amended on April 8, 2002, July 12, 2012, November 10, 2016, and on the effective date stated above, and as it may be amended in the future from time to time.

"AUTHORITY" means the ~~HUMBOLDT WASTE MANAGEMENT AUTHORITY~~Humboldt Waste Management Authority a joint exercise of powers authority created by the ~~MEMBERS~~Members pursuant to this ~~AGREEMENT~~Agreement.

"BOARD" means the ~~BOARD~~Board of ~~DIRECTORS~~Directors of ~~the AUTHORITY~~The Authority.

~~"BONDS" shall have the meaning ascribed to such term in the INDENTURE.~~

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act (Public Law No. 96-510, 94 Stat.2767), ~~as amended; 42 U.S.C. § 9601 et seq.~~

"DESIGNATED SOURCE SEPARATED MATERIAL(S)" means Source Separated Material(s) over which a Member has obtained Flow Control and directs its franchised or contracted collection hauler to deliver to a facility that is owned by, operated by, or under the contractual obligation of the Authority for purposes of processing, recovering, transferring, transforming, energy production, or disposal, as required by the Authority Directors.

"DIRECTOR" means the representative appointee of a ~~MEMBER~~Member to the ~~BOARD~~Board.

"EXECUTIVE ADVISORY COMMITTEE" means the committee which shall consist of the participating Agency City and County Managers, or their appointees or designees.

"EXECUTIVE DIRECTOR" means the person appointed by the ~~BOARD~~Board as the ~~AUTHORITY'S~~Authority's administrative officer to manage the affairs of the ~~AUTHORITY~~Authority and to implement the policies of the ~~BOARD~~Board.

~~"FINANCIAL ASSURANCES" means financial assurances by a MEMBER or MEMBERS with respect to FINANCIAL OBLIGATIONS of the AUTHORITY which is acceptable to the other MEMBERS, the AUTHORITY, any REVENUE BOND trustee(s), and any insurer or guarantor of such FINANCIAL OBLIGATIONS and their respective counsel that will assure continued payment of the MEMBERS' share of the outstanding~~

~~indebtedness. Approval of such financial assurances by an independent financial consultant selected by the BOARD shall be required.~~

~~“FINANCIAL OBLIGATIONS” means INDENTURE OBLIGATIONS, REVENUE BONDS” means Indenture Obligations, Revenue Bonds and any other financial obligations or liabilities incurred by the AUTHORITY Authority.~~

"FISCAL YEAR" means the period commencing on each July 1 and ending on the following June 30.

~~“FLOW CONTROL” means a system by which a Member, through ordinance, regulation or other official directive, compels its franchised or contracted collection hauler(s) to transport municipal solid waste, recyclables, or other Source Separated Material(s) from the place material is generated to a facility that is owned by, operated by, or under the contractual obligation of the Authority for purposes of processing, recovering, transferring, transforming, energy production or disposal.~~

~~“INDENTURE” means the Indenture of Trust dated as of April 1, 2002 between the AUTHORITY and BNY Western Trust Company, as such Indenture may be amended and supplemented from time to time (the “Indenture”) and any other similar indentures securing indenture that secures a financial obligations obligation of the AUTHORITY Authority with revenues of the AUTHORITY Authority.~~

~~“INDENTURE OBLIGATIONS” means BONDS and PARITY OBLIGATIONS bonds, parity obligations and similar instruments, including any Revenue Bonds, which shall constitute REVENUE BONDS under the terms of this AGREEMENT evidence obligations of the Authority arising under and in respect of any Indenture.~~

"GOVERNMENT CODE" means Articles 1, 2 and 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code (California Government Code Sections 6500 et seq.) and all regulations adopted under that legislation, as that legislation and those regulations may be amended from time to time.

~~“HOUSEHOLD HAZARDOUS WASTE” means those wastes resulting from products purchased by the general public for household use which, because of their quantity, concentration, physical, chemical or infectious characteristics, may pose a substantial known or potential hazard to human health or the environment when improperly treated, disposed or otherwise managed, as defined in the California Public Resources Code § 40141.~~

"LANDFILL" means the Cummings Road ~~Sanitary~~ Landfill located at 5755 Cummings Road, Eureka, CA 95501.

"MEMBER" or "MEMBERS" means the City of Arcata, the City of Blue Lake, the City of Eureka, the City of Ferndale, the City of Rio Dell, the County of Humboldt, or any city located wholly or partly within Humboldt County which has joined the ~~AUTHORITY Authority pursuant to Section 2.2 and has not subsequently withdrawn.~~

~~"MEMBERS" means the governing bodies of such entities collectively. _~~

~~"OUTSTANDING" as of any particular date means (a) with respect to INDENTURE OBLIGATIONSIndenture Obligations, the term shall have the meaning ascribed to it in the INDENTUREIndenture, (b) with respect to REVENUE BONDSRevenue Bonds, means REVENUE BONDSRevenue Bonds issued but not yet defeased or redeemed, and (c) with respect to other financial obligations and liabilities of the AUTHORITYAuthority, means those other financial obligations and liabilities which have been incurred but not yet paid in accordance with their terms.~~

~~"PARITY OBLIGATIONS" shall have the meaning ascribed to such term in the INDENTURE."~~

"PLEDGE OF REVENUES" means a financial assurance mechanism as defined in 27 California Code of Regulations section 22200(jj) by which the AUTHORITYAuthority promises to make specified, identified future revenues of facilities under its ratemaking control available to pay future postclosure maintenance costs of a solid waste facility.

"REVENUE BONDS" means revenue bonds, notes, certificates of participation or any other instruments or evidences of indebtedness issued, executed, or delivered by the AUTHORITYAuthority from time to time pursuant to the GOVERNMENT CODEGovernment Code or any other applicable law in order to finance any facility, plant, site, existing or planned, owned, leased, and constructed, maintained, and/or operated by the AUTHORITYAuthority, and/or any financial aspects of closed ~~LANDFILL~~Landfill maintenance.

"SERVICE AREA" means those areas under the jurisdiction of MEMBERSMembers from which the AUTHORITYAuthority receives SOLID WASTESolid Waste for processing, transportation, and disposal. If and when any additional cities join the AUTHORITYAuthority pursuant to Section 2.2., the ~~SERVICE AREA~~Service Area shall also include all areas within the joining City or Cities.

"SOLID WASTE" means the type of wastes commonly collected by MEMBERSMembers' franchised SOLID WASTESolid Waste collectors including putrescible and nonputrescible solid, semisolid and liquid wastes including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition, and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewater, treated or chemically fixed sewage sludge which is not hazardous wastes, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. SOLID WASTESolid Waste does not include source-separated 1) hazardous wastes as defined in California Public Resources Code § 40141 or by federal law or regulation, 2) radioactive waste as defined and regulated, or 3) medical waste as defined and regulated, or 4) those Source Separated recyclable or compostable materials intended for collection as part of a MEMBER'sMember's collection and/or recycling, reuse, reprocessing

franchise. ~~SOLID WASTE does not include any wastes defined as "hazardous wastes" under federal or state laws or regulations.~~

“SOURCE SEPARATED MATERIAL(S)” means materials collected by a Member’s franchised or contracted collection hauler that is separated, placed into a container by the generator and specifically intended for separate collection (e.g., curbside collected recyclables, and compostable materials).

"TRANSFER FACILITY" means ~~a SOLID WASTE~~any facility, ~~including any plant, site, existing or planned, owned, leased, and constructed, maintained, operated, or used for purposes of performing under this Agreement and includes any future Transfer Facility~~ accessory facilities related thereto, meeting the requirements of a "transfer or processing station" under Section 40200 of the California Public Resources Code, and for the receiving, processing, disposal, recycling and transportation of ~~SOLID WASTE~~Solid Waste and the recovery of materials from ~~such SOLID WASTES, which facility Solid Waste and Designated Source Separated Material(s), that~~ is owned by the ~~AUTHORITY~~Authority, by a ~~MEMBER~~Member, or by a private entity, but in all events is available for use by the ~~AUTHORITY~~Authority or its ~~MEMBERS~~Members, such that the ~~waste~~material is handled by the ~~AUTHORITY'S~~Authority's transport, processing and disposal system.

~~Those approved facilities are set forth on Exhibit A attached hereto.~~

SECTION 2. FORMATION, MEMBERSHIP

2.1 ~~HUMBOLDT WASTE MANAGEMENT AUTHORITY.~~Humboldt Waste Management Authority. Pursuant to the ~~GOVERNMENT CODE~~Government Code, the ~~MEMBERS~~Members do hereby create, form and establish the ~~AUTHORITY~~Authority, a public entity to be known as the "~~HUMBOLDT WASTE MANAGEMENT AUTHORITY~~Humboldt Waste Management Authority", it being understood that the ~~BOARD~~Board shall be entitled to change the ~~AUTHORITY'S~~Authority's name from time to time if it so chooses. The ~~AUTHORITY~~Authority shall be a public entity separate and distinct from each of the ~~MEMBERS~~Members.

2.2 **Member Additions.** Any city or county in Humboldt County may apply to join the ~~AUTHORITY~~Authority as a Member. The prospective Member’s application must be received by the Authority no later than January 1 for potential membership beginning with the following Authority Fiscal Year. Membership will be granted only upon the approval of at least 70% of the then-existing MEMBERS. Directors. Such approval shall not be granted unless and until the jurisdiction shall have: (1) covenanted to direct all ~~SOLID WASTE~~Solid Waste and Designated Source Separated Material(s) collected by the jurisdiction (if such jurisdiction provides collection services directly to its constituents) to ~~the TRANSFER FACILITY~~a Transfer Facility for processing, transportation, and disposal; (2) successfully entered into one or more agreements, satisfactory to the

~~AUTHORITY~~Authority, which direct its franchised or contracted collection hauler(s) to deliver all ~~SOLID WASTE~~Solid Waste and Designated Source Separated Material(s) collected under such franchise(s) or contract(s) to ~~the TRANSFER FACILITY~~a Transfer Facility for processing, transportation and disposal; or (3) made such other arrangement or covenant acceptable to the ~~AUTHORITY~~Authority for the delivery of ~~SOLID WASTE~~Solid Waste to the ~~TRANSFER FACILITY~~Authority for the delivery of Solid Waste to the Transfer Facility. Additionally, new Members will be assessed a prorated share of assets and liabilities held by the Authority such as the undesignated reserve fund and any existing Indenture Obligations.

- 2.3 ~~AUTHORITY~~Qualifications~~Flow Control~~. It is hereby understood that the intent of the ~~AUTHORITY~~Authority is to require all present and future ~~MEMBERS~~Members to covenant to take all actions possible to direct ~~SOLID WASTE~~Solid Waste and Designated Source Separated Material(s) to ~~the TRANSFER FACILITY~~a Transfer Facility and to amend or revise any franchise collection agreements at the earliest possible date (which date may be the next renewal date for such franchise collection agreement) to provide the ~~MEMBER~~Member with the right to direct all ~~SOLID WASTE~~Solid Waste and Designated Source Separated Material(s) collected under any franchise collection agreement to ~~the TRANSFER FACILITY~~a Transfer Facility as specified by the Authority Directors.

SECTION 3. PURPOSE

- 3.1 General. The ~~AUTHORITY~~Authority is formed to provide ~~economical~~the economic coordination of ~~SOLID WASTE~~Solid Waste and Designated Source Separated Material(s) management services and to efficiently and fairly assure against potential adverse effects of past ~~SOLID WASTE~~Solid Waste management services within the ~~SERVICE AREA~~Service Area. This Agreement is entered into by the ~~MEMBERS~~Members in order: 1) that they shall jointly request proposals and contract for ~~SOLID WASTE~~Solid Waste and Designated Source Separated Material(s) processing and disposal services; and 2) that they may jointly develop and fund programs to provide for the: A) siting, permitting, developing, constructing, maintaining, operating or contracting for the construction and/or operation of disposal sites, ~~transfer facilities~~Transfer Facilities and equipment, materials recovery facilities, waste to energy facilities, and/or ~~solid waste~~Solid Waste landfills; B) preparing ~~and implementing an Integrated Waste Management Plan and other of~~ planning documents which meet the requirements of the ~~ACT~~Act and other state law and regulation; C) disposal ~~of waste, transfer, or processing of materials~~ generated in the incorporated and unincorporated area of the County; and ~~the granting of franchises for waste hauling, as may be agreed to in writing and signed by any or all MEMBERS~~; D) planning, implementing and supervising programs which serve all or most jurisdictions, including facilities (household hazardous waste, centralized composting and disposal), special wastes (tires, appliances, and construction/demolition wastes) and recycling market development.
- 3.2 ~~TRANSFER FACILITY~~Transfer Facility. The general purpose **may** include, but is not limited to, the purpose of providing ~~economical~~the economic coordination of ~~SOLID~~

~~WASTE~~-processing, transfer and disposal services ~~of SOLID WASTE~~for Solid Waste and Designated Source Separated Material(s) generated within the ~~SERVICE AREA~~Service Area, including but not limited to the acquisition, construction, financing, refinancing, maintaining, operating, rate setting, rate collection, and regulation of a ~~TRANSFER FACILITY~~Transfer Facilities.

3.3 Landfill Closure and Maintenance. The general purpose also includes, but is not limited to, establishment of pooled insurance and other financial or other mechanisms to provide, for the safe closure and long term postclosure maintenance of the closed ~~LANDFILL~~Landfill serving part or all of the ~~SERVICE AREA~~Service Area for the general purpose of protecting the health and safety of the public within the ~~SERVICE AREA~~Service Area and the specific purpose of protecting the general funds of the ~~MEMBERS~~Members against any possible "generator" liability under state or federal laws and regulations which might arise if such landfills are not properly closed and maintained. The purposes of the ~~AUTHORITY~~Authority may include ownership and/or management of the ~~LANDFILL~~Landfill during the final stages of the ~~LANDFILL's~~Landfill's active life, during closure, and thereafter if such is deemed essential, in the discretion of the ~~BOARD OF DIRECTORS~~Board of Directors, for successful accomplishment of the primary purpose of safe closure and postclosure maintenance. This Section excludes all landfills closed prior to July 1, 1996.

3.4 Common and Additional Powers. The ~~AUTHORITY's~~Authority's purpose also includes the establishment of the ~~AUTHORITY~~Authority as an independent joint powers entity to enable the ~~MEMBERS~~Members to jointly exercise the common powers of the ~~MEMBERS~~Members set forth in Section 3.1 and for the exercise of such additional powers as are conferred under Section 6 or conferred by the ~~GOVERNMENT CODE~~Government Code upon all joint powers authorities.

SECTION 4. ORGANIZATION

4.1 Composition. The ~~AUTHORITY~~Authority shall be composed of the City of Arcata, the City of Blue Lake, the City of Eureka, the City of Ferndale, the City of Rio Dell, any city within the ~~SERVICE AREA~~Service Area which has joined pursuant to Section 2.2 ~~and not subsequently withdrawn~~, and the County of Humboldt.

4.2 Principal Office. The principal office of the AUTHORITY shall be established by the ~~BOARD~~Board. The ~~BOARD~~Board may change that principal office upon giving at least 15 days written notice to each ~~MEMBER~~Member.

4.3 BOARD ~~Board~~ The ~~AUTHORITY~~Authority shall be governed by the ~~BOARD~~of ~~DIRECTORS~~Board Of Directors, which shall exercise or oversee the exercise of all powers and authority on behalf of the ~~AUTHORITY~~Authority. The ~~AUTHORITY~~ ~~BOARD~~Authority Board of ~~DIRECTORS~~Directors shall appoint at its first meeting a chairperson and a vice chairperson. Thereafter at its first meeting in each succeeding fiscal

year, the ~~BOARD~~Board shall appoint new officers. The appointment of the chairperson shall rotate among the ~~MEMBERS~~Members of the ~~AUTHORITY~~Authority.

4.4 ~~DIRECTORS~~Directors.

- (a) The ~~BOARD~~Board shall consist of the same number of ~~DIRECTORS~~Directors as the number of ~~MEMBERS~~Members. Each ~~MEMBER~~Member shall appoint one ~~DIRECTOR~~Director. Upon execution of this ~~AGREEMENT~~Agreement by a ~~MEMBER~~Member, the ~~MEMBER~~Member shall appoint its representative to the ~~BOARD~~Board and at least one person as an alternate to serve in the case of absence or conflict on the part of the appointed ~~DIRECTOR~~Director. Thereafter, vacancies shall be filled by the appointing ~~MEMBER~~Member within thirty (30) days of the occurrence thereof. Each ~~DIRECTOR~~Director and alternate shall be an elected official of the governing body of the ~~MEMBER~~Member that he or she represents. If a ~~DIRECTOR~~Director or alternate ceases holding any such elected position, he or she shall then cease to serve as a ~~DIRECTOR~~Director or alternate. The ~~AUTHORITY~~Authority and the ~~BOARD~~Board shall be entitled to rely on a written notice from the City Clerk (in the case of city ~~MEMBERS~~Members) and the Clerk of the Board of Supervisors (in the case of county ~~MEMBERS~~Members) as conclusive evidence of the appointment and removal of the ~~DIRECTORS~~Directors and/or alternates representing that ~~MEMBER~~Member.
- (b) Each ~~DIRECTOR~~Director and alternate shall hold office from the first meeting of the ~~BOARD~~Board after appointment by the ~~MEMBER~~Member, until his or her successor is selected by the ~~MEMBER~~Member that appointed that ~~DIRECTOR~~Director. Each ~~DIRECTOR~~Director and alternate shall serve at the pleasure of the ~~MEMBER~~Member that he or she represents and may be removed at any time, without cause, at the sole discretion of that ~~MEMBER~~Member.
- (c) No compensation shall be received by any ~~DIRECTOR~~Director or alternate unless expressly provided by resolution of the ~~BOARD~~Board.

4.5 ~~EXECUTIVE ADVISORY COMMITTEE~~ Executive Advisory Committee. There is hereby created an ~~EXECUTIVE ADVISORY COMMITTEE~~Executive Advisory Committee which shall consist of the ~~MEMBER~~Member City and County Managers, or their appointees or designees, to advise the ~~EXECUTIVE DIRECTOR~~Executive Director as specified below:

- a) Review and recommend an operating and capital budget, and review and comment on ~~AUTHORITY~~Authority goals and objectives.
- b) Provide assistance to the ~~BOARD~~Board as requested in the recruitment and selection for the ~~AUTHORITY'S EXECUTIVE DIRECTOR~~Authority's Executive Director.

The ~~EXECUTIVE ADVISORY COMMITTEE~~Executive Advisory Committee shall meet as necessary, but not less than ~~ANNUALLY, annually,~~ and as necessary as called by the Chairperson. The ~~EXECUTIVE ADVISORY COMMITTEE~~Executive Advisory Committee shall appoint a ~~chairperson~~Chairperson and a ~~vice-chairperson~~Vice Chairperson. Thereafter at its first meeting in each succeeding ~~fiscal year~~Fiscal Year, the ~~EXECUTIVE ADVISORY COMMITTEE~~Executive Advisory Committee shall appoint new officers. The appointment of the ~~chairperson~~Chairperson shall rotate among the ~~MEMBERS~~Members of the ~~AUTHORITY~~Authority. A majority of all members of the ~~EXECUTIVE ADVISORY COMMITTEE~~Executive Advisory Committee shall be present to conduct business of ~~the EXECUTIVE COMMITTEE~~the Executive Committee. The decision of the majority of the ~~EXECUTIVE ADVISORY COMMITTEE~~Executive Advisory Committee shall constitute the acts of the Committee.

- 4.6 ~~TECHNICAL AND ADVISORY COMMITTEES~~Technical Advisory Committee. The existing ~~county/city~~County/City Integrated Waste Management staff comprised of Authority Members is designated to provide technical information for, make recommendations to, and otherwise advise, the ~~AUTHORITY~~Authority on relevant waste management issues.

SECTION 5. PERSONNEL AND ADMINISTRATION

- 5.1 **Employees.** The ~~AUTHORITY~~Authority may have its own employees and/or may contract with a ~~MEMBER~~Member agency or firm for the furnishing of any necessary staff services associated with or required by the ~~AUTHORITY~~Authority. All employees shall report to the Executive Director.
- 5.2 ~~EXECUTIVE DIRECTOR~~**Executive Director.** The Executive Director shall have all administrative powers necessary to implement Board direction, including purchasing, personnel, and finance powers. The Executive Director shall prepare an annual budget and annual rate schedule for the Board's consideration.

SECTION 6. POWERS

- 6.1 **FACILITIES.** The ~~AUTHORITY~~Authority is empowered to acquire, construct, finance, refinance, operate, regulate, set rates for and maintain a ~~TRANSFER FACILITY~~Transfer Facilities subject, however, to the conditions and restrictions contained in this ~~AGREEMENT~~Agreement. To ensure safe closure and postclosure maintenance of the ~~LANDFILL~~Landfill, the ~~AUTHORITY~~Authority is empowered to acquire, operate, regulate, set rates for, close and provide postclosure maintenance for the ~~LANDFILL~~Landfill and all facilities and properties related thereto in the manner required by law. ~~To finance such closure and postclosure maintenance, the AUTHORITY is~~

~~empowered to sell any unnecessary property and to operate, directly or through lessees, gas recovery operations and, to the extent compatible with post-closure maintenance, open-space recreational enterprises on the LANDFILL property and any type of enterprise on the related quarry property, if such are acquired by the AUTHORITY.~~

6.2 Approved Powers. To the full extent permitted by applicable law (including specifically the ~~ACT~~Act and the ~~GOVERNMENT—CODE~~Government Code), the ~~AUTHORITY~~Authority is authorized, in its own name, to do all acts necessary or convenient for the exercise of such powers enumerated in the ~~ACT~~Act or that each ~~MEMBER~~Member could exercise separately including, without limitation, any and all of the following:

- (a) to sue and be sued in its own name;
- (b) to incur and discharge debts, liabilities and obligations;
- (c) to issue ~~REVENUE BONDS, from time to time,~~Revenue Bonds, notes, certificates of participation and incur other forms of indebtedness and make associated covenants from time to time, for designated purposes in accordance with all applicable laws for the purpose of raising funds to finance or refinance the acquisition, construction, improvement, renovation, repair, operation, regulation or maintenance of the ~~TRANSFER FACILITY~~Transfer Facility and/or related facilities;
- (d) to exercise the power of eminent domain for the acquisition of real and personal property for ~~the TRANSFER FACILITY~~a Transfer Facility and access thereto or for the acquisition of ~~the TRANSFER FACILITY~~a Transfer Facility itself;
- (e) to acquire, improve, hold, lease and dispose of real and personal property of all types;
- (f) to ~~sell or lease the TRANSFER FACILITY, the LANDFILL property, or the related LANDFILL cover quarry property, if such are acquired by the AUTHORITY;~~
- ~~(g)~~ to establish rates, tolls, tipping fees, other fees, rentals and other charges in connection with ~~the TRANSFER FACILITY~~a Transfer Facility, any other ~~SOLID WASTE~~Solid Waste and Designated Source Separated Material(s) facility owned or operated by the ~~AUTHORITY~~Authority, and any other enterprise which the ~~AUTHORITY~~Authority is empowered by this Agreement to conduct, as well as any and all services and programs provided and/or implemented by the ~~AUTHORITY~~Authority, and to include in such rates and charges amounts necessary to carry out those purposes described in Section 3 of this ~~AGREEMENT~~Agreement;
- (hg) to require the ~~MEMBERS~~Members to use all best efforts to direct all ~~SOLID WASTE~~Solid Waste and Designated Source Separated Material(s) generated within the ~~MEMBERS'~~Members' boundaries that are located within the ~~SERVICE~~

~~AREA~~Service Area to the ~~TRANSFER FACILITY~~Authority-specified Transfer Facility. To the extent legally permissible, ~~MEMBERS~~Members shall ~~direct~~:

- (1) ~~Direct~~ all ~~SOLID WASTE~~Solid Waste collected by ~~MEMBERS'~~Members' franchised garbage collectors to the ~~TRANSFER FACILITY~~MEMBERSTransfer Facility. Members shall also direct all other ~~SOLID WASTE~~Solid Waste generated by ~~MEMBERS~~Members to the ~~TRANSFER FACILITY~~Transfer Facility; provided, however, this subsection shall not apply to recyclables nor to ~~SOLID WASTE~~Solid Waste generated by ~~MEMBERS~~Members outside the ~~SERVICE AREA~~Service Area; and
 - (2) ~~(i)~~Obtain and maintain Flow Control over Designated Source Separated Material(s);
- (h) to require ~~MEMBERS~~Members to amend or revise any franchise collection agreement(s) at the earliest possible date, which shall not be later than the first renewal or extension date or the date of any amendment to such franchise agreement, to provide the ~~MEMBER~~Member with the right to direct all ~~waste~~Solid Waste and Designated Source Separated Material(s) collected by the franchised hauler(s) to ~~the TRANSFER FACILITY~~a Transfer Facility. Any ~~MEMBER~~Member currently not having the right to direct ~~SOLID WASTE~~such materials under its franchise agreement(s) shall covenant to make such amendment in order to join the ~~AUTHORITY~~Authority;
- ~~(j) to enforce the provisions of MEMBERS' garbage collection agreements that require that all SOLID WASTE collected be delivered to the TRANSFER FACILITY;~~
- ~~(k) to (i) to contract for the processing, transportation and/or disposal of SOLID WASTE~~Solid Waste and Designated Source Separated Material(s) delivered to ~~the TRANSFER FACILITY~~a Transfer Facility;
- (l) to make and enter into contracts, including contracts with any ~~MEMBER~~Member or non-~~MEMBER~~member entity, and to assume contracts made by any ~~MEMBER~~Member relating to the ~~TRANSFER FACILITY~~Transfer Facility;
- (m) to reimburse the ~~MEMBERS~~Members for the costs of services provided to the ~~AUTHORITY~~Authority;
- (n) to hire agents and employees;
- (o) to employ or contract for the services of engineers, attorneys, accountants, planners, consultants, fiscal agents and other persons and entities;
- (p) to apply for and accept grants, advances and contributions;

- (~~qo~~) to make plans and conduct studies;
- (~~fp~~) to coordinate efforts with the established local, regional and state waste management agencies;
- (~~sq~~) to make payments as necessary for closure and postclosure maintenance for the ~~LANDFILL~~Landfill for the purposes set forth in Section 3.3 of this ~~AGREEMENT~~Agreement and, if the ~~LANDFILL~~Landfill should become a Superfund site, to seek reimbursement for remediation costs from any person or entity (other than any ~~MEMBER~~Member) having a legal responsibility for such costs; and
- (~~tr~~) to provide the ~~FINANCIAL ASSURANCES~~financial assurances required by state and federal law for postclosure maintenance of the ~~LANDFILL~~Landfill, including use of a ~~PLEDGE OF REVENUES~~Pledge Of Revenues based upon any or all of the revenue-producing enterprises owned and/or operated by the ~~AUTHORITY~~Authority.

6.3 Limitations. Such powers shall be exercised subject only to the limitations set forth in this ~~AGREEMENT~~Agreement, applicable law and such restrictions upon the manner of exercising such powers as are imposed by law upon the County of Humboldt in the exercise of similar powers.

~~6.4 Noncompetition. The AUTHORITY shall not provide within the jurisdiction of a MEMBER any recycling services that duplicate or compete with recycling services provided by that MEMBER (at the time the AUTHORITY determines to provide new or expanded recycling services) without consent of the MEMBER. A MEMBER shall not contract with any TRANSFER FACILITY or LANDFILL that duplicates or competes with the services provided by the AUTHORITY without consent of the BOARD.~~

~~6.5 Possible Future Responsibilities and. Upon future approval and agreement by all of the MEMBERSMembers, the AUTHORITYAuthority may conduct other related waste management responsibilities and duties, including but not limited to contracting with non-MEMBERS to accept their SOLID WASTE at the TRANSFER FACILITYmembers to accept their Solid Waste at a Transfer Facility or expansion to a Regional Agency, as that term is defined in Public Resource Code § 40975.~~

6.65 Individual MEMBERMember Services. Upon approval of the ~~BOARD~~Board and the governing body of a ~~MEMBER~~Member, the ~~AUTHORITY~~Authority may contract to provide other related waste management responsibilities and duties, individually for that ~~MEMBER~~Member. These contracted services will be paid for solely by the contracting ~~MEMBER~~Member.

6.76 Local Governing Body. For the purposes of the ~~California Integrated Waste Management Act of 1989 (Public Resources Code section 40000 et seq.)~~ the ~~AUTHORITY~~Authority will operate as a “Local Government Body” or “Local

Governmental Agency” which has the authority to provide ~~solid-waste~~Solid Waste and other materials management and handling services.

SECTION 7. FINANCE

7.1 Assets, Rights, Debts, Liabilities and Obligations.

- (a) Except as provided in subsection (b), (c) and (d) below, the assets, rights, debts, liabilities and obligations of the ~~AUTHORITY~~Authority shall not constitute assets, rights, debts, liabilities or obligations of any of the ~~MEMBERS~~Members. However, nothing in this ~~AGREEMENT~~Agreement shall prevent any ~~MEMBER~~Member from separately contracting for, or assuming responsibility for, specific debts, liabilities, or obligations of the ~~AUTHORITY~~Authority, provided that both the ~~BOARD~~Board and that ~~MEMBER~~Member give prior approval to such contract or assumption.
- (b) The ~~MEMBERS~~Members hereby agree that any defense against claims, as well as the cost of any judgments imposed for claims resulting from actions by the ~~AUTHORITY~~Authority or any of the officers, agents, employees, or contractors of the ~~AUTHORITY~~Authority in relation to the ~~TRANSFER FACILITY~~Transfer Facility, any ~~SOLID WASTE~~Solid Waste facility owned and/or operated by the ~~AUTHORITY~~Authority or any other enterprise owned and/or operated by the ~~AUTHORITY~~Authority shall be the sole responsibility of the ~~AUTHORITY~~Authority. Such costs shall therefore be paid for ultimately through surcharges uniformly imposed on the rates charged to users of the ~~TRANSFER FACILITY~~Transfer Facility.
- (c) To the extent that ~~MEMBERS~~Members are also held jointly and severally liable for such amounts by Government Code Section 895.2, if a ~~MEMBER~~Member provides for such defense of itself or the ~~AUTHORITY~~Authority, or pays all or part of such judgment, the ~~MEMBER~~Member shall be entitled to reimbursement in full from the ~~AUTHORITY~~Authority, provided the ~~MEMBER~~Member obtains prior approval from the ~~AUTHORITY~~Authority. Such reimbursement shall be paid over such time as is necessary for the collection of the corresponding reasonable user surcharges.
- (d) If ~~MEMBERS~~Members are held responsible by third parties for tort or other claims as a result of activities of the ~~AUTHORITY~~Authority, pursuant to Government Code Section 895.2 or state or federal laws applicable to ~~SOLID WASTE~~Solid Waste management facilities, and the ~~AUTHORITY~~Authority has ceased to exist and its assets have been fully distributed or consumed, or the ~~AUTHORITY~~Authority has ceased to operate and has no unencumbered assets capable of generating enough revenue to defend against and pay for such claims, each ~~MEMBER~~Member shall be entitled to seek reimbursement from the other ~~MEMBER(S)~~Member(s) for the costs of providing the defense against such tort claims or payment of any judgments lawfully imposed in connection therewith to

the extent that the amounts paid by the ~~MEMBER~~Member exceed that proportion of the total cost which exceeds the ratio of the tonnage of ~~SOLID WASTE~~Solid Waste generated within the jurisdiction of the ~~MEMBER~~Member, including self-hauled ~~SOLID WASTE~~Solid Waste, and processed by the ~~TRANSFER FACILITY~~Transfer Facility in the ~~FISCAL YEAR~~Fiscal Year of the occurrence of the incident giving rise to liability to the total tonnage processed by the ~~TRANSFER FACILITY~~Transfer Facility during said ~~FISCAL YEAR~~Fiscal Year.

- (e) Obligations for capital expenditures at an approved ~~TRANSFER FACILITY~~Transfer Facility shall be included in the service fee for such facility such that only its users contribute toward its capital expenditures. However, all ~~MEMBERS~~Members shall contribute a reasonable amount toward all of the ~~AUTHORITY'S~~Authority's costs of administration.

7.2 **Budget.** A budget for the ~~AUTHORITY~~Authority shall be adopted by the ~~BOARD~~Board for the ensuing ~~FISCAL YEAR~~Fiscal Year prior to June 30 of each year. The budget shall include sufficient detail to constitute an operating guideline. It shall also include the anticipated sources of funds, and the anticipated expenditures to be made for the operations of the ~~AUTHORITY~~Authority including, but not limited to, the acquisition or construction of a ~~TRANSFER FACILITY~~Transfer Facility and any other facility owned and/or operated by the ~~AUTHORITY~~Authority and related site improvements, administration, special projects, maintenance and operating costs. Approval of the budget by the ~~BOARD~~Board shall constitute authority for the ~~EXECUTIVE DIRECTOR~~Executive Director to expend funds for the purposes outlined in the approved budget, but subject to the availability of funds on hand, provided that this shall not be construed to limit the power of the ~~BOARD~~Board to modify the budget in whatever manner it deems appropriate and instruct the ~~MANAGER~~Executive Director accordingly.

7.3 **Rates.**

- (a) The ~~BOARD~~Board shall establish rates to be charged at the ~~TRANSFER FACILITY~~Transfer Facility in amounts sufficient to provide for the efficient operation, including administrative, processing, transportation and disposal costs, to discharge all indebtedness and liabilities (including, without limitation, any ~~REVENUE BONDS~~Revenue Bonds issued in connection therewith) to insure against future liabilities and of the ~~MEMBERS~~Members resulting from "generator" status under state and federal laws and regulations relating to landfills experiencing illegal discharges of hazardous substances to the extent that status pertains to ~~SOLID WASTE~~Solid Waste generated at any time within the ~~SERVICE AREA~~Service Area, and to pay as yet unfounded costs of closure as well as those costs of postclosure maintenance for the ~~LANDFILL~~Landfill which exceed net revenues from gas recovery and other ongoing ~~LANDFILL~~Landfill site enterprises, as liability for such costs accrues, and to accommodate the planning and implementation of activities incidental thereto.
- (b) The ~~AUTHORITY~~Authority shall provide at least thirty (30) days advance written

notice to its ~~MEMBERS~~Members of any intent to increase or decrease rates to be charged at the ~~TRANSFER FACILITY~~Transfer Facility. To the extent possible, the ~~AUTHORITY~~Authority shall coordinate the effective date of rate increases or decreases with the annual garbage collection rate setting processes of the ~~MEMBERS~~Members and other public entities having ~~SOLID WASTE~~Solid Waste franchising jurisdiction within the ~~SERVICE AREA~~Service Area.

7.4 Financial Audit. There shall be an audit of the accounts and records at least annually as prescribed by Sections 6505 and 6505.5 of the Government Code. The audit shall conform to generally accepted auditing standards. There shall be an annual audit of the services provided, measuring satisfaction with internal and external services.

7.5 Indemnity. The ~~AUTHORITY~~Authority shall indemnify, defend and hold harmless the ~~MEMBERS~~Members hereto, their officers, officials, employees and volunteers from and against all liability, loss, damage, expense costs (including without limitation costs and fees of litigation), of every nature arising out of the ~~AUTHORITY~~Authority, described herein, or its failure to comply with any of its obligations contained in the ~~AGREEMENT~~Agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of a ~~MEMBER~~Member.

~~7.6 Insurance. The AUTHORITY will obtain at its expense, and maintain during the term of this AGREEMENT, insurance against claims for injury to persons or damage to property or the environment which may arise from the AUTHORITY'S operation.~~

~~Minimum Scope of Insurance.~~

- ~~a) Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001).~~
- ~~b) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.~~
- ~~c) Property insurance against all risks of loss to Countywide AUTHORITY property as determined by law or as determined by the AUTHORITY.~~

~~Minimum Limits of Insurance.~~ **7.6 Insurance**

The Authority

~~The AUTHORITY shall maintain limits no less than:~~

- ~~a) General Liability: \$5,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.~~
- ~~b) Employer's Liability: \$1,000,000 per accident for bodily injury or disease.~~
- ~~c) Property Insurance: Full replacement cost with no coinsurance penalty provision.~~

- d) ~~Workers' Compensation: Workers' Compensation to statutory limits covering all employees, paid or unpaid.~~
- e) ~~Errors and omissions insurance to cover any and all instances of misfeasance and/or nonfeasance in the scope of duties.~~

~~Deductibles and Self-Insured Retentions.~~

~~Any deductibles or self-insured retentions must be declared to and approved by the MEMBERS.~~

~~Other Insurance Provisions.~~

~~The general liability policy is to contain, or be endorsed to contain, the following provisions:~~

- a) ~~The MEMBERS, their officers, officials, employees, and volunteers, are to be covered as insured with respect to liability arising out of the operation of the AUTHORITY.~~
- b) ~~The AUTHORITY'S insurance, environmental insurance coverage, vehicle insurance coverage shall be primary insurance as respects the MEMBERS, their officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the MEMBERS, their officers, officials, employees or volunteers shall be excess of the AUTHORITY'S insurance and shall not contribute with it.~~
- c) ~~Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the MEMBERS.~~

- (a) ~~Workers' Compensation Insurance Endorsement. The workers' and workers compensation policy shall be endorsed to contain a waiver of subrogation clause which states the following: relating to its ownership and operation of the Transfer Facilities and properties.~~

~~The "This insurance company agrees to waive all rights of subrogation against the MEMBERS, their officers, officials, employees and volunteers for losses paid under the terms of this policy, which arise from the operation of the Countywide Authority by the named insured for the MEMBERS.~~

~~Acceptability of Insurers.~~

~~Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.~~

- (b) Authority shall, directly or indirectly, maintain liability insurance or self-insurance relating to its contractual obligations pursuant to this agreement, covering its

management, operation and administration of the Transfer Facilities and shall indemnify, protect, defend and hold harmless all other agencies from claims and suits arising for the operations of the Transfer Facilities. The indemnity herein shall include federal and state statutes and environmental laws directly relating to the operations of the Facilities.

(c) Each Member shall maintain appropriate insurance covering the collection and transport of Solid Waste and Designated Source Separated materials from its jurisdiction to the Transfer Facilities, and shall indemnify, protect, defend and hold harmless the Authority from any and all losses arising therefrom, including losses from violations of federal, state, and local laws.

SECTION 8. RULES OF CONDUCT BYLAWS, OFFICERS AND VOTING

8.1 Bylaws and Policies. The ~~BOARD~~Board, from time to time, may adopt bylaws and policies for the conduct of the ~~AUTHORITY'S~~Authority's affairs, provided that they are not inconsistent with this ~~AGREEMENT~~Agreement.

8.2 Officers and Committees. The ~~BOARD~~Board may designate such officers and establish such committees as may be necessary or convenient to conduct the ~~AUTHORITY'S~~Authority's affairs, and is subject to provisions of the Ralph M. Brown Act (Sections 54950 et seq of the California Government Code) and other applicable laws of the State of California.

8.3 Voting.

- (a) Each ~~DIRECTOR~~Director shall have one vote on all matters presented to the ~~BOARD~~Board for a vote.
- (b) Except as provided in Section 8.3(c), the vote of a majority of the ~~DIRECTORS~~Directors shall constitute the act of the ~~BOARD~~Board.
- (c) A vote of seventy percent (70%) all of the ~~DIRECTORS~~Directors shall be necessary in order to approve any of the following:
 - (1) the construction budget for any ~~AUTHORITY~~Authority owned facility;
 - (2) the annual operating budget of the ~~AUTHORITY~~Authority in excess of debt service on ~~REVENUE BONDS and the payment to the transfer station operator.~~Revenue Bonds
 - (3) the issuance, execution or delivery of ~~REVENUE BONDS~~Revenue Bonds;
 - (4) any change in a budget exceeding 10% of the total amount of that budget;

- (5) any amendment to or the termination of this AGREEMENT Agreement;
- (6) voting rules regarding the approval of contracts between the AUTHORITY Authority and any one or more MEMBERS Members (it being understood that all such contracts must be approved pursuant to rules adopted in this manner);
- (7) the admission of an additional MEMBER or a substitute MEMBER Member including by means of assignment; and
- (8) the purchase of a ~~landfill~~ new Transfer Facility.

8.4 Quorum. A majority of the DIRECTORS Directors shall constitute a quorum for the transaction of business of the BOARD Board except that if there is less than a quorum present, any DIRECTOR Director who is present or the EXECUTIVE DIRECTOR Executive Director may adjourn any meeting.

8.5 Disclosure of Closed Session Information. Pursuant to Government Code section 54956.96, the BOARD Board hereby authorizes each DIRECTOR Director of the BOARD Board to disclose information received by the BOARD Board in closed session only in accordance with this section:

- (a) To any alternate DIRECTOR Director appointed to the BOARD Board by a MEMBER Member who is attending a properly noticed meeting of the AUTHORITY Authority in lieu of the MEMBER'S Member's regularly appointed DIRECTOR Director to the BOARD Board.
- (b) All information received by a MEMBER'S Member's governing body in closed session related to information presented to the AUTHORITY Authority in closed session shall be confidential. However, a MEMBER'S Member's appointed DIRECTOR Director or alternate to the AUTHORITY BOARD Authority Board may disclose information obtained in closed session that has direct financial or liability implications for a MEMBER Member to the following individuals:
 - (1) Legal counsel for the MEMBER Member for purposes of obtaining advice on whether the matter has direct financial or liability implications for the MEMBER Member; and
 - (2) Other officials in the MEMBER'S Member's governing body present in a closed session of the MEMBER Member agency.
- (c) Upon adoption of this provision, the governing body of a MEMBER Member agency, upon advice of its legal counsel, may conduct a closed session in order to

receive, discuss, and take action concerning information obtained in a closed session of the ~~AUTHORITY~~Authority pursuant to section 8.5.

SECTION 9. TERM

~~The AUTHORITY AGREEMENT is effective on the date it has been executed by all six MEMBERS named in Section 1, and~~This Agreement shall continue in full force and effect until amended pursuant to Section 12 or until dissolved pursuant to Section ~~10~~11 of this ~~AGREEMENT~~Agreement. However, in no event shall the ~~AUTHORITY~~Authority be dissolved until all of the ~~AUTHORITY's~~Authority's obligations and liabilities respecting all ~~REVENUE BONDS~~Revenue Bonds are satisfied, discharged, or terminated or until the provisions of Section 11.2 are complied with.

SECTION 10. WITHDRAWAL.

A participating ~~MEMBER~~Member may withdraw upon no less than one year prior written notice to the ~~AUTHORITY BOARD~~Authority Board. The withdrawing ~~MEMBER~~Member shall continue to be financially responsible for its share of financial obligations and liabilities incurred prior to the withdrawal date. Upon such withdrawal, no withdrawing ~~MEMBER~~Member shall be entitled to any distribution or withdrawal of property or funds except as may be agreed to by the ~~BOARD~~Board; however, such ~~MEMBER~~Member shall be entitled to participate in the return of surplus money and other surplus personal property upon the completion of the purpose of the ~~AGREEMENT~~Agreement according to the provisions of Section 11.

SECTION 11. DISSOLUTION

11.1 Assets.

- (a) Subject to the then-applicable requirements of the ~~GOVERNMENT CODE~~Government Code, upon dissolution of the ~~AUTHORITY~~Authority, the assets of the ~~AUTHORITY~~Authority remaining after payment of or adequate provision for all debts, liabilities and obligations of the ~~AUTHORITY~~Authority shall be divided among the ~~MEMBERS~~Members in accordance with an unanimous agreement among them or, in the absence of such an agreement, in proportion to the total tonnage of ~~SOLID WASTE~~Solid Waste and Designated Source Separated Material(s), (inclusive of ~~SOLID WASTE~~Solid Waste delivered by self-haulers) each ~~MEMBER~~Member caused to be delivered to the ~~TRANSFER FACILITY~~Transfer Facility.
- (b) To ensure that "adequate provision" is made for all debts, liabilities and obligations of the ~~AUTHORITY~~Authority upon dissolution, any assets remaining after satisfaction of all debts known to exist as of the time of dissolution shall be placed in a trust account with the Humboldt County Auditor to be held in trust until expiration of the period of postclosure maintenance for the ~~LANDFILL~~Landfill

required by state and federal law. If the assets are not liquid, such assets shall first be sold at public auction and the net proceeds placed in the trust fund. While held in trust, such assets and/or any interest earned thereon shall be disbursed only to pay debts of the ~~AUTHORITY~~Authority arising after dissolution in consequence of actions of the ~~AUTHORITY~~Authority prior to dissolution, or to pay for costs of postclosure maintenance of, or hazardous waste release remediation at the ~~LANDFILL~~Landfill. Any such disbursement from this dissolution trust fund shall be made by the Humboldt County Auditor only with the unanimous consent of the governing bodies of those agencies which were ~~MEMBERS~~Members at the time of dissolution, or by order of a court of competent jurisdiction. Upon expiration of the period of postclosure maintenance, any remaining funds shall be distributed in the manner set forth in (a).

11.2 ~~REVENUE BONDS~~Revenue Bonds Or Other Instruments Of Indebtedness

- (a) If any ~~REVENUE BONDS~~Revenue Bonds or other instruments of indebtedness are outstanding at the time of dissolution, the ~~MEMBERS~~Members shall cause to be delivered to the ~~REVENUE BOND~~Revenue Bond trustee(s):
- (i) an opinion of nationally recognized bond counsel substantially to the effect that such dissolution will not cause the interest on the outstanding ~~REVENUE BONDS~~Revenue Bonds to be included in gross income for federal income tax purposes; and
 - (ii) evidence from each rating agency then rating the outstanding ~~REVENUE BONDS~~Revenue Bonds that such dissolution will not adversely affect the rating of such ~~REVENUE BONDS~~Revenue Bonds.
- (b) Approval of any request to dissolve shall not be unreasonably withheld; provided, however, that if any ~~REVENUE BONDS~~Revenue Bonds are outstanding at the time the request is made or acted upon, financial assurances are made by the ~~MEMBERS~~Members that will assure continued payment of the ~~MEMBERS'~~Members' share of the outstanding indebtedness which is acceptable to the other ~~MEMBERS~~Members, the ~~AUTHORITY~~Authority, and the ~~REVENUE BOND~~Revenue Bond trustee(s) and their respective counsel. Approval of such financial assurances by an independent financial consultant selected by the ~~BOARD~~Board shall be required.

11.3 **Effective.** No dissolution shall be effective unless and until the ~~AUTHORITY~~Authority and ~~MEMBERS~~Members comply with any then-applicable requirements of the ~~GOVERNMENT CODE~~Government Code relating to changes in the composition of entities such as the ~~AUTHORITY~~Authority; and if and when they have ~~REVENUE BONDS~~Revenue Bonds issued by the ~~AUTHORITY~~Authority or other instruments of ~~indebtedness~~ indebtedness outstanding, comply with all of the terms and conditions of all ~~REVENUE~~

~~BONDS~~ Revenue Bonds or other instruments of indebtedness and related documentation including, without limitation, indentures, trust agreements, resolutions and letter of credit agreements.

SECTION 12. AMENDMENTS

This ~~AGREEMENT~~ Agreement may ~~only~~ be amended only after preliminary approval by ~~a no less than 70% of the Directors of the Authority Board, and thereafter by~~ written instrument approved in accordance with this AGREEMENT and meeting any ~~by no less than 70% of the governing boards of the Members. Any Amendment shall meet all~~ requirements imposed by the terms or conditions of ~~all REVENUE BONDS~~ Revenue Bonds and related documentation, if any, including, without limitation, indentures, trust agreements, resolutions and letter of credit agreements. Notwithstanding the foregoing, no amendment shall require any ~~MEMBER~~ Member to contribute any funds to the ~~AUTHORITY~~ Authority or become directly or contingently liable for any debts, liabilities or obligations of the ~~AUTHORITY~~ Authority without the consent of that ~~MEMBER~~ Member evidenced in a written instrument signed by a duly authorized representative of that ~~MEMBER~~ Member.

SECTION 13. FILING WITH THE SECRETARY OF STATE

The ~~EXECUTIVE DIRECTOR~~ Executive Director shall file all required notices with the Secretary of State in accordance with California Government Code Sections 6503.5 and 53051, as such may be amended from time to time.

SECTION 14. NOTICES

All notices which any ~~MEMBER~~ Member or the ~~AUTHORITY~~ Authority may wish to give in connection with this ~~AGREEMENT~~ Agreement shall be in writing and shall be served by personal or electronic mail delivery during usual business hours at the principal office of the ~~MEMBER~~ Member or ~~AUTHORITY~~ Authority, to an officer or person apparently in charge of that office, or by depositing the same in the United States mail, postage prepaid, and addressed to the ~~MEMBER~~ Member or ~~AUTHORITY~~ Authority at its principal office, or to such other address as the ~~AUTHORITY~~ Authority or ~~MEMBER~~ Member may designate from time to time by written notice given to the other ~~MEMBERS~~ Members in the manner specified in this Section. Service of notice pursuant to this Section shall be deemed complete on the day of service by personal delivery (but 24 hours after such delivery in the case of notices of special meetings of the ~~BOARD~~ Board) or three (3) days after mailing if deposited in the United States mail. Until changed by written notice to the ~~AUTHORITY~~ Authority and the ~~MEMBERS~~ Members, notice shall be delivered as follows: to the respective City Manager and County Administrative Officer.

CITY OF ARCATA: _____ ~~Arcata City Manager~~
736 F Street
Arcata, CA ~~95521~~

~~COUNTY OF HUMBOLDT:~~ ~~County Administrative Officer~~
~~825 Fifth Street~~
~~Eureka, CA 95501~~

~~CITY OF EUREKA:~~ ~~Eureka City Manager~~
~~531 K Street~~
~~Eureka, CA 95501~~

~~CITY OF FERNDALE:~~ ~~Ferndale City Manager~~
~~834 Main Street~~
~~Ferndale, CA 95536~~

~~CITY OF RIO DELL:~~ ~~Rio Dell City Manager~~
~~675 Wildwood Avenue~~
~~Rio Dell, CA 95562~~

~~CITY OF BLUE LAKE:~~ ~~Blue Lake City Manager~~
~~111 Greenwood~~
~~Blue Lake, CA 95521~~

SECTION 15. SUCCESSORS AND ASSIGNS

This ~~AGREEMENT~~Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the ~~MEMBERS~~Members. However, no ~~MEMBER~~Member shall assign any of its rights under this ~~AGREEMENT~~Agreement except to a duly formed public entity organized and existing under the laws of the State of California and then only when approved in accordance with this ~~AGREEMENT~~Agreement. No assignment shall be effective unless and until the ~~AUTHORITY~~Authority, the ~~MEMBERS~~Members and the proposed assignee comply with all then-applicable requirements of the ~~GOVERNMENT CODE~~Government Code relating to changes in the composition of entities such as the ~~AUTHORITY~~Authority and, if and when they have ~~REVENUE BONDS~~Revenue Bonds outstanding, in compliance with the terms and conditions of all ~~REVENUE BONDS~~Revenue Bonds and related documentation including, without limitation, indentures, trust agreements, resolutions and letter of credit agreements.

SECTION 16. SEVERABILITY

Should any part, term or provision of this ~~AGREEMENT~~Agreement be decided by a final judgment of a court or arbitrator to be illegal or in conflict with any law of the State of California or otherwise be unenforceable or ineffectual, the validity of its remaining parts, terms and provisions shall be not be affected.

SECTION 17. SECTION HEADINGS

All section headings contained in this AGREEMENTAgreement are for convenience and reference. They are not intended to define or limit the scope of any provision of this AGREEMENTAgreement.

SECTION 18. ARBITRATION

All disputes that arise in connection with the interpretation or performance of this AGREEMENTAgreement shall be resolved on an equitable basis by a single arbitrator under the commercial arbitration rules of the American Arbitration Association. The arbitrator's decision shall be final and binding on the AUTHORITYAuthority, all MEMBERSMembers and all former MEMBERSMembers involved or affected by the dispute. The AUTHORITYAuthority, any MEMBERMember and any former MEMBERMember that is party to the dispute may enforce any award, order or judgement of the arbitrator in any court of competent jurisdiction.

SECTION 19. LAW TO GOVERN

It is understood and agreed by the parties that the law of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this AGREEMENTAgreement and shall govern the interpretation of this AGREEMENTAgreement.

SECTION 20. ENTIRETY

The MEMBERSMembers agree that this AGREEMENTAgreement represents the full and entire agreement between the MEMBERS hereto with respect to matters covered herein. This AGREEMENTAgreement supersedes any and all other communications, representations, proposals, understandings or agreements, either written or oral, between the MEMBERSMembers hereto with respect to such subject matter.

SECTION 21. WAIVER

A waiver of any breach of any provision of this AGREEMENTAgreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provision, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provision.

EXHIBIT A

~~Those facilities approved as of the execution of the foregoing AGREEMENT are:~~

- ~~• Any facility owned by the AUTHORITY;~~
- ~~• The Eel River Disposal facility located at 965 Riverwalk Drive in Fortuna;~~
- ~~• The McKinleyville Transfer Station located at 2585 Central Ave, McKinleyville, CA.~~
- ~~• The Mad River Compost facility located at 6360 West End Road, Arcata, CA.~~

SECTION 22. EFFECTIVE DATE

This Amended and Restated Joint Powers Agreement shall become effective at the time 70% of the Members' governing boards have duly approved this Amended and Restated Joint Powers Agreement.

IN WITNESS WHEREOF, the Members of the Humboldt Waste Management Authority have approved this Amended and Restated Joint Powers Agreement and execute this Agreement as of the dates written below.

SIGNATURES APPEAR ON FOLLOWING PAGES