

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 and any other financial obligations or liabilities incurred by the AUTHORITY.

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

“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 financial obligations of the AUTHORITY with revenues of the AUTHORITY.

“INDENTURE OBLIGATIONS” means BONDS and PARITY OBLIGATIONS, which shall constitute REVENUE BONDS under the terms of this AGREEMENT.

"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.

"LANDFILL" means the Cummings Road Sanitary Landfill.

"MEMBER" 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wholly or partly within Humboldt County which has joined the AUTHORITY pursuant to Section 2.2 and has not subsequently withdrawn.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 OBLIGATIONS, the term shall have the meaning ascribed to it in the INDENTURE, (b) with respect to REVENUE BONDS, means REVENUE BONDS issued but not yet defeased or redeemed, and (c) with respect to other financial obligations and liabilities of the AUTHORITY, 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 AUTHORITY 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 AUTHORITY from time to time pursuant to the GOVERNMENT CODE or any other applicable law in order to finance any facility owned and/or operated by the AUTHORITY, and/or any financial aspects of closed LANDFILL maintenance.

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

"SOLID WASTE" means the type of wastes commonly collected by MEMBERS' franchised SOLID WASTE collectors including putrescible and nonputrescible solid, including garbage, trash, refuse, paper rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. SOLID WASTE does not include source separated recyclable or compostable materials intended for collection as part of a MEMBER'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.

"TRANSFER FACILITY" means a SOLID WASTE facility, including any accessory facilities related thereto, meeting the requirements of a "transfer or processing station" under Section 40200 of the California Public Resources Code, for the receiving, processing, disposal, recycling and transportation of SOLID WASTE and the recovery of materials from such SOLID WASTES, which facility is owned by the AUTHORITY, by a MEMBER, or by a private entity, but in all events is available for use by the AUTHORITY or its MEMBERS, such that the waste is handled by the AUTHORITY'S transport and disposal system.

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

SECTION 2. FORMATION

- 2.1 HUMBOLDT WASTE MANAGEMENT AUTHORITY. Pursuant to the GOVERNMENT CODE, the MEMBERS do hereby create, form and establish the AUTHORITY, a public entity to be known as the "HUMBOLDT WASTE MANAGEMENT AUTHORITY", it being understood that the BOARD shall be entitled

to change the AUTHORITY's name from time to time if it so chooses. The AUTHORITY shall be a public entity separate and distinct from each of the MEMBERS.

- 2.2 Additions. Any city or county may join the AUTHORITY, upon approval of the then-existing MEMBERS. Such approval shall not be granted unless and until the jurisdiction shall have: (1) covenanted to direct all SOLID WASTE collected by the jurisdiction (if such jurisdiction provides collection services directly to its constituents) to the TRANSFER FACILITY for processing, transportation, and disposal; (2) successfully entered into one or more agreements, satisfactory to the AUTHORITY, which direct its franchised hauler(s) to deliver all SOLID WASTE collected under such franchise(s) to the TRANSFER FACILITY for processing, transportation and disposal; or (3) made such other arrangement or covenant acceptable to the AUTHORITY for the delivery of SOLID WASTE to the TRANSFER FACILITY.
- 2.3 AUTHORITY Qualifications. It is hereby understood that the intent of the AUTHORITY is to require all present and future MEMBERS to covenant to take all actions possible to direct SOLID WASTE to the 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 with the right to direct all SOLID WASTE collected under any franchise collection agreement to the TRANSFER FACILITY.

SECTION 3. PURPOSE

- 3.1 General. The AUTHORITY is formed to provide economical coordination of SOLID WASTE management services and efficiently and fairly assure against potential adverse effects of past SOLID WASTE management services within the SERVICE AREA. This Agreement is entered into by the MEMBERS in order: 1) that they shall jointly request proposals and contract for SOLID WASTE 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 and equipment, materials recovery facilities, waste to energy facilities, and/or solid waste landfills; B) preparing and implementing an Integrated Waste Management Plan and other planning documents which meet the requirements of the ACT; C) disposal of waste 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 The general purpose **may** include, but is not limited to, the purpose of providing economical coordination of SOLID WASTE processing, transfer and disposal services of SOLID WASTE generated within the SERVICE AREA, including but not limited to the acquisition, construction, financing, refinancing, maintaining, operating, rate setting, rate collection, and regulation of a TRANSFER FACILITY.
- 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 serving part or all of the SERVICE AREA for the general purpose of protecting the health and safety of the public within the SERVICE AREA and the specific purpose of protecting the general funds of the 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 may include ownership and/or management of the LANDFILL during the final stages of the LANDFILL's active life, during closure, and thereafter if such is deemed essential, in the discretion of the 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 purpose also includes the establishment of the AUTHORITY as an independent joint powers entity to enable the MEMBERS to jointly exercise the common powers of the 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 -upon all joint powers authorities.

SECTION 4. ORGANIZATION

- 4.1 Composition The 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 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. The BOARD may change that principal office upon giving at least 15 days written notice to each MEMBER.

4.3 BOARD The AUTHORITY shall be governed by the BOARD of DIRECTORS, which shall exercise or oversee the exercise of all powers and authority on behalf of the AUTHORITY. The AUTHORITY BOARD of 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 shall appoint new officers. The appointment of the chairperson shall rotate among the MEMBERS of the AUTHORITY.

4.4 DIRECTORS.

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

4.5 EXECUTIVE ~~ADVISORY~~ COMMITTEE There is hereby created an EXECUTIVE ADVISORY COMMITTEE which shall consist of the MEMBER City and County Managers, or their appointees or designees, to ~~oversee the implementation of this Agreement and the management of the Countywide authority.~~ Said EXECUTIVE ~~ADVISORY~~ COMMITTEE shall advise the BOARD EXECUTIVE DIRECTOR as ~~herein~~ specified below:

- ~~a) Develop operational priorities, policies and procedures for systems development, programs and operations to be submitted to the BOARD;~~
- ~~ba) Review and recommend to the BOARD an operating and capital budget, and review and comment on AUTHORITY goals and objectives.;~~
- ~~e) Negotiate and recommend to the BOARD contracts with other agencies;~~
- ~~d) Supervise annual evaluation of quality of service;~~
- ~~eb) Provide assistance to the BOARD as requested in the recruitment and Conduct selection process for the AUTHORITY'S Countywide AUTHORITY EXECUTIVE DIRECTOR, and recommend the candidate to the BOARD; and~~
- ~~f) Review performance of EXECUTIVE DIRECTOR and make recommendation to retain or terminate to BOARD.~~

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

4.6 TECHNICAL AND ADVISORY COMMITTEES. The existing county/city Integrated Waste Management staff is designated to provide technical information for, make recommendations to, and otherwise advise, the AUTHORITY on relevant waste management issues.

SECTION 5. PERSONNEL AND ADMINISTRATION

5.1 Employees. The AUTHORITY may have its own employees or may contract with a MEMBER agency or firm for the furnishing of any necessary staff services associated with or required by the AUTHORITY. All employees shall report to the Executive

Director.

- 5.2 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.

- 6.1 FACILITIES. The AUTHORITY is empowered to acquire, construct, finance, refinance, operate, regulate, set rates for and maintain a TRANSFER FACILITY subject, however, to the conditions and restrictions contained in this AGREEMENT. To ensure safe closure and postclosure maintenance of the LANDFILL, the AUTHORITY is empowered to acquire, operate, regulate, set rates for, close and provide postclosure maintenance for the 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 postclosure 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 and the GOVERNMENT CODE), the AUTHORITY is authorized, in its own name, to do all acts necessary or convenient for the exercise of such powers enumerated in the ACT or that each 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, 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 and/or related facilities;
 - (d) to exercise the power of eminent domain for the acquisition of real and personal property for the TRANSFER FACILITY and access thereto or for the acquisition of the 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, any other SOLID WASTE facility owned or operated by the AUTHORITY, and any other enterprise which the AUTHORITY is empowered by this Agreement to conduct, as well as any and all services provided by the AUTHORITY, and to include in such rates and charges amounts necessary to carry out those purposes described in Section 3 of this AGREEMENT;
- (h) to require the MEMBERS to use all best efforts to direct all SOLID WASTE generated within the MEMBERS' boundaries that are located within the SERVICE AREA to the TRANSFER FACILITY. To the extent legally permissible, MEMBERS shall direct all SOLID WASTE collected by MEMBERS' franchised garbage collectors to the TRANSFER FACILITY. MEMBERS shall also direct all other SOLID WASTE generated by MEMBERS to the TRANSFER FACILITY; provided, however, this subsection shall not apply to recyclables nor to SOLID WASTE generated by MEMBERS outside the SERVICE AREA;
- (i) to require 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 with the right to direct all waste collected by the franchised hauler(s) to the TRANSFER FACILITY. Any MEMBER currently not having the right to direct SOLID WASTE under its franchise agreement(s) shall covenant to make such amendment in order to join the 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 contract for the processing, transportation and/or disposal of SOLID WASTE delivered to the TRANSFER FACILITY;
- (l) to make and enter into contracts, including contracts with any MEMBER or non-MEMBER, and to assume contracts made by any MEMBER relating to the TRANSFER FACILITY;

- (m) to reimburse the MEMBERS for the costs of services provided to the 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;
- (q) to make plans and conduct studies;
- (r) to coordinate efforts with the established local, regional and state waste management agencies;
- (s) to make payments as necessary for closure and postclosure maintenance for the LANDFILL for the purposes set forth in Section 3.3 of this AGREEMENT and, if the LANDFILL should become a Superfund site, to seek reimbursement for remediation costs from any person or entity (other than any MEMBER) having a legal responsibility for such costs; and
- (t) to provide the FINANCIAL ASSURANCES required by state and federal law for postclosure maintenance of the LANDFILL, including use of a PLEDGE OF REVENUES based upon any or all of the revenue-producing enterprises owned and/or operated by the AUTHORITY.

6.3 Limitations. Such powers shall be exercised subject only to the limitations set forth in this 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 MEMBERS, the AUTHORITY 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 FACILITY.

- 6.6 Individual MEMBER Services. Upon approval of the BOARD and the governing body of a MEMBER, the AUTHORITY may contract to provide other related waste management responsibilities and duties, individually for that MEMBER. These contracted services will be paid for solely by the contracting MEMBER.
- 6.7 Local Governing Body. For the purposes of the California Integrated Waste Management Act of 1989 (Public Resources Code section 40000 et seq.) the AUTHORITY will operate as a “Local Government Body” or “Local Governmental Agency” which has the authority to provide solid waste 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 shall not constitute assets, rights, debts, liabilities or obligations of any of the MEMBERS. However, nothing in this AGREEMENT shall prevent any MEMBER from separately contracting for, or assuming responsibility for, specific debts, liabilities or obligations of the AUTHORITY, provided that both the BOARD and that MEMBER give prior approval to such contract or assumption.
- (b) The 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 or any of the officers, agents, employees, or contractors of the AUTHORITY in relation to the TRANSFER FACILITY, any SOLID WASTE facility owned and/or operated by the AUTHORITY or any other enterprise owned and/or operated by the AUTHORITY shall be the sole responsibility of the AUTHORITY. Such costs shall therefore be paid for ultimately through surcharges uniformly imposed on the rates charged to users of the TRANSFER FACILITY.
- (c) To the extent that MEMBERS are also held jointly and severally liable for such amounts by Government Code Section 895.2, if a MEMBER provides for such defense of itself or the AUTHORITY, or pays all or part of such judgment, the MEMBER shall be entitled to reimbursement in full from the AUTHORITY, provided the MEMBER obtains prior approval from the AUTHORITY. Such reimbursement shall be paid over such time as is necessary for the collection of the corresponding reasonable user surcharges.
- (d) If MEMBERS are held responsible by third parties for tort or other claims as a result of activities of the AUTHORITY, pursuant to Government Code Section

895.2 or state or federal laws applicable to SOLID WASTE management facilities, and the AUTHORITY has ceased to exist and its assets have been fully distributed or consumed, or the 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 shall be entitled to seek reimbursement from the other 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 exceed that proportion of the total cost which exceeds the ratio of the tonnage of SOLID WASTE generated within the jurisdiction of the MEMBER, including self hauled SOLID WASTE, and processed by the TRANSFER FACILITY in the FISCAL YEAR of the occurrence of the incident giving rise to liability to the total tonnage processed by the TRANSFER FACILITY during said FISCAL YEAR.

- (e) Obligations for capital expenditures at an approved 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 shall contribute a reasonable amount toward all of the AUTHORITY'S costs of administration.

7.2 Budget. A budget for the AUTHORITY shall be adopted by the BOARD for the ensuing 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 including, but not limited to, the acquisition or construction of a TRANSFER FACILITY and any other facility owned and/or operated by the AUTHORITY and related site improvements, administration, special projects, maintenance and operating costs. Approval of the budget by the BOARD shall constitute authority for the 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 to modify the budget in whatever manner it deems appropriate and instruct the MANAGER accordingly.

7.3 Rates.

- (a) The BOARD shall establish rates to be charged at the 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 issued in connection therewith) to insure against future liabilities and of the 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 generated at any time within the SERVICE AREA, and to pay as yet unfounded costs of closure as well as those

costs of postclosure maintenance for the LANDFILL which exceed net revenues from gas recovery and other ongoing LANDFILL site enterprises, as liability for such costs accrues, and to accommodate the planning and implementation of activities incidental thereto.

- (b) The AUTHORITY shall provide at least thirty (30) days advance written notice to its MEMBERS of any intent to increase or decrease rates to be charged at the TRANSFER FACILITY. To the extent possible, the AUTHORITY shall coordinate the effective date of rate increases or decreases with the annual garbage collection rate setting processes of the MEMBERS and other public entities having SOLID WASTE franchising jurisdiction within the 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 shall indemnify, defend and hold harmless the 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, described herein, or its failure to comply with any of its obligations contained in the AGREEMENT, except such loss or damage which was caused by the sole negligence or willful misconduct of a 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.

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 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.

Workers' Compensation Insurance Endorsement. The workers' compensation policy shall be endorsed to contain a waiver of subrogation clause which states the following:

"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.

SECTION 8. RULES OF CONDUCT

- 8.1 Bylaws. The BOARD, from time to time, may adopt bylaws for the conduct of the AUTHORITY's affairs, provided that they are not inconsistent with this AGREEMENT.
- 8.2 Officers and Committees. The BOARD may designate such officers and establish such committees as may be necessary or convenient to conduct the AUTHORITY's affairs.
- 8.3 Voting.
- (a) Each DIRECTOR shall have one vote on all matters presented to the BOARD for a vote.
 - (b) Except as provided in Section 8.3(c), the vote of a majority of the DIRECTORS shall constitute the act of the BOARD.
 - (c) A vote of seventy percent (70%) all of the DIRECTORS shall be necessary in order to approve any of the following:
 - (1) the construction budget for any AUTHORITY owned facility;
 - (2) the annual operating budget of the AUTHORITY in excess of debt service on REVENUE BONDS and the payment to the transfer station operator.
 - (3) the issuance, execution or delivery of 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;
 - (6) voting rules regarding the approval of contracts between the AUTHORITY and any one or more 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 including by means of assignment; and
- (8) the purchase of a landfill.

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

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

- (a) To any alternate DIRECTOR appointed to the BOARD by a MEMBER who is attending a properly noticed meeting of the AUTHORITY in lieu of the MEMBER'S regularly appointed DIRECTOR to the BOARD.
- (b) All information received by a MEMBER'S governing body in closed session related to information presented to the AUTHORITY in closed session shall be confidential. However, a MEMBER'S appointed DIRECTOR or alternate to the AUTHORITY BOARD may disclose information obtained in closed session that has direct financial or liability implications for a MEMBER to the following individuals:
 - (1) Legal counsel for the MEMBER for purposes of obtaining advice on whether the matter has direct financial or liability implications for the MEMBER; and
 - (2) Other officials in the MEMBER'S governing body present in a closed session of the MEMBER agency.
- (c) Upon adoption of this provision, the governing body of a 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 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 shall continue in full force and effect until amended pursuant to Section 12 or until dissolved pursuant to Section 10 of this AGREEMENT. However, in no event shall the AUTHORITY be dissolved until all of the AUTHORITY's obligations and liabilities respecting all REVENUE BONDS are satisfied, discharged, or terminated or until the provisions of Section 11.2 are complied with.

SECTION 10. WITHDRAWAL.

A participating MEMBER may withdraw upon no less than one year prior written notice to the AUTHORITY BOARD. The withdrawing 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 shall be entitled to any distribution or withdrawal of property or funds except as may be agreed to by the BOARD; however, such 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 according to the provisions of Section 11.

SECTION 11. DISSOLUTION

11.1 Assets.

- (a) Subject to the then-applicable requirements of the GOVERNMENT CODE, upon dissolution of the AUTHORITY, the assets of the AUTHORITY remaining after payment of or adequate provision for all debts, liabilities and obligations of the AUTHORITY shall be divided among the 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, (inclusive of SOLID WASTE delivered by self haulers) each MEMBER caused to be delivered to the TRANSFER FACILITY.
- (b) To ensure that "adequate provision" is made for all debts, liabilities and obligations of the 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 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 arising after dissolution in consequence of actions of the AUTHORITY prior to dissolution, or to pay for costs of postclosure maintenance of, or hazardous waste release remediation at the 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 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.

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

11.3 Effective. No dissolution shall be effective unless and until the AUTHORITY and MEMBERS comply with any then-applicable requirements of the GOVERNMENT CODE relating to changes in the composition of entities such as the AUTHORITY; and if and when they have REVENUE BONDS issued by the AUTHORITY outstanding, comply with all of the terms and conditions of all REVENUE BONDS and related documentation including, without limitation, indentures, trust agreements, resolutions and letter of credit agreements.

SECTION 12. AMENDMENTS

This AGREEMENT may only be amended by a written instrument approved in accordance with this AGREEMENT and meeting any requirements imposed by the terms or conditions of all REVENUE BONDS and related documentation including, without limitation, indentures, trust agreements, resolutions and letter of credit agreements. Notwithstanding the foregoing, no amendment shall require any MEMBER to contribute any funds to the AUTHORITY or become directly or contingently liable for any debts, liabilities or obligations of the AUTHORITY without the consent of that MEMBER evidenced in a written instrument signed by a duly authorized representative of that MEMBER.

SECTION 13. FILING WITH THE SECRETARY OF STATE

The 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.

All notices which any MEMBER or the AUTHORITY may wish to give in connection with this AGREEMENT shall be in writing and shall be served by personal delivery during usual business hours at the principal office of the MEMBER or 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 or AUTHORITY at its principal office, or to such other address as the AUTHORITY or MEMBER may designate from time to time by written notice given to the other 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) or three (3) days after mailing if deposited in the United States mail. Until changed by written notice to the AUTHORITY and the MEMBERS, notice shall be delivered as follows:

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 shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the MEMBERS. However, no MEMBER shall assign any of its rights under this 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. No assignment shall be effective unless and until the AUTHORITY, the MEMBERS and the proposed assignee comply with all then-applicable requirements of the GOVERNMENT CODE relating to changes in the composition of entities such as the AUTHORITY and, if and when they have REVENUE BONDS outstanding, in compliance with the terms and conditions of all 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 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 not be affected.

SECTION 17. **SECTION HEADINGS**

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

SECTION 18. **ARBITRATION**

All disputes that arise in connection with the interpretation or performance of this AGREEMENT 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 AUTHORITY, all MEMBERS and all former MEMBERS involved or affected by the dispute. The AUTHORITY, any MEMBER and any former MEMBER 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 AGREEMENT and shall govern the interpretation of this AGREEMENT.

SECTION 20. **ENTIRETY**

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

SECTION 21. **WAIVER**

A waiver of any breach of any provision of this AGREEMENT 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.