1. Call to Order and Roll Call at 5:30 PM

2. Consent Calendar
All matters listed under the Consent Calendar are considered to be routine by the HWMA Board and will be enacted upon by one motion, unless a specific request for review is made by a Board Member or a member of the public. The Consent Calendar will not be read. There will be no separate discussion of these items unless pulled for discussion.

   a. Approve Minutes from the June 8, 2017 HWMA Board of Directors Meeting.
   b. Receive May Fiscal Year 2016-17 Financials
   c. Approve Ten Year Agreement for Green Waste Processing Services with Mad River Hardwoods, Inc.
   d. Approve Consent to Change of Control of Municipal Solid Waste Loading Services Agreement from Eel River Resource Recovery to Recology, Inc.
   e. Approve Letters of Support For SB 212 (Medical Waste) and AB 1219 (The California Good Samaritan Food Donation Act)
   f. Approval of the Draft Request for Proposals for Green Waste Transportation Services from Hawthorne Street Transfer Station to Mad River Hardwoods

3. Oral and Written Communications
This time is provided for people to address the Board or to submit written communications concerning matters not on this agenda. Board Members may respond to statements, but any request that requires Board action will be referred to staff for review. Reasonable time limits may be imposed on both the total amount of time allocated for this item, and on the time permitted to each individual speaker. Such time allotment or portion thereof shall not be transferred to other speakers.

4. Review and Approve Resolution 2018-03 and the Draft Agreement with Dry Creek Landfill for Transportation and Disposal of HWMA’s Municipal Solid Waste.

6. Review the Scale Software Evaluation Committee Recommendation to Select and Award Scale Software

7. Board Member Reports

8. Executive Director’s Report

9. Closed Session: It is the intention of the Board of Directors to meet in closed session for one item:
   a. Pending litigation California Government Code 54956.9(a); Humboldt BayKeeper v HWMA (United State District Court Northern District of California Civil Case No. 3:17-cv-02301-JD), conference with legal counsel.

10. Adjourn
Minutes
Thursday, June 8, 2017 5:30 PM
Eureka City Council Chambers
531 K Street, Eureka, CA

Present: Frank Wilson, Marian Brady, Sofia Pereira, Michael Sweeney, Rex Bohn and Summer Daugherty
Absent: None
Staff: Jill Duffy, Tyler Egerer, Helder Morais, Eric Keller-Heckman
Legal Counsel: Nancy Diamond

Audio Recording of Proceedings: https://archive.org/details/AH-hwma_6-8-17

Recordings of the meetings of the HWMA Board of Directors are provided for information only, and should not be considered official records of the HWMA. The Actions of the HWMA Board of Directors are recorded below and, following approval by a majority of the members of the Board, are the official record of the Board’s actions for the meeting date noted above.

1. Call to Order and Roll Call at 5:30 PM

Chairwoman Pereira called the meeting to order at 5:30 p.m. A quorum was present and acting.

2. Consent Calendar

   a. Approve Minutes from the May 11, 2017 HWMA Board of Directors Meeting.
   b. Receive April Fiscal Year 2016-17 Financials
   c. Authorize the Executive Director to Execute an Amendment to Extend Agreement with Nancy Diamond for Legal Services.
   d. Approve Board Calendar for FY 2017-18
   e. Approve Encumbering of Fiscal Year 2016-17 Funds for Identified FY 2016-17 Projects to be completed in FY 2017-18.
   g. “Replacement of Electric Motors and Associated Equipment for Industrial Roll Up Doors”.
   h. Informational Item: Summary of Introduced California Legislation Pertaining to Solid Waste, Hazardous Waste, Waste Diversion, Disposal and Preliminary Recommended Position(s).

Chairwoman Pereira opened the floor to public comment regarding the Consent Calendar. No comment was received.

Chairwoman Pereira closed the floor to public comment.

The Board approved the following motions:
Motion: Director Bohn Moved and Director Wilson Seconded the motion to approve the Consent Calendar.

Action: Approve the Motion as made by Director Bohn and seconded by Director Wilson by the following vote:
Ayes: Pereira, Brady, Daugherty, Wilson, Sweeney, and Bohn
Nays: None
Absent: None

3. Oral and Written Communications
Chairwoman Pereira opened the floor to public comment regarding items not on the Agenda. No comment was received.
Chairwoman Pereira closed the floor to public comment.

4. Receive and Discuss Early Termination Request of Transportation and Disposal for Municipal Solid Waste Services by Solid Wastes of Willits; Provide Direction as Appropriate. Following the presentation, Chairwoman Pereira opened the floor to public comment regarding the agenda item. Public comment was received from the following:

Garry Penning, representing Dry Creek Landfill, who discussed the proposed rates and landfill operations at Dry Creek Landfill with the Board.

Chairwoman Pereira closed the floor to public comment.

The Board approved the following motions:

Motion: Director Sweeney Moved and Director Wilson Seconded to for the Executive Director and General Counsel to negotiate an agreement(s) for the transportation and disposal of solid waste with Bettendorf Trucking and Dry Creek Landfill consistent with the rates presented, and return to the Board for review and approval.

Action: Approve the Motion as made by Director Sweeney and seconded by Director Wilson by the following vote:
Ayes: Pereira, Brady, Daugherty, Wilson, Sweeney, and Bohn
Nays: None
Absent: None

Motion: To authorize the Executive Director and General Counsel to negotiate and execute an Amendment for Early Termination to the HWMA and Solid Wastes of Willits Transportation and Disposal Agreement with a Consideration Payment to HWMA of $50,000 payable over two (2) years; and authorization to accept the Yard Dog (tractor) following evaluation by staff and the Executive Director.

Action: Approve the Motion as made by Director Daugherty and seconded by Director Sweeney by the following vote:
Ayes: Pereira, Brady, Daugherty, Wilson, Sweeney, and Bohn
Nays: None
Absent: None
5. Approve Resolution 2018-02 Accepting Real Property Interests from Recology Humboldt County, Inc. for 413 Acres of Forested Property Adjacent to Cummings Road Landfill from Recology Humboldt County, Inc. Following the presentation, Chairwoman Pereira opened the floor to public comment regarding the agenda item. Chairwoman Pereira closed the floor to public comment.

The Board approved the following motions:

Motion: Director Brady Motioned and Director Sweeney Seconded to approve Resolution 2018-02 Accepting Real Property Interests from Recology Humboldt County, Inc. Real Property Interests, APNs 403-071-002, 403-081-009, 405-081-040, -044, -052 and -053.

Action: Approve the Motion as made by Director Brady and seconded by Director Sweeney by the following vote:

Ayes: Pereira, Brady, Daugherty, Wilson, Sweeney, and Bohn
Nays: None
Absent: None

6. Elect Authority Officers. Following introduction of the item, Chairwoman Pereira opened the floor to public comment regarding the agenda item. No comment was received. Chairwoman Pereira closed the floor to public comment.

The Board approved the following motions:

Motion: Director Bohn Moved and Director Daugherty Seconded to select Sofia Pereira as Chair, and Director Messner as Vice-Chair for FY 2017-18 by the following vote:

Ayes: Pereira, Brady, Daugherty, Wilson, Sweeney, and Bohn
Nays: None
Absent: None

7. Board Member Reports: Reports were received from the following Directors:

Director Wilson, regarding the City of Rio Dell’s Spring Clean-Up Day;
Director Daugherty, regarding recent changes in representation from the City of Blue Lake.

8. Executive Director’s Report
The Board received Executive Director Duffy’s report.

9. Adjourn
Chairwoman Pereira adjourned the meeting at 7:24 p.m.

Next Regular Meeting: July 13, 2017 at 5:30 p.m. at Eureka City Hall Council Chambers.
Staff Report

DATE: May 11, 2017

FROM: Tyler Egerer, Director of Finance and Administrative Services

SUBJECT: Item 2b) Receive May 2017 Financial Reports

RECOMMENDED ACTION: Review and Approve

Review and Approve May 2017 Financial Reports.

DISCUSSION:
Each month, staff presents an update on the Authority’s financials based on activity to-date for a period two months prior to the current month. This enables staff to provide a complete presentation of the full financial activity for that period, as financial data will have been recorded and finalized for the reporting period at that point.

Each year, pending the finalization of the Authority’s financial audit, these financial reports are presented as preliminary financial reports. Once the audit is finalized and staff closes out the prior year, information presented will represent accurate to-date financial activity and will be marked as such.

Attachment B, Statement of Operations for Period Ending 05/31/2017 is presented in summary format; detailed analysis of each division of the Authority is available by request for those interested in division performance. Highlights of May activity include:

a) Strong revenue generation continues through May, with total revenues up approximately 12% over budget estimates;
b) Current expenses are holding to overall budget estimates;
c) Strong cash flow, to prepare for payment of semi-annual long-term debt payment and purchase of Recology Forest Property (once exercised).

The Authority’s cash position has been historically comprised of three accounts: 1) the Authority’s checking account, which handles all the day-to-day expenses; 2) the savings account, which maintains the current cash value of the Authority’s reserve funds; and, 3) the Union Bank Trust Account, which maintains the funds held in trust for the completion of the Cummings Road Landfill Closure Project. With final approval of the Cummings Road Landfill Construction Quality Assurance documents by the North Coast Regional Water Quality Control Board, the Humboldt County Local Enforcement Agency, and CalRecycle, the funds held in trust have been released to the Authority’s general operating fund as of May 20, 2017 and will be used to fully
fund Authority reserves and bolster the Authority’s cash flow for activities related to the proposed purchase of the Cummings Road Forest Property and planned capital improvement projects.

HWMA Checking, Umpqua Bank: $4,322,394.61
HWMA Savings, Umpqua Bank: $397,697.57
HWMA CRLF Trust, Union Bank: Closed 3/20/2017

**Authority Financials:**
Attachments A and B contain detailed balance sheet and income statement (*Statement of Operations*) information for the May financial report, for Board review and discussion. An analysis of that information as it relates to revenues and expenses, and current month disbursements to vendors and employees, is provided herein.

**Revenues** for May are performing approximately 12% over projections of budgeted estimates for Fiscal Year 2016-17. These estimates encapsulate all activity throughout the Authority, and may be influenced by future payouts for fees passed through to Member Agencies, revenue shares for salvaged materials sales, and the delayed receipt of grant revenues for grant-based projects.

As diversion programs increase, staff is monitoring the success of those programs in terms of not only cost, but self-sustaining viability. At present, all divisions are operating above budgeted estimates, and are fully funded from self-sustaining revenues or fees passed-through from Self-Haul, Franchise, and Satellite Facility tipping fees.

As participation in CRV buyback continues to stay strong, due to a lack of private reimbursement centers, revenue estimates for salvage material revenue and processing revenues continue to be high; these will be offset by similarly increased hauling and processing costs as the Authority moves the material to processors for marketing.

Based on the above factors, and to facilitate long-term planning – relative to the Fiscal Year – for the Board and staff in decision making, the following estimation of growth for total revenues is provided below. The following graph tracks current, aggregate, monthly revenue activity against an annual trend line, generated from the previous five years of financial information. The trend line provides a reasonable estimation of how revenues are expected to be collected throughout the year, including effects related to weather, seasonal activities, and delayed reimbursements for grants and other projects.
Ongoing disposal activities, a strong construction season, and a continued level of high participation in CRV reimbursement through the Authority’s Eureka Recycling Center are keeping revenue above estimates, resulting in a robust revenue profile for the Fiscal Year.

Expenses for May are below budget projections. Total Expenses are approximately 3% below budgeted estimates thanks to costs avoided in solid waste transportation and disposal and division cost-saving measures. In addition, one-time expenses related to depreciation of assets and capital purchases have been updated to bring operating expenses closer to budgeted estimates.

Payroll expenditures have been brought into line with budget estimates through the mid-year adjustment. Due to several workplace employee injuries over the past several years, the Authority’s worker’s compensation insurance premium was increased by SDRMA. This increased cost is reflected in the overall Payroll expenditures. Staff is working with our worker’s compensation insurance provider, SDRMA, to reduce incident rates by improving the overall workplace environment at the Transfer Station and Landfill.

Based on the above factors, and to provide long-term planning – relative to the Fiscal Year – the Board and staff in decision making, the following estimation of growth for total expenditures is provided below. The following graph tracks current, aggregate, monthly expense activity against an annual trend line, generated from the previous five years of financial information. The trend line provides a reasonable estimation of how expenses are expected influence the Authority’s financials throughout the year, and consider the effects of those one-time, lump sum payments for certain recurring annual costs.
Mid-year adjustments have smoothed out expenditure activity for the year. Remaining significant changes in expenditures will result from planned expenditures related to payment on the Authority’s 2015 Chase Loan of approximately $550,000, occurring this month.

Monthly disbursements to Authority vendors and employees are summarized in Attachment D for the month of May. These disbursements are comprised primarily of day-to-day costs, including approximately $95,000 in payments to replenish CRV payout funds; approximately $180,000 in property and liability insurance, and worker’s compensation insurance; and approximately $360,000 in various waste disposal and transportation costs.

**Division Activities (as Summarized in Attachment C):**
Activity for all divisions is on track to exceed Fiscal Year 2016-17 activity. New construction, expanded curbside services, and outreach improvements have all contributed to an overall increase in activity.

**Attachments:**
- A) Authority Balance Statement, May 2017
- B) Authority Statement of Operations, May 2017
- C) Activity Report, May 2017
- D) Cash Disbursements, May 2017
## ASSETS AND DEFERRED OUTFLOWS

### Current Assets:
- Cash and Investments: $4,735,143 / $2,215,412
- Restricted Cash and Investments: 1,675,143

### Accounts Receivable:
- Customer (Net of Doubtful Accounts): 889,443 / 795,434
- Grants: 4,286 / 4,369
- Deposits: 19,500 / 19,500

Total Current Assets: 5,648,372 / 4,709,858

### Noncurrent Assets:
- **Capital Assets:**
  - Property, Plant and Equipment, Net: 4,033,067 / 4,354,337
  - Waste Authority Contract: 221,171 / 221,171

Total Noncurrent Assets: 4,254,238 / 4,575,508

Total Assets: 9,902,610 / 9,285,366

### Deferred Outflows:
- Pension Plan: 346,122 / 346,122

Total Assets and Deferred Outflows: 10,248,732 / 9,631,488

## LIABILITIES, DEFERRED INFLOWS AND NET POSITION(DEFICIT)

### Current Liabilities:
- Accounts Payable and Accrued Liabilities: 64,915 / 523,452
- Accrued Payroll: 203,188 / 139,747
- Customer Deposits: 13,207 / 2,350

Total Current Liabilities: 281,310 / 665,549

### Noncurrent Liabilities:
- Long-term Debt Due After One Year: 4,161,808 / 5,264,217
- Net Pension Liability: 348,321 / 348,321
- Estimated Closure and Post-Closure Care Costs: 7,607,426 / 7,607,426

Total Noncurrent Liabilities: 12,117,555 / 13,219,964

Total Liabilities: 12,398,865 / 13,885,513

### Deferred Inflows:
- Pension Plan: 469,877 / 469,877
- Unavailable Revenue: 48,069 / 48,069

Total Liabilities and Deferred Inflows: 12,916,811 / 14,403,459

## NET POSITION (DEFICIT)

- Net Investment in Capital Assets: 92,430 / (688,709)
- Restricted for Debt Service: 1,675,143
- Unrestricted (Deficit): (5,035,433) / (9,014,002)

Total Net Position: 2,274,924 / 3,255,597

Total Liabilities, Deferred Inflows and Net Position: 10,248,732 / 9,631,488
# Humboldt Waste Management Authority
## Statement of Revenues, Expenses, and Changes in Net Position
### For the Eleven Months Ending 5/31/2017

## OPERATING REVENUES:

<table>
<thead>
<tr>
<th>Item</th>
<th>Actual</th>
<th>Budget</th>
<th>$ Var</th>
<th>% Var</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Waste Management Fees</td>
<td>8,709,778</td>
<td>8,024,859</td>
<td>684,919</td>
<td>8.53%</td>
</tr>
<tr>
<td>Less: Pass-Through Fees</td>
<td>397,683</td>
<td>614,002</td>
<td>(216,319)</td>
<td>(35.23%)</td>
</tr>
<tr>
<td>Net Waste Management Fees</td>
<td>8,312,095</td>
<td>7,410,857</td>
<td>901,238</td>
<td>12.16%</td>
</tr>
<tr>
<td>Green Waste Fees</td>
<td>429,649</td>
<td>312,767</td>
<td>116,882</td>
<td>37.37%</td>
</tr>
<tr>
<td>Other Fees and Charges</td>
<td>822</td>
<td>(367)</td>
<td>1,189</td>
<td>(323.98%)</td>
</tr>
<tr>
<td>Other Operating Revenues</td>
<td>1,821,404</td>
<td>1,739,375</td>
<td>82,029</td>
<td>4.72%</td>
</tr>
<tr>
<td><strong>Total Operating Revenues</strong></td>
<td><strong>10,563,970</strong></td>
<td><strong>9,462,632</strong></td>
<td><strong>1,101,338</strong></td>
<td><strong>11.64%</strong></td>
</tr>
</tbody>
</table>

## OPERATING EXPENSES:

<table>
<thead>
<tr>
<th>Item</th>
<th>Actual</th>
<th>Budget</th>
<th>$ Var</th>
<th>% Var</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operations and Maintenance</td>
<td>5,633,035</td>
<td>5,928,460</td>
<td>(295,425)</td>
<td>(4.98%)</td>
</tr>
<tr>
<td>Administrative and General</td>
<td>1,637,617</td>
<td>1,620,374</td>
<td>17,243</td>
<td>1.06%</td>
</tr>
<tr>
<td>Professional Services</td>
<td>54,701</td>
<td>53,167</td>
<td>1,534</td>
<td>2.89%</td>
</tr>
<tr>
<td>Depreciation and Amortization</td>
<td>443,044</td>
<td>397,281</td>
<td>45,763</td>
<td>11.52%</td>
</tr>
<tr>
<td>Closure-related Expenses</td>
<td>2,582</td>
<td>2,582</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Other Expenses</td>
<td>569,041</td>
<td>605,712</td>
<td>(36,671)</td>
<td>(6.05%)</td>
</tr>
<tr>
<td><strong>Total Operating Expenses</strong></td>
<td><strong>8,340,020</strong></td>
<td><strong>8,604,994</strong></td>
<td><strong>(264,974)</strong></td>
<td><strong>(3.08%)</strong></td>
</tr>
<tr>
<td><strong>Operating Income (Loss)</strong></td>
<td><strong>2,223,950</strong></td>
<td><strong>857,638</strong></td>
<td><strong>1,366,312</strong></td>
<td><strong>159.31%</strong></td>
</tr>
</tbody>
</table>

## NONOPERATING REVENUES (EXPENSES):

<table>
<thead>
<tr>
<th>Item</th>
<th>Actual</th>
<th>Budget</th>
<th>$ Var</th>
<th>% Var</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest Income</td>
<td>110</td>
<td>110</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Investment Earnings</td>
<td>(1,510)</td>
<td>8,250</td>
<td>(9,760)</td>
<td>(118.3%)</td>
</tr>
<tr>
<td>Rental Income (Net of Expenses)</td>
<td>105,758</td>
<td>107,126</td>
<td>(1,368)</td>
<td>(1.28%)</td>
</tr>
<tr>
<td>Grant Revenue</td>
<td>75,545</td>
<td>246,321</td>
<td>(170,776)</td>
<td>(69.33%)</td>
</tr>
<tr>
<td>Grant Expense</td>
<td>(45,170)</td>
<td>(246,321)</td>
<td>201,151</td>
<td>(81.66%)</td>
</tr>
<tr>
<td>Interest Expense</td>
<td>(83,759)</td>
<td>(76,825)</td>
<td>(6,934)</td>
<td>9.03%</td>
</tr>
<tr>
<td><strong>Total Nonoperating Revenues (Expenses)</strong></td>
<td><strong>50,974</strong></td>
<td><strong>38,551</strong></td>
<td><strong>12,423</strong></td>
<td><strong>32.22%</strong></td>
</tr>
<tr>
<td><strong>Change in Net Position</strong></td>
<td><strong>2,274,924</strong></td>
<td><strong>896,189</strong></td>
<td><strong>1,378,735</strong></td>
<td><strong>153.84%</strong></td>
</tr>
</tbody>
</table>
### Waste Tonnage

<table>
<thead>
<tr>
<th></th>
<th>Tonnage</th>
<th>Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Year to Date</td>
<td>Prior YTD</td>
</tr>
<tr>
<td>Hawthorne</td>
<td></td>
<td>(in lbs)</td>
</tr>
<tr>
<td>Franchise</td>
<td>41,222</td>
<td>35,853</td>
</tr>
<tr>
<td>Self Haul</td>
<td>15,860</td>
<td>13,069</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td>57,082</td>
<td>48,922</td>
</tr>
<tr>
<td>Humboldt Sanitation</td>
<td>4,433</td>
<td>1,971</td>
</tr>
<tr>
<td>ERD</td>
<td>6,672</td>
<td>3,778</td>
</tr>
<tr>
<td><strong>TOTAL.</strong></td>
<td>68,187</td>
<td>54,671</td>
</tr>
</tbody>
</table>

| Greenwaste| 3,865       | 2,552      | 151.4%     | 285,359     | 186,024   | 153.4%    |

### Household Hazardous Waste

<table>
<thead>
<tr>
<th></th>
<th>Customers</th>
<th>Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Year to Date</td>
<td>Prior YTD</td>
</tr>
<tr>
<td>Commercial</td>
<td>490</td>
<td>323</td>
</tr>
<tr>
<td>Residential</td>
<td>3,048</td>
<td>3,100</td>
</tr>
<tr>
<td>Fortuna Residential</td>
<td>72</td>
<td>74</td>
</tr>
<tr>
<td>Revenue from Countywide Fee</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL.</strong></td>
<td>3,610</td>
<td>3,497</td>
</tr>
</tbody>
</table>

### Traffic Count

<table>
<thead>
<tr>
<th></th>
<th>Average Daily Count FY16</th>
<th>Exceptions</th>
<th>% of Prior</th>
</tr>
</thead>
<tbody>
<tr>
<td>July</td>
<td>314</td>
<td>None</td>
<td>106.4%</td>
</tr>
<tr>
<td>August</td>
<td>315</td>
<td>None</td>
<td>125.6%</td>
</tr>
<tr>
<td>September</td>
<td>300</td>
<td>None</td>
<td>103.8%</td>
</tr>
<tr>
<td>October</td>
<td>266</td>
<td>None</td>
<td>100.4%</td>
</tr>
<tr>
<td>November</td>
<td>287</td>
<td>None</td>
<td>108.3%</td>
</tr>
<tr>
<td>December</td>
<td>279</td>
<td>None</td>
<td>104.9%</td>
</tr>
<tr>
<td>January</td>
<td>283</td>
<td>None</td>
<td>99.3%</td>
</tr>
<tr>
<td>February</td>
<td>271</td>
<td>None</td>
<td>98.9%</td>
</tr>
<tr>
<td>March</td>
<td>291</td>
<td>None</td>
<td>106.6%</td>
</tr>
<tr>
<td>April</td>
<td>307</td>
<td>None</td>
<td>93.0%</td>
</tr>
<tr>
<td>May</td>
<td>317</td>
<td>None</td>
<td>108.2%</td>
</tr>
<tr>
<td>June</td>
<td>314</td>
<td>None</td>
<td>0.0%</td>
</tr>
<tr>
<td><strong>Year-to-Date Average</strong></td>
<td>294</td>
<td>None</td>
<td>103.6%</td>
</tr>
</tbody>
</table>
## Attachment D
### May 2017
### Disbursements

<table>
<thead>
<tr>
<th>Paid To</th>
<th>Amount</th>
<th>Paid To</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>101Netlink</td>
<td>$60.00</td>
<td>Maureen Hart</td>
<td>$956.25</td>
</tr>
<tr>
<td>Advanced Display &amp; Signs</td>
<td>$5,328.65</td>
<td>Mendes Supply Company</td>
<td>$8,573.14</td>
</tr>
<tr>
<td>Advanced Superior Alarms</td>
<td>$231.21</td>
<td>Mission Uniform &amp; Linen</td>
<td>$1,645.24</td>
</tr>
<tr>
<td>Airgas USA LLC West Division</td>
<td>$1,457.79</td>
<td>Munnell &amp; Sherrill, Inc</td>
<td>$297.70</td>
</tr>
<tr>
<td>Alves Inc.</td>
<td>$200.00</td>
<td>Nancy Diamond</td>
<td>$3,120.00</td>
</tr>
<tr>
<td>Anderson Landfill</td>
<td>$7,632.24</td>
<td>Napa Auto Parts</td>
<td>$483.05</td>
</tr>
<tr>
<td>Asbury Environmental Services</td>
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### Vendor Disbursements
$840,884.30

### Employment Disbursements
$149,849.04

**Total Disbursements** $990,733.34

July 13, 2017
Printed on Recycled Paper
Staff Report

DATE: June 20, 2017 For Meeting of: July 13, 2017

FROM: Jill K. Duffy, Executive Director

SUBJECT: Item 2c) Approve Ten Year Agreement for Green Waste Processing Services with Mad River Hardwood, Inc.

RECOMMENDED ACTION: Voice vote.

That the Board:

1) Approve 10-Year Agreement for Green Waste Processing Services with Mad River Hardwood, Inc.; and

2) Authorize the Executive Director to execute the “Agreement Between HWMA and Mad River Hardwoods, Inc. for Green Waste Drop-Off and Processing Services; and

DISCUSSION:
The Board approved the HWMA’s “2013-2023 Strategic Plan”, which included Goal 1.4 “Renegotiate Contracts related to Mad River Compost Facility”. Staff has worked closely with representatives of Mad River Hardwoods, Inc. to consolidate two agreements relating to the operation of the Drop-Off Facility and Green-Waste Processing into a single agreement for the Board’s consideration.

Staff has developed the attached master agreement which incorporates provisions from the two agreements, which 1) reduce contractual redundancies; 2) simplifies contract management; and 3) allow for revisions to existing provisions as mutually agreed between the two parties.

Staff recommends the Board Approve 10-Year Agreement for Green Waste Processing Services with Mad River Hardwood, Inc. and Authorize the Executive Director to execute the “Agreement Between HWMA and Mad River Hardwoods, Inc. for Green Waste Drop-Off and Processing Services. As directed by the Board, this diversion program is generally self-supporting.

Background_ Over the past 15-20 years, there have been multiple efforts to divert organics and green waste from landfills. For several decades, wood and green waste could be disposed at several biomass facilities located throughout Humboldt County. With increased regulatory and economic pressures, combined with aging infrastructure, those facilities have either been dismantled, or retrofitted with the objective of producing ‘organic’ certified waste products. In 2005-06, the Authority entered into a public-private partnership for the diversion and processing of green-waste received at the Authority’s Hawthorne Street Transfer Station. This
enabled approximately 2,500 cubic yards of green-waste annually to be diverted. HWMA had three individual agreements with Mad River Hardwood, Inc, with different termination dates. These three contracts included:

1) a property lease agreement with Mad River Hardwood, Inc. (*Property Agreement*);
2) a contract with Mad River Hardwood to provide a green waste self-haul and franchise drop-off service on the property site (*Drop-Off Agreement*); and
3) a contract with Mad River Hardwood, Inc. to process green waste into compost or boiler fuel (*Processing Agreement*).

In 2010, the State legislature passed AB 341 which set a state-wide recycling goal of 75% by 2020, which was later followed by passage of AB 1826 Organics Diversion in 2014. AB 1826 established a tier based volume approach that requires businesses and multi-family residential units generating organic waste to prescribe to an organics recycling method depending upon volume generated.

From 2007 until 2014, HWMA developed and secured funding to examine the feasibility of a foodwaste collection and processing program, however necessary commitment levels from local jurisdictions were not reached.

At the local level, in May 2013 the HWMA Board of Directors approved the “2013-2023 HWMA Strategic Plan” which provided a blue-print to guide the development, implementation and management of new and existing programs and facilities. Several of the strategic objectives addressed the Mad River Compost Facility which was managed by HWMA under several services agreements.

According to CalRecycle’s Solid Waste Information System’s, there are 10 permitted composting facilities located in Humboldt County. However, only one permitted facility, Mad River Hardwoods, Inc., accepts green waste materials from the public for the purpose of composting. The remaining nine facilities are either 1) chipping and grinding operations who transport green waste to biomass or out of area compost facilities; or 2) process municipal solid waste biosolids; or 3) process agriculture manure wastes.

**Green-Waste Materials, Sources and Historic Trends**

In FY 2015-16, 3,464.76 tons of green waste from Franchise and Self-Haul was transported and processed from HWMA, with an additional 1,958.4 tons direct delivered by Arcata Garbage and Arcata residents to Mad River Hardwoods (Table 1).

<table>
<thead>
<tr>
<th>Table 1 FY 2015-16 Green-Waste Tonnage &amp; Source</th>
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<tbody>
<tr>
<td>Hawthorne Street Transfer Station</td>
</tr>
<tr>
<td>Franchise</td>
</tr>
<tr>
<td>Self-Haul</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

| Self-Haul Direct to MRH                      | Tons       |
| Franchise                                    | 87.60      |
| Self-Haul                                    | 1,870.80   |
| **Total**                                    | **5,423.16**|
Historic and Future Trends
In FY 2006, HWMA had green-waste transported from the Hawthorne Street Transfer Station to the Mad River Hardwood facility. Tonnage data for green-waste material direct delivered to the Mad River Compost site is not available until FY 2009. As illustrated in the graph below (Figure 1), overall green-waste tonnage has remained relatively predictable, with a steady tonnage increase over the past 10 years from 2,775 tons in FY 2005-2006 to 5,425 tons in FY 2015-16.

Tonnage fluctuations are generally influenced by rainfall and vegetation growth in any given year. As franchise service agreements are expanded to include curbside collection green-waste tonnage volume continues to gradually increased. The two primary sources of franchise collection are based in the City of Arcata and the City of Eureka. In FY 2014 however, franchise delivery volumes at the Hawthorne Street Transfer Station decreased by approximately 1,300 tons due to the City of Eureka directing green-waste tonnage to an alternate processing and disposal location for a 4-month period.

The Authority anticipates that with the anticipated increased participation by Franchise Haulers, whether through franchise area service amendments or State mandates (AB 1826 compliance), there will be a continued increase for demand and volume of Franchise green waste received by the Authority.

This proposed amendment has been reviewed and approved as to form by the Authority’s Legal Counsel.

FISCAL IMPACT:
These expenditures have been included in the approved FY 2017-18 Budget.

STRATEGIC PLAN OBJECTIVE:
Strategy 1.4 – Renegotiate Contracts related to Mad River Compost
ALTERNATIVES:
Alternatively, the Board could direct:
   1.) That a new Drop Off Agreement be negotiated for a term that runs concurrent with the Processing Agreement- this is less preferable than the recommended action because having to enforce two separate agreements; or
   2.) Board’s discretion

ATTACHMENTS:
   1. Draft Agreement between HWMA and Mad River Hardwood, Inc. for Green Waste Drop-Off and Processing Services
AGREEMENT BETWEEN THE
HUMBOLDT WASTE MANAGEMENT AUTHORITY
AND
MAD RIVER HARDWOODS, INC.
FOR GREEN-WASTE DROP-OFF AND PROCESSING SERVICES

THIS AGREEMENT for Greenwaste Drop-off and Processing Services (“Agreement”),
effective ___________ , 2017 (the “Effective Date”), is entered into by and between the
Humboldt Waste Management Authority (“Authority”), a joint powers authority, and Mad River
Hardwoods, Inc. (“Contractor”), a California corporation.

RECITALS

WHEREAS, the California Integrated Waste Management Act of 1989 (Public Resources Code
40000 et seq, AB 939), requires the diversion of waste from landfills; and

WHEREAS, in 2014 the California State Legislature approved AB 1826 the “Mandatory
Commercial Organics Recycling Act,” Public Resources Code Section 42649.8 et seq., which
requires certain businesses to recycle organic waste depending on the amount generated per
week and also requires local jurisdictions to implement organic waste recycling programs that
include organic waste diversion from multifamily residential dwellings; and

WHEREAS, greenwaste and other organic materials typically make up approximately 30% of
waste disposed of state-wide and diversion of these materials for beneficial uses such as
composting may result in financial savings for Authority rate-payers; and

WHEREAS, the Authority has developed a facility to accept and process greenwaste and other
specified organic materials on real property owned by Contractor located at 6360 West End
Road, Arcata, CA (the “Facility”); and

WHEREAS, resources spent by the Authority in the development if the Facility include
completion of site improvements and the purchase and installation of two ‘Cover-All’ buildings
in 2006; and

WHEREAS, beginning December 1, 2007, Contractor has operated a drop-off service at the
Facility under an agreement with the Authority to accept greenwaste and other suitable materials
from the Authority, its member agencies and the public; and

WHEREAS, beginning June 6, 2011, Contractor has processed the materials dropped off and
delivered to the Facility under an separate agreement with the Authority; and

WHEREAS, Contractor has the demonstrated expertise, knowledge and experience to continue
operating the greenwaste drop-off and processing Facility and the Authority desires to continue
using the services of Contractor to operate the Facility for member agency franchise and self-
hauled green-waste under the terms of a consolidated agreement.
NOW THEREFORE, in consideration of the mutual promises, covenants, guarantees and conditions recited herein and made a material part hereof, the parties agree as follows:

1. DEFINITIONS

a. “Acceptable Materials” means the greenwaste and other organic materials specified in Section 4.6 of this Agreement that may be delivered to or dropped-off at the facility.

b. “Authority Deliveries” means deliveries from Authority haulers transporting Acceptable Materials from the Authority’s West Hawthorne Street Facility or other Authority collection locations.

c. “Contaminated Materials” means materials containing more than 10% unacceptable or unpermitted material, or containing a level of unacceptable material such that material cannot be reasonably cleaned, or contains hazardous material at any concentration.

d. “Facility” means the greenwaste and other organic materials drop-off and processing facility located at 6360 West End Road, Arcata, CA.

e. “Member Agency Deliveries” means deliveries from Authority Member Agencies, including their franchise and contract haulers, upon either the approval or direction of the Authority.

f. “Member Agency” or “Member Agencies” means the public agencies that are members of the Humboldt Waste Management Authority and includes the County of Humboldt and the Cities of Arcata, Blue Lake, Eureka, Ferndale, and Rio Dell. The Authority Executive Director shall provide written notice to Contractor of any changes in this listing of Authority Member Agencies.

g. “Covered Self-haul Deliveries” means deliveries from individuals and entities such as landscape contractors, who may drop-off Acceptable Materials at the Facility without charge by Contractor imposed at the time of the drop-off because of the existence an agreement between the Member Agency and HWMA that covers the costs of the drop-off and processing for the individual or other authorized entity.

h. “Non-covered Self-haul Deliveries” means deliveries from individuals and entities who may be charged by Contractor imposed at the time of the drop-off because the delivery is not otherwise paid for by the Authority or through an agreement between the Authority and a Member Agency.

2. TERMINATION OF THE PREVIOUS AGREEMENTS

The following agreements (“Previous Agreements”) shall be deemed terminated upon the Effective Date, and Contractor shall receive and process materials at the Facility in accordance with the terms of this Agreement.
Notwithstanding the above, the Authority shall remain obligated to make payment for all services rendered by Contractor under the Previous Agreements. Additionally, the “Indemnification” provisions of each of the Previous Agreements shall survive termination.

3. FACILITY OPERATION
Beginning on the Effective Date, Contractor shall provide drop-off and processing services at the Facility to accept and process greenwaste and other organic materials in accordance with the terms of this Agreement. Contractor shall operate the Facility in such a manner as to minimize odor, dust, noise, traffic congestion and traffic hazards.

4. DROP-OFF SERVICES
a. Drop-Off Site(s). Contractor shall designate suitable locations at the Facility for the drop-off and delivery of greenwaste and other Acceptable Materials. Drop-off site(s) shall be able to accommodate deliveries from both commercial transporters and individual self-haul.

b. Acceptable Materials. Contractor shall accept at the Facility’s drop-off site(s) the following Acceptable Materials provided that the Facility permits allow for the processing of such items at the Facility:
- Greenwaste
- Unpainted wood, lumber, wooden shingles and wooden pallets,
- Cardboard that is otherwise not recyclable
- Any other compostable material by mutual agreement

All Acceptable Materials shall be delivered to the Facility in a manner mutually agreed to by the parties.

c. Hours of Operation. Contractor shall maintain drop-off service hours of operation at least in accordance with the seasonal schedule specified in Exhibit A, attached hereto and incorporated herein. The Facility may be closed on national holidays and on the weekend following Thanksgiving Day. The Exhibit A “Operating Hours” schedule may be modified by mutual written agreement of the parties.

d. Screening, Rejection of Materials or Loads. Contractor shall inspect all materials in all Deliveries to screen as follows:
1) Contaminated Materials. Contractor shall reject Contaminated Materials prior to accepting such materials.
2) **Materials Not Permitted.** Contractor shall reject all materials not allowed by applicable local and state permits, or if delivered in excess of full maximum amounts as authorized by the applicable local and state permits.

3) **Other Rejection.** If Contractor cannot accept Authority Deliveries for any other reason, Contractor shall give the Authority immediate notice, including the reason for such rejection. Such notice shall not relieve Contractor of its obligations hereunder.

4) **Load rejection:** In the case of Authority Deliveries, rejected loads shall either 1) be loaded back onto the delivery vehicle with staff and equipment provided by Contractor; or 2) shall be sufficiently cleaned by staff provided by the Authority so as to make the load acceptable for Processing.

e. **Volume Estimation, Record Keeping.**

1) **Volume Estimation:** Contractor shall estimate cubic yards delivered in each Delivery. For each such Delivery, Contractor shall record the date, the estimated volume and weight conversion, and any other information as requested by the Authority Executive Director using Authority-provided forms. Such information shall be separated by the Delivery source, as requested by the Authority Executive Director.

2) **Non-covered Self-haul Deliveries:** Contractor shall separately record and maintain information pertaining to Non-covered Self-haul Deliveries as requested by the Authority’s Executive Director. Contractor will notify Authority of monthly Non-Authority Drop-Off volumes to ensure adequate processing capacity of the Authority’s green-waste material.

f. **Authority Material.** The Authority shall deliver to the Facility for Contractor to process Acceptable Material that is delivered to a designated greenwaste area at the Authority’s Hawthorne Street Transfer Station; except that, at the discretion of the Executive Director, unpainted wood, lumber, wooden shingles and wooden pallets may be made available to a third party.

5. **PROCESSING OPERATIONS.**

a. **Processing.** Contractor shall process at the Facility all Acceptable Materials obtained from Authority Deliveries, Member Agency Deliveries, and Covered Self-haul Deliveries. Acceptable processing methods may include, but are not limited to, composting, vermi-composting, and grinding of chips for combustion. Processing may not include landfill disposal.

b. **Operational Protocol.** Contractor shall develop and implement an Operational Protocol for the handling, processing, monitoring and finishing of composted product which adheres to regulatory guidelines and applicable permits.
c. Providing Material Grindings to Authority. Contractor shall allow the Authority and its member agencies to obtain up to 600 cubic yards of material grindings of finished materials per calendar year to Authority, at no charge.

6. SITE, SITE IMPROVEMENTS, BUILDING MAINTANCE
Contractor is responsible for all site improvements and maintenance, including but not limited to all necessary maintenance and repair to the “Cover-All” buildings and site improvements, in a timely fashion so as to ensure proper performance of obligations under this Agreement and to ensure use of the “Covered-All” buildings for its estimated 20-year lifespan.

7. COVER-ALL BUILDINGS, PURCHASE OPTION
In consideration of Contractor’s services provided under this Agreement, the Authority hereby grants Contractor an option to purchase the Cover-All buildings in an amount equal to their fair market value at the time of Contractor’s exercise of the option.

8. THIRD PARTY AGREEMENTS
It is understood that the Authority has made a significant investment towards necessary site improvements for purposes of ensuring the ability of the Contractor to perform processing services. Therefore the Authority provided material is received and processed in a preferential manner.

Third party agreements to deposit or process Materials at the Facility shall be subject to advance notification to the Authority, with the objective of ensuring the Facility has adequate capacity to handle and process the Authority’s greenwaste material on a priority basis.

9. TERM, COMMENCEMENT DATE AND RE-OPENERS
a. Term and Renewal. The initial term of this Agreement shall expire on June 30, 2027. This Agreement shall automatically renew for one additional three (3) year term, unless Contractor is in violation of any provisions herein, or unless Contractor provides Authority notice of intent not to renew no later than 210 days prior to expiration of term.

b. Re-Opening Agreement. The parties agree to negotiate in good faith over the terms of this Agreement and amend the Agreement where necessary to ensure efficient operation of the Facility with a reasonable processing rate for the Authority and a reasonable rate of return for the Contractor. The parties may utilize any of the information provided pursuant to Section 11 “Recordkeeping and Reporting”, and any other information as available and appropriate to arrive at a reasonable processing rate for the Authority and a reasonable rate of return for the Contractor. Either party may, at any time, request a re-opening of this agreement for the following reasons:

1) A material change in the Facility operation, such as a ten percent (10%) annual increase or decrease in volume, has occurred. For purposes of this Section, the
parties agree that the estimated volume of Authority delivered materials processed at the Facility at the time of the Effective Date is 5,160 tons per year.

2) Due to a state requirement, the Authority is required to develop an additional organics material diversion or transformative technology facility or program that requires the use of greenwaste material being delivered to Contractor under this Agreement.

In the event the parties are unable to conclude such negotiations within ninety (90) days after the re-opening of the Agreement, the matter shall be resolved through the dispute resolution process described in Section 20 “Dispute Resolution”, below.

10. TERMINATION
If any material term or condition of the Agreement is violated, either party may give to the breaching party, a Notice to remedy such violation(s) within a fourteen (14) day period; and if such violation(s) is substantial and is not remedied within said period of time, the other party, at its discretion, may terminate the Agreement; except that, if the breach is such that public health, welfare, or safety is endangered, termination of the Agreement by Authority may be immediate upon Notice.

Contractor reserves the right to terminate this agreement in the event of failure of Authority to make payments on undisputed invoices within sixty (60) days of due date, or failure to provide conditions as described herein.

The Authority reserves the right to terminate this Agreement if Contractor fails to perform as required and described herein, or if Contractor fails or is unable to terminate or replace persons engaged in criminal activity related to the functions of this Agreement, or Contractor insolvency.

11. FEES, AND PAYMENT
a. Drop-Off and Processing Fees. Beginning on the Effective Date, the Authority shall pay Contractor per ton of materials accepted (“Drop-Off Site Operation Fee”) and for processing materials at the Facility (“Processing Fee”) as follows:

1) Drop-off Site Operation Fee. Ten dollars ($10.00) per ton of materials accepted where One (1) Ton of greenwaste material is estimated to be ten (10) cubic yards. For tonnage in excess of 5,700 tons per Authority fiscal year, the Authority shall pay Contractor ($12.00) per ton.

2) Processing Fee. $45.22 per ton, up to 5,700 tons per Authority fiscal year. For tonnage in excess of 5,700 tons per Authority fiscal year, the Authority shall pay Contractor ($34.35) per ton.

d. Invoicing. Contractor shall invoice Authority monthly for Drop-off and Processing Fees based on actual Authority Deliveries, or approved Commercial/Franchise Deliveries, based on weight receipts and/or contract terms.
e. **Annual CPI Adjustments** – Fees shall be adjusted by the Authority each year on July 1, beginning with July 1, 2017, in an amount equal to eighty-five (85%) of the percentage change in the Consumer Price Index U.S. City Average – All Urban Consumers Index, CPI-U (All Urban Consumers; 1982-84=100) for the month of January, complied and published by the United States Department of Labor, Bureau of Labor Statistics.

f. **Payment from Authority.** Payment is due upon Authority’s receipt of invoice and shall be paid within 30 days of due date, unless invoice is disputed.

12. **RECORDKEEPING AND REPORTING**

Contractor shall provide monthly reports to the Authority containing information including, but not limited to: the number, volume, and/or all weight of all Acceptable Materials processed and weight of accepted Material that is subject to payment by Authority by delivery category. The report must provide the amount of Acceptable Material by tonnage processed for compost. The report must also include any notices of violations of applicable law.

Authority shall provide monthly reports to the Contractor containing information including, but not limited to: weight of Authority Deliveries transported to Contractor for processing at the Facility.

Contractor shall maintain at its office or other place acceptable to the Authority full and complete accounting books and records, or copies thereof, prepared in accordance with generally accepted accounting principles, reflecting its revenues and expenses related to fulfilling its performance obligations under this Agreement. Such records shall include operational, accounting, statistical, and other records related to its performance under this Agreement. Records required herein shall be maintained such that financial information and date relating to this Agreement is separated from other activities provided by Contractor at the Facility site and separated from other business activities conducted by Contractor.

Contractor shall prepare and submit, without notice, annual financial reports based on such books and records prepared in accordance with generally accepted accounting principles for submission to Authority on or before three months following the end of Contractor’s fiscal year. All recordkeeping, audit, and submittal costs are considered normal operating costs of Contractor and shall be at no cost to the Authority. The Authority may audit such books and records at the Authority’s own expense upon three working days’ notice.

13. **PATENTS, TRADEMARKS, LICENSES**

The Contractor and its affiliates shall hold or possess a right to use all patents, rights to patents, trademarks, copyrights and licenses, as the case may be of any equipment, process or software necessary for the performance by the Contractor of its performance obligations. As of the date hereof, Contractor represents that it does not know of any
material conflicts with the rights of others regarding proprietary property. Contractor agrees to protect and indemnify Authority from any legal actions regarding patents, rights to patents, trademarks, copyrights and licenses.

14. INDEPENDENT CONTRACTOR STATUS
It is expressly agreed and understood the Contractor is performing services under this Agreement as an independent contractor for Authority, and Contractor is neither an employee nor an agent of the Authority. At no time shall Contractor represent itself as an employee of the Authority.

Contractor shall have sole control over the manner and method of performance of the services. Authority’s only interest shall be in the results of such services.

Authority’s liability hereunder shall be limited as provided in the Agreement. Contractor agrees and acknowledges that it is not entitled to any benefits or insurance, including without limitation any medical, unemployment, or disability benefits on the Authority’s account. Contractor agrees to pay all applicable taxes (including unemployment insurance and Social Security taxes) which might arise as a result of this agreement and to furnish Authority, upon request, evidence that such taxes have been paid, within the time allowed by law, at the end of each calendar quarter during the term of this Agreement. This Section shall also apply to any of the Contractor’s subcontractors.

15. CONTRACTOR COVENANTS
Contractor and its agents, employees, representatives and subcontractors shall perform the Services under this Agreement:

a. In a safe and workmanlike manner;
b. Contractor shall obtain and maintain all necessary state and local permits required to provide for conduct of such services at the Facility. Contractor agrees to operate the facility and equipment in a manner that complies with all state and local permit requirements; and
c. In compliance with all applicable federal, state, and local laws, statutes, ordinances, orders, regulations, and similar requirements of applicable governmental entities, including but not limited to, all Equal Employment Opportunity and anti-discrimination laws; and,
d. In compliance with recognized business practices and standards of performance in the industry.

16. CONFIDENTIAL INFORMATION
Contractor acknowledges that Authority may receive request for information from the Public Records Act. In the event the Contractor wishes to maintain confidentiality of any information submitted to the Authority, Contractor shall mark that information as “Confidential and Proprietary”. Contractor shall be responsible for taking any action that may be necessary to release the Authority from the requirement to make the information public. In the event that those efforts are not successful, the Contractor agrees to indemnify the Authority from any potential liability related to such requests for release of information.
17. NOTICE TO REPRESENTATIVES

All notices required or permitted hereunder shall be in writing and shall be deemed to have been properly given and delivered when delivered personally (including by commercial messenger or courier, electronically or by facsimile) or five (5) business days after deposit after deposit in the U.S. Main with all postage or chargers fully prepaid and addressed to the address of the appropriate party as identified below, or as later changed in writing. Notices to the Authority shall be delivered to its Executive Director and to the Contractor at the addresses below written.

18. INDEMNIFICATION

Contractor agrees, to the extent permitted by law, that it shall protect, indemnify, defend and hold harmless the Authority and its respective officers, employees and agents and consultants (the “Authority Indemnified Parties”), from and against all liabilities, actions, damages and claims, demands, judgments, losses, costs, expenses, suits, or actions and reasonable attorney’s fees and shall defend the Authority Indemnified Parties in any suit, including appeals, for personal injury to, or death of, any person or persons, or for loss or damage to property arising out of the acts or omissions of the Contractor in the performance (or nonperformance) of the Contractor’s obligations under this Agreement, including but not limited to any impacts of the operation to the Facility. The Contractor is not, however, required to protect, indemnify, defend or hold harmless any Authority Indemnified Party for loss or claim resulting from performance (or nonperformance) of the Authority’s obligation under this Agreement or the negligence or willful misconduct of any Authority Indemnified Party. The Contractor’s aforesaid indemnity is for the exclusive benefit of the Authority Indemnified Parties and in no event shall such indemnity inure to the benefit of any third person.

Authority agrees, to the extent permitted by law, that it shall protect, indemnify, and hold harmless the Contractor, subcontractors, affiliates (including subsidiaries) and their respective officers, members, employees and agents (the “Contractor Indemnified Parties”) from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions and reasonable attorneys’ fees, and shall defend the Contractor Indemnified Parties in any suit, including appeals, for personal injury to, or death of, any person or persons, or for loss or damage to property arising out of the acts or omissions of the Authority including its officers, employees and agents in the performance (or nonperformance) of the Authority’s obligations under this Agreement. The Authority is not, however, required to protect, indemnify or hold harmless any Contractor Indemnified Party for loss or claim resulting from performance (or nonperformance) of the Contractor’s obligations under this Agreement or the negligence or willful misconduct of any Contractor Indemnified Party, including but not limited to any impacts of the operation to the Contractor Facility. The Authority’s aforesaid indemnity is for the exclusive benefit of the Contractor Indemnified Parties, and in no event shall such indemnity inure to the benefit of any third person.

The provisions of this section shall survive termination of this Agreement.
19. INSURANCE REQUIREMENTS
Contractor will secure and maintain in full force and effect:

a. **General Liability.** General liability limits with minimum limits of liability per occurrence of Two Million Dollars ($2,000,000); and per aggregate of Two Million Dollars ($2,000,000);

b. **Workers Compensation Insurance** as Required by State Law.

c. **Employer’s Liability Insurance.** Bodily injury by accident in the amount of One Million Dollars each accident and bodily injury by disease in the amount of One Million Dollars ($1,000,000) policy limit and One Million Dollars each employee.

Contractor will ensure that insurance policies are always primary with respect to performance under this Agreement. Contractor will include the Authority and its employees, officials, members, officers, agents, assigns and volunteers by endorsement or otherwise as additional insured under all policies except with respect to employer’s liability insurance. Contractor’s insurance policies will contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty (30) days prior written notice, by registered mail or other receipted delivery, has been given to the Authority. All such insurance shall remain in effect throughout the term of this Agreement.

Contractor shall file with the Authority evidence of coverage in force, including endorsements, together with a Certificate of Insurance on authority- approved form.

20. DISPUTE RESOLUTION
During the pendency of any dispute hereunder, the Parties shall continue to perform their respective obligations under this Agreement and shall attempt to resolve such dispute in a cooperative manner. Following the parties’ mutual good faith efforts to resolve disputes for a period of no less than thirty (30) days, the parties may attempt to resolve their dispute through non-binding arbitration.

21. TIME OF THE ESSENCE
Time is of the essence in this Agreement.

22. RIGHTS AND POWERS
Each party hereto warrants and represents to the other party that such party has the full right and power to enter into this Agreement and has obtained all necessary consents and approvals to consummate the transaction contemplated hereby.

23. ENTIRE AGREEMENT
This Agreement together constitutes the entire agreement between the Authority and Contractor as to the subject matter hereof. It supersedes all prior communications, representations, or agreements oral or written, with respect to the subject matter; hereof any modification of this Agreement must be in writing and signed by the party sought to be bound thereby.

24. ASSIGNMENT
Contractor may not subcontract Services without prior written consent from Authority. Contractor may not assign its rights or delegate or otherwise transfer or assign its obligations under this Agreement without the prior consents of Authority granted in its sole discretion. Any assignment made without the consent of the Authority will be void. Contractor will submit its request for Authority consent to the Authority together with documentation the Authority may request.

25. SURVIVAL OF CERTAIN CONDITIONS
Conditions of this Agreement that survive the termination of the Agreement include indemnification provisions and the responsibility for any payment related to this Agreement that is due at termination.

IN WITNESS WHEREOF, the parties have executed this agreement effective as of the date written above.

HUMBOLDT WASTE MANAGEMENT AUTHORITY

__________________________________________ Date __________________________
Jill K. Duffy, Executive Director
1059 W. Hawthorne Street
Eureka, CA 95501

APPROVED AS TO FORM

__________________________________________ Date __________________________
Nancy Diamond, Authority Counsel

MAD RIVER HARDWOODS, INC.

__________________________________________ Date __________________________
Wes Green, President
6063 West End Road
Arcata, CA 95519
EXHIBIT A

MAD RIVER HARDWOODS
(WES GREEN LANDSCAPE MATERIALS)

DROP-OFF OPERATION HOURS
(Effective March 2017)

REGULAR OPERATIONAL HOURS
April 1st – September 30th
- Monday thru Saturday 08:00 AM to 5:00 PM
- Sunday 10:00 AM to 4:00 PM

WINTER OPERATIONAL HOURS
October 1st – March 31st
- Monday thru Friday 08:00 AM to 5:00 PM
- Saturday 09:00 AM to 4:00 PM
- Sunday Closed
Staff Report

DATE: June 20, 2017 For Board Meeting: July 13, 2017

FROM: Jill K Duffy, Executive Director

SUBJECT: Item 2d)
Approve Consent to Change of Control of Municipal Solid Waste Loading Services Agreement from Eel River Resource Recovery to Recology, Inc.

RECOMMENDED ACTION: Voice vote.
Approve Consent to Change of Control of “Agreement Between HMWA and Eel River Resource Recovery, Inc. to Provide MSW Loading Services” to Recology, Inc.

DISCUSSION:
On June 16, 2017, Recology Inc. (“Recology”) provided HWMA with notice of a “Change of Control of Eel River Resource Recovery, Inc” stating that effective July 2017, it will acquire all outstanding shares of Eel River Resource and Recovery (ERRR) and will rebrand ERRR as “Recology Eel River”. HWMA entered into a live loading agreement with ERRR in November 2014 to allow its transportation and disposal contractor to provide a trailer to the Eel River Disposal Facility for daily loading of member agency solid waste. Live Loading means the loading of solid waste into the trailer while the driver stands-by for immediate transportation off-site. Alternatively, the transportation contractor would drop off trailers for later pickup after loading is complete. Costs associated with loading trailers are currently embedded in the franchise rates paid by curbside customers.

Recology intends to continue performing under the live loading agreement. Staff presents a Consent to Change of Control for the Board’s consideration to acknowledge and approve the ERRR change in ownership, and to update the live loading agreement to reflect the change in transportation subcontractor to Bettendorf Enterprises and designated disposal facility to Dry Creek Landfill.

This proposed Consent to Change of Control was drafted by the Authority’s Legal Counsel.

FISCAL IMPACT:
No Direct Impact

ATTACHMENTS:
Attachment A: Proposed Acknowledgement and Consent to Change of Control
Attachment B: Recology Change of Control Letter, dated June 16, 2017
Attachment C: Loading Agreement between Eel River Resource and Recovery and HWMA
ACKNOWLEDGEMENT AND CONSENT TO CHANGE OF CONTROL
AFFECTING AGREEMENT BETWEEN
HUMBOLDT WASTE MANAGEMENT AUTHORITY AND
EEL RIVER RESOURCE RECOVERY, INC
TO PROVIDE MSW LOADING SERVICES

This Acknowledgement and Consent to Change of Control (“Consent”) is made by the Humboldt Waste Management Authority (“HWMA”) in reference to that certain agreement entered into between the HWMA and Eel River Resource Recovery, Inc. (“ERRR”), entitled Agreement to Provide MSW Loading Services, dated effective as of September 22, 2015 (“Live Loading Agreement”). This Consent is effective as of July 13, 2017.

RECITALS

A. ERRR owns and operates a transfer station located at 965 River Walk Drive, Fortuna, CA (the “Eel River Transfer Station”) where ERRR and its subsidiaries haul municipal solid waste (“MSW”) collected from sites located within the HWMA jurisdiction.

B. ERRR and HWMA entered into the Live Loading Agreement to facilitate the loading of MSW at the Eel River Transfer Station into trailers operated by HWMA’s transportation and disposal contractor, Solid Wastes of Willits, Inc. (“SWOW”), under that certain agreement dated June 1, 2014 between HWMA and SWOW for the transportation and disposal of solid waste (“SWOW Transportation and Disposal Agreement”).

C. Pursuant to the Live Loading Agreement, ERRR loads the HWMA solid waste into SWOW trailers for transportation by SWOW to the designated landfill, Potrero Hills Landfill.

D. Effective June 24, 2017, the SWOW Transportation and Disposal Agreement terminated, and HWMA has entered into a new transportation and disposal agreement with Dry Creek Landfill, Inc. (“DCL”), under the terms of which DCL subcontracts to Bettendorf Enterprises, Inc. to transport HWMA solid waste to the Dry Creek Landfill.

E. ERRR has entered into an agreement with Recology, Inc. (“Recology”) whereby Recology will acquire all the outstanding shares of ERRR in July 2017 after which Recology will rebrand ERRR as “Recology Eel River.” This transaction is referred to herein as a “Change of Control.”

F. Recology has provided HWMA notice of its intent to honor ERRR’s obligations under the Live Loading Agreement.

G. HWMA desires to acknowledge and consent to the Change of Control of ERRR and Live Loading Agreement subject to a change in designation of the Transportation Contractor and Designated Disposal Facility, as those terms are defined in the Live Loading Agreement, and Recology desires to accept HWMA’s acknowledgement and consent subject to such change in designations.

NOW THEREFORE, HWMA acknowledges, approves and consents to the change in control of ERRR to Recology as the party obligated to perform under the Live Loading Agreement and Recology Eel River as the rebranded name, subject to the following mutual agreements between HWMA, ERRR and Recology.
1. **Character of Consent.** This Consent by HWMA is not, and will not be, deemed or construed as consent to any future or other assignment of the Live Loading Agreement. This Consent is not, and will not be deemed or construed to modify, waive, or affect any of the provisions, covenants, or conditions of the Live Loading Agreement, waive any breach of the Live Loading Agreement or any of the rights of HWMA, or enlarge or increase HWMA's obligations under the Live Loading Agreement.

2. **Assumption of ERRR's Obligations.** Recology expressly assumes and agrees to perform and comply with every obligation of ERRR under the Live Loading Agreement, including, without limitation, ERRR's obligation to obtain insurance and indemnify HWMA pursuant to Section 8 of the Live Loading Agreement, expressly subject to the following changes in definitions:
   
   - The “Transportation Contractor” shall mean Bettendorf Enterprises, Inc.
   - The “Designated Disposal Facility” shall mean the Dry Creek Landfill facility owned and operated by Dry Creek Landfill Inc. and located at 6260 Dry Creek Road, Eagle Point, Oregon 97524

Neither this assumption by Recology, the agreement between ERRR and Recology for Change in Control, nor HWMA's Consent will release or discharge ERRR from any liability under the Live Loading Agreement arising from its performance under the Live Loading Agreement prior to the date of this Consent.

3. **Scope and Conditions of Acknowledgement and Approval.** In granting this Consent, it is understood and agreed that (a) HWMA does not consent to or approve of any term, provision, covenant, or condition in the Change of Control agreement between ERRR and Recology, and HWMA will not be bound by said Change of Control agreement, (b) no rights will be granted to Recology under said Change of Control agreement that are greater than those granted to ERRR under the Live Loading Agreement, and (c) said Change of Control agreement will be subordinate to the Live Loading Agreement and this Consent; in the event of any conflict between the terms and provisions of the Live Loading Agreement or this Consent and the terms and provisions of said Change of Control agreement, the terms and provisions of the Live Loading Agreement or the Consent, as applicable, will prevail.

IN WITNESS WHEREOF, the parties have executed this acknowledgement and approval as of the date first written above:

(Signatures on following page)
ERRR,

Harry Hardin, Owner

Recology Inc.,

George P. McGrath, Executive Vice President and COO

HWMA,

Sofía Pereira, Chair of the Board

Approved as to form

Nancy Diamond, HWMA General Counsel
AGREEMENT BETWEEN THE
HUMBOLDT WASTE MANAGEMENT AUTHORITY
AND
GESS ENVIRONMENTAL
FOR THE OPERATION OF A COMPOST FACILITY

(Attached)
Humboldt Waste Management Authority
1059 West Hawthorne Street
Eureka, California
Attn: Jill K. Duffy, Executive Director

Re: Notice regarding Change of Control of Eel River Resource Recovery, Inc.
Agreement Between Humboldt Waste Management Authority and Eel River Resource Recovery, Inc. To Provide MSW Loading Services, effective as of November 17, 2014 (the “Agreement”)

Dear Jill,

The purpose of this letter is to inform you that Eel River Resource Recovery, Inc. (“ERRR”) and Recology Inc. (“Recology”) have entered into an agreement whereby Recology will acquire all the outstanding shares of ERRR (the “Transaction”). Following the closing of the Transaction, ERRR will be rebranded Recology Eel River and will continue to perform the obligations of “CONTRACTOR” under the Agreement.

We expect the Transaction to close in July 2017, and the parties will update HWMA as the closing approaches.

We are happy to meet with you to further discuss the transition; please do not hesitate to contact Linda Wise at (707) 442-4501 regarding this matter.
We appreciate your prompt consideration of this request.

Best Regards,

George P. McGrath
Executive Vice President and COO

cc: Harry Hardin, President, Eel River Resource Recovery, Inc.
AGREEMENT BETWEEN
HUMBOLDT WASTE MANAGEMENT AUTHORITY
AND
EEL RIVER RESOURCE RECOVERY, INC.
TO PROVIDE MSW LOADING SERVICES

This Agreement is effective this September 22, 2015, by and between the Humboldt Waste Management Authority, a joint powers authority (herein “HWMA” and the “Authority”) and Eel River Resource Recovery, Inc., a California corporation with principal offices in Fortuna, California (herein “ERRR”).

RECITALS

WHEREAS, the HWMA owns and operates a municipal solid waste transfer station for the benefit of its member agencies located at 1059 W. Hawthorne St., Eureka, CA 95501 (“Hawthorne Street Transfer Station”); and

WHEREAS, HWMA has entered into a Transportation and Disposal Agreement with Solid Wastes of Willits (“Transportation Contractor”) to transport and dispose of municipal solid waste at Potrero Hills Landfill located in Solano County, CA (“Transportation and Disposal Agreement”); and

WHEREAS, Eel River Disposal Co., Inc (“ERD”) holds franchise agreements to collect curbside municipal solid waste from the HWMA member agencies consisting of the Cities of Rio Dell, and Ferndale, and haul such solid waste to its satellite transfer station located at 965 River Walk Drive, Fortuna, CA (“Eel River Transfer Station”); and

WHEREAS, Eel River Disposal and Resource Recovery, Inc. (“ERD & RR”) holds franchise agreements to collect curbside municipal solid waste from the HWMA member agencies consisting of the County of Humboldt and haul such solid waste to its satellite transfer station located at 965 River Walk Drive, Fortuna, CA (“Eel River Transfer Station”); and

WHEREAS, under the terms of the HWMA Joint Powers Agreement, the municipal solid waste collected by ERD and ERD & RR pursuant to said franchise agreements is subject to HWMA’s flow control and disposal in accordance with the Authority’s Transportation and Disposal Agreement; and

WHEREAS, ERD and ERD & RR collect monthly payments from their customers under said franchise agreements, which payments include a fee established by ordinance of the HWMA to fund HWMA programs including the transportation and disposal of solid waste; and

WHEREAS, HWMA desires to contract with Eel River Resource Recovery to load said member agency municipal solid waste collected at the Eel River Transfer Station into the Transportation Contractor’s trailers for transportation and disposal by the Transportation Contractor pursuant to the Transportation and Disposal Agreement, and ERRR desires to provide such services; and

WHEREAS, pursuant to the Transportation and Disposal Agreement, this Agreement with ERRR to load member agency solid waste at its satellite transfer facility is subject to approval by Transportation Contractor.

NOW THEREFORE, in consideration of the mutual promises, covenants, and representations recited herein and made a material part hereof, the parties agree as follows:
1. **DEFINITIONS**

Unless otherwise defined in the text, capitalized words will have the meaning set forth as follows:

"**Allocation Percentage Formula**" means the formula used to allocate commingled tonnage to a jurisdiction of origin based on the percentage formula established in ERD’s franchise agreement with the County of Humboldt as follows:

- City of Fortuna: 60%
- Unincorporated County: 22%
- City of Rio Dell: 11%
- City of Ferndale: 7%

"**Designated Disposal Facility**" means the landfill disposal facility or facilities with which the Authority has entered into agreement for solid waste disposal. As of the Effective Date of this agreement, Disposal Facility shall mean Potrero Hills Landfill, or such other landfill disposal facility as the Authority may designate.

"**Dispatch Protocol**" means the notification procedure agreed upon by HWMA, ERRR and the Transportation Contractor for the coordination and delivery of Trailers by the Transportation Contractor to the Eel River Transfer Station for loading of Permitted Waste, attached hereto as Exhibit “A” and incorporated herein. The Dispatch Protocol may be revised from time to time in writing and with the approval of ERRR, HWMA and the Transportation Contractor, which approval shall not be unreasonably withheld.

"**Eel River Transfer Station**" means the transfer facility owned and operated by Eel River Resource Recovery, Inc. and located at 965 Riverwalk Drive, Fortuna, CA.

"**Hazardous Waste**" means materials as defined by Section 40141 of the California Public Resources Code; all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by Sections 25110.02, 25115, and 25117 of the California Health and Safety Code (the California Hazardous Waste Control Act), California Health and Safety Code Section 25100 et seq., and future amendments to or re-codification of such statutes or regulations promulgated thereunder, including 23 California Code of Regulations Sections 2521 and 2522; and materials regulated under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended (including, but not limited to, amendments thereto made by the Permitted Solid Waste Disposal Act Amendments of 1980), and related federal, state and local laws and regulations; materials regulated under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as amended, and related federal, State of California, and local laws and regulations, including the California Toxic Substances Account Act, California Health and Safety Code Section 25300 et seq.; materials regulated under the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9601, et seq., as amended, and regulations promulgated thereunder; and materials regulated under any future additional or substitute federal, state or local laws and regulations pertaining to the identification, transportation, treatment, storage or Disposal of toxic substances or Hazardous Waste. If two or more governmental agencies having concurrent or overlapping jurisdiction over hazardous waste adopt conflicting definitions of “hazardous waste”, for purposes of collection, transportation, processing and/or Disposal, the broader, less restrictive definition shall be employed for purposes of this Agreement.

"**Live Loading**" means the completion of loading Permitted Waste into an individual Trailer to the allowable weight capacity while the Trailer’s truck driver stands-by.
"Permitted Waste" means Solid Waste excluding without limitation, Hazardous Waste, Household Hazardous Waste, other unacceptable waste, recyclable materials, or material used as alternative daily cover (ADC).

"Solid Waste" means putrescible and non-putrescible solid, semisolid and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, street sweepings and catch basin residue, construction and demolition waste not classified as discarded materials, bulky goods not classified as recycled materials, discarded brown goods not classified as recycled materials, dewatered, treated or chemically fixed sewage sludge which is not Hazardous Waste, manure, vegetable or animal solid and semi-Solid Wastes, residues from recycling, composting and similar processes, and other discarded wastes and any other materials defined in Section 40191 of the California Public Resources Code, as may be amended from time to time, which is generated within the Authority.

"Solid Wastes of Willits" or "SWOW" means Solid Wastes of Willits, Inc. a California corporation having a business address located at P.O. Box 1425, 351 Franklin Ave, Willits, CA 95490.

"Stand-by Charge" means the fee based on the Stand-by Rate charged to and paid by ERRR for delays in completing the Live Load of any Trailer in excess of 58 minutes.

"Stand-by Rate" means the rate for determining the Stand-by Charge and represents the costs incurred by the Transportation Contractor for standing time during Trailer loading in excess of 58 minutes, calculated as $29.62 for every fifteen (15) minute increment, or portion thereof, after 58 minutes.

"Trailer" or "Trailers" means the transport-ready “possum belly” trailers supplied by the Authority or Transportation Contractor for transport of Permitted Waste from the Eel River Transfer Station for disposal at the Designated Disposal Facility.

"Transportation Contractor" means the trucking entity or entities with which the Authority has entered into contracts to transport solid wastes to the Disposal Facilities. As of the Effective Date of this contract, Transportation Contractor shall mean Solid Wastes of Willits.

"Transportation and Disposal Agreement" means that certain Agreement entered into between the Authority and SWOW for the Transportation and Disposal of Permitted Solid Wastes, dated June 1, 2014.

"Unpermitted Waste" means wastes that the Designated Disposal Facility may not receive under its permits, including but not limited to:

(a) **agricultural wastes** comprised of animal manures;

(b) **asbestos**, including friable materials that can be crumbled with pressure and are therefore likely to emit fibers, being a naturally occurring family of carcinogenic fibrous mineral substances, which may be a Hazardous Waste if it contains more than one percent asbestos other than non-friable materials containing asbestos which are triple bagged, boxed and taped;

(c) **ash** residue from the incineration of solid wastes, including municipal waste, infectious waste described in item (7) below, sludge, and agricultural wastes described in item (1) above;
(d) **auto shredder** "fluff" consisting of upholstery, paint, plastics, and other non-metallic substances which remains after the shredding of automobiles;

(e) **Hazardous Wastes**, explosives, ordnance, highly flammable substances and noxious materials;

(f) **Infectious Wastes** which have disease transmission potential and are classified as Hazardous Wastes by the State Department of Health Services, including pathological and surgical wastes, medical clinic wastes, wastes from biological laboratories, syringes, needles, blades, tubing, bottles, drugs, patient care items such as linen or personal or food service items from contaminated areas, chemicals, personal hygiene wastes, and carcasses used for medical purposes or with known infectious diseases other than patient care items that have been disinfected;

(g) **Liquid Wastes** which are not spadeable, usually containing less than fifty percent solids, including cannery and food processing wastes, landfill leachate and gas condensate, boiler blowdown water, grease trap pumpings, oil and geothermal field wastes, septic tank pumpings, rendering plant byproducts, sewage sludge, and those liquid wastes which

(h) **Radioactive Wastes** under Chapter 7.6 (commencing with Section 25800) of Division 20 of the State Health and Safety Code, and any waste that contains a radioactive material, the storage or disposal of which is subject to any other State or federal regulation.

"Waste Management Fees" means those fees established by the Authority that are charged to operators of approved Satellite Transfer Stations for handling Authority member solid waste.

2. **TERM OF AGREEMENT.** The effective date of this Agreement shall be and this Agreement shall terminate on September 21, 2017

3. **TRAILER LOADING SERVICES AND WEIGHING REQUIREMENTS**

3.1 **Trailer supply and delivery.** The Authority will cause the Transportation Contractor to deliver empty Trailers to the Eel River Transfer Station, backed into the loading bays and ready for loading with tops open, tarp rolled up and all other container openings closed to prevent leakage or spills. ERRR shall coordinate with the Authority to receive sufficient empty transport-ready Trailers to ensure that the transport of HWMA Permitted Waste occurs with the regularity and frequency necessary to comply with applicable law, including time and volume limitations on the storage of solid waste. Such coordination and delivery of Trailers shall be in accordance with the Dispatch Protocol.

3.2 **Permitted Waste loading.**

(a) **Proper loading.** ERRR shall Live Load Trailers with all Permitted Solid Waste collected from HWMA member agencies in accordance with all applicable laws and permit requirements and the provisions of this Agreement. Loading shall occur with the regularity and frequency necessary to comply with applicable law, including time or volume limitations on the storage of Permitted Waste at the Eel River Transfer Station. ERRR shall pay all fines or penalties for overloaded or improperly loaded Trailers. During loading, ERRR shall provide reasonable accommodations including restroom facilities for the Transportation Contractor’s driver.
(b) **Weight capacity and restrictions.** Each Trailer shall be Live Loaded on a pit scale to an allowable weight capacity as determined by the California Department of Transportation axle weight limitations for transport vehicles, no less than 20.5 tons Permitted Waste per Trailer and no more than 23 tons Permitted Waste per Trailer, depending on the transport vehicle.

(c) **Screening and removal of Unpermitted Waste.** ERRR shall screen waste to prevent loading of Unpermitted Waste, and will not Load Unpermitted Waste. ERRR shall pay the total cost of Unpermitted Waste handling and disposal as well as all fees, charges and other amounts billed by the Designated Disposal Facility for ERRR’s delivery of Unpermitted Waste to the Designated Disposal Facility without reimbursement by or offset from the Authority.

(d) **Load timing.** Once delivered, Trailers shall have loading priority over other operations at the Eel River Transfer Facility. Live Loading shall be completed for each Trailer within fifty (50) minutes after the Trailer is situated at the Eel River Transfer Station loading bay and is ready for loading. ERRR shall pay a Stand-by Rate equal to $29.62 for each 15 minute interval, or fraction thereof, in excess of fifty eight (58) minutes during which loading is completed.

(e) **Trailer inspection.** After loading, ERRR will inspect each Trailer and clean loose debris from the Trailer to allow the Transportation Contractor to secure the Trailer for transport.

(f) **Commingling of Authority’s waste with other waste.** Verification of actual tonnage attributable to the HWMA member agencies shall be completed by ERRR by the end of the second quarter of 2016. ERRR may load Trailers with Permitted Waste commingled with Permitted Waste from non-member agency jurisdictions until it has completed verification. Any methodology used by ERRR to estimate tonnage attributable to HWMA member agencies and to non-member agencies shall be approved in advance in writing by the Authority and is subject to periodic verification or audit by the Authority. The Allocation Percentage Formula is based on ERRR’s existing routing software that identifies the container size and an assumed weight calculation factor of 32 pounds per 32 gallon container, 20 pounds per 20 gallon container and cubic yard bin weight of 202 pounds per cubic bin yard which is accepted by the Authority until the verification is completed. Since actual containers weights will vary from time to time, the existing Allocation Percentage Formula shall be used until verification is complete. Proposed revisions to the Allocation Percentage Formula will be approved by the County of Humboldt and Cities of Rio Dell, Ferndale and Fortuna prior to implementation.

(g) **Complying with rules of Designated Disposal Facility.** ERRR shall load Trailers in compliance with all applicable rules, regulations, protocols, instructions and directions of the Designated Disposal Facility, including but not limited to rules with respect to load checking and removal of materials that cannot be accepted by the Designated Disposal Facility. The Authority shall provide ERRR with a copy of such applicable rules.

(h) **Right to inspect loading operations.** The Authority may, upon 24 hours advance notice, but is not obligated, to observe and inspect loading operations at the Eel River Transfer Station.

3.3 **Title to waste.** HWMA will not assume title to any materials delivered to the Eel River Transfer Station or loaded by ERRR. Pursuant to the Transportation Agreement, title to Permitted Waste shall transfer to the Transportation Contractor upon loading into the Trailer.
3.4 **Plugged loads.** ERRR shall be solely responsible for all additional costs associated with tipping plugged loads. HWMA shall invoice ERRR for all costs HWMA is charged by the Designated Disposal Facility that are associated with tipping plugged loads.

3.5 **Scales, weight records, reporting.** ERRR shall install, repair, maintain and operate at the Eel River Transfer Station appropriate 1) entry scales and 2) pit scales.

3.6 **Trailer departure weights.** ERRR shall weigh each loaded Trailer and transport vehicle prior to its departure from the Eel River Transfer Station, and record and report such weights to HWMA in a format sufficient to allow HWMA to accurately track the Permitted Waste transported from the Eel River Transfer Station to the Designated Disposal Facility.

4. **FEES AND PAYMENT.**

4.1 **Waste Management Fees – ERD Franchise.** ERRR shall pay to HWMA a Waste Management Fee – Satellite Facility Eel River Disposal (Fortuna) on all Solid Waste collected by ERD from HWMA member agencies equal to then current rate as adopted by the Authority. The Waste Management Fee as of the Effective date of this Agreement is as follows:

<table>
<thead>
<tr>
<th>SATELLITE FACILITY – EEL RIVER DISPOSAL (FORTUNA)</th>
<th>PER TON</th>
</tr>
</thead>
<tbody>
<tr>
<td>HWMA Base Fee</td>
<td>$17.21</td>
</tr>
<tr>
<td>Countywide Programs</td>
<td>$26.49</td>
</tr>
<tr>
<td>Facility Fees</td>
<td>$54.87</td>
</tr>
<tr>
<td><strong>Total Satellite Facilities Rate</strong></td>
<td><strong>$98.57</strong></td>
</tr>
</tbody>
</table>

The Waste Management Fee is subject to amendment by the Authority, in which case the Authority Executive Director, or her designee, shall notify ERRR of the changed rate.

4.2 **Stand-by and other additional fees and charges.** ERRR shall pay to HWMA Stand-by Charges and any additional third party fees, fines or penalties otherwise charged to HWMA arising from its performance under his Agreement, including but not limited to, charges for plugged loads, overloaded containers and Unpermitted Waste handling and disposal plus 10% for administrative handling HWMA.

4.3 **Payment.** ERRR shall remit the Waste Management Fee by the 10th day of each month for Permitted Waste delivered to the Eel River Transfer Station during the previous month. Records of entry weight information indicating the Authority jurisdiction from which the Permitted Waste derived shall be provided quarterly. All additional fees and charges that are payable by ERRR in accordance with this Agreement will be invoiced by the Authority to ERRR and shall be due and payable within 30 days of receipt thereof.

5. **RECORDS AND REPORTING, AUDITING**

5.1 **Reporting.** ERRR shall provide HWMA with records as follows: 1) quarterly, entry weight information indicating the jurisdiction of origin for the Permitted Waste received by ERD and ERD RR at the Eel River Transfer Station and 2) monthly, the loaded Trailer weight tickets ready for transport to the Designated Disposal Facility. HWMA shall provide ERRR with the weight tickets and disposal ticket numbers from the Designated Disposal Facility that are used to calculate the monthly Satellite Facility Fee.
5.2 Record keeping. ERRR shall maintain at its office or other place acceptable to the Authority full and complete accounting books and records, and shall prepare and submit, without additional request, and at no cost to the Authority, records documenting ERRR’s proper performance under this Agreement. The Authority may audit such books and records at the Authority’s own expense upon three working days’ notice. Records shall be maintained for a minimum of three years after termination of this Agreement.

5.3 Tonnage audit. Upon three (3) days’ advance notice to ERRR, HWMA may verify entry and/or loaded Trailer weight records through on-site inspections, sampling and auditing methods.

6. PERFORMANCE STANDARDS

ERRR will perform all its obligations under this Agreement in accordance with accepted practices for comparable facilities, applicable law and the provisions of this Agreement. ERRR is solely liable for all fines and penalties that may be imposed on ERRR to the extent that those fines and penalties are the result of ERRR’s violations of applicable law. ERRR retains responsibility for all injuries, accidents and other mishaps associated with its performance under this Agreement, including personal injury and damage to any real or personal property.

ERRR will promptly report any such events to the Authority orally, followed by written notice within three working days, including details of any witness statements. ERRR will institute an emergency operations plan and provide a copy to the Authority upon the Authority’s request. Said plan shall mitigate and correct hazards that may arise due to accidents or destruction of transportation services, including property damage and traffic disruption, and will include any business plan for emergency response to the release or threatened release of hazardous materials in accordance with applicable law.

7. INSURANCE AND INDEMNITY.

7.1 Insurance. ERRR will secure and maintain in full force and effect:

(a) General Liability: General liability limits with minimum limits of liability per occurrence of Three Million Dollars ($3,000,000); and per aggregate of Four Million Dollars ($4,000,000);

(b) Workers’ Compensation insurance as required by state law;

(c) Employer’s liability insurance: Bodily injury by accident in the amount of One Million Dollars each accident and bodily injury by disease in the amount of One Million Dollars ($1,000,000) policy limit and One Million Dollars each employee.

(d) General Provisions. ERRR will ensure that insurance policies are always primary with respect to performance under this Agreement. ERRR will include the Authority and its employees, officials, members, officers, agents, contractors, assigns and volunteers by endorsement or otherwise as additional insured under all policies except with respect to general liability and employer’s liability insurance.

(e) ERRR will file with the Authority evidence of coverage in force, including endorsements, together with a Certificate of Insurance on an authority-approved form.

7.2 Indemnification.
(a) **General indemnity.** ERRR will defend, indemnify and hold harmless the HWMA and its employees, officials, members, officers, agents, assigns and volunteers from and against any and all liability to which any of them may be subjected by reason or resulting directly or indirectly from actions or inactions of ERRR performed or occurring under or in connection with the Agreement, whether or not those liabilities are litigated, settled or reduced to judgment and whether or not those liabilities are caused in part by any wrongful or negligent act, error or omission by any party indemnified under this Agreement.

(b) **Hazardous waste.** Without limiting ERRR’s indemnification stated above, and upon the HWMA’s request, ERRR will indemnify, hold harmless, protect and defend with legal counsel acceptable to the Authority or co-counsel selected by the Authority at ERRR’s sole cost, the Authority from and against all liabilities paid, incurred or suffered by or asserted against the Authority in a judicial, administrative or regulatory form or otherwise, arising or resulting in whole or in part from any repair, cleanup or detoxification, or preparation and implementation or any removal, remedial response, closure or other plan concerning any Unpermitted Waste at the Eel River Transfer ultimately the release of any Unpermitted Waste from ERRR’s transportation vehicles or containers.

The indemnities described in this subsection are intended to operate as an agreement pursuant to 42 USC § 9607(e) and California Health & Safety Code § 25364, to insure, protect, hold harmless and indemnify the Authority from liabilities in accordance with this section. The Authority does not hereby waive or surrender any other indemnity or remedy available to it, and ERRR is strictly liable to the Authority for hazardous materials conditions arising under this Agreement, including any repair, cleanup or detoxification thereof or preparation and implementation of any removal, remedial, response, closure or other plan.

8. **EVENTS OF DEFAULT.**

8.1 Default. Each of the following constitutes an event of default ("Default"): 

(a) **Breach of Agreement.** ERRR’s failure to perform any of its obligations under this Agreement and fails to cure that breach within fifteen (15) days of receiving notice from the HWMA specifying the breach.

(b) **Attachment of any equipment owned by ERRR that is necessary for its ability to provide loading services if said equipment is seized, attached, or levied upon and not placed back into service within two business days.**

(c) **Failure to load into Trailers the exact tonnage equivalent of all Permitted Waste actually collected.**

(d) **Bankruptcy, insolvency, liquidation.** ERRR’s filing of a voluntary claim for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or consents to the appointment of or taking of possession by a receiver, liquidator, assignee, trustee, custodian, administrator of ERRR for any part of ERRR’s operating assets or property.

8.2 Remedies upon default.** Upon occurrence of a Default, the Authority has the following rights:

AGREEMENT BETWEEN HWMA AND ERRR FOR LOAD SERVICES

September 10, 2015

Page 8 of 10

July 13, 2017  Printed on Recycled Paper
(a) To terminate the Agreement;

(b) To suspend the Agreement;

(c) All other available remedies to exercise its remedies in accordance with this Agreement in any other available remedies at law and in equity including specific performance.

8.3 Waiver. Either party’s waiver of any breach or default may not be deemed to be a waiver of any other breach or default, including ones with respect to the same obligations under this Agreement. The subsequent acceptance by either party of any damages or other money paid by the other party may not be deemed to be a waiver by that party of any preexisting or concurrent breach or default. Failure to object to breach or event of default is not and may not be construed as a waiver of that provision.

9. LIQUIDATED DAMAGES. The parties acknowledge that timely, consistent and efficient operations are of utmost importance to the Authority; failure to allow the Transportation Contractor into the staging area and failure to conduct timely Live Loading operations in accordance with this Agreement increases costs to the Authority. The Authority has considered and relied on the ERRR’s representations as to its quality of service commitment in entering into this Agreement. The parties further recognize that quantified standards of performance are necessary and appropriate to ensure consistent and reliable service. The parties recognize that if the Contractor fails in its obligations, the Authority, its member agencies and franchise customers may suffer damages that will be impractical and difficult to ascertain and determine the exact amount of such damages. Therefore, the Parties agree that the Stand-by Charges represents a reasonable estimate and remedy to such damages.

Payment of Stand-By Charges in no way limits the Authority’s ability to seek other damages for other causes; and does not excuse ERRR from conducting appropriate cure of default as provided in Section 8.

10. DISPUTE RESOLUTION. During the pendency of any dispute hereunder, the Parties shall continue to perform their respective obligations under this Agreement and shall attempt to resolve such dispute in a cooperative manner. Following the parties’ mutual good faith efforts to resolve disputes for a period of no less than thirty (30) days, the parties may attempt to resolve their dispute through non-binding arbitration.

11. INDEPENDENT CONTRACTOR STATUS. The parties intend that ERRR will perform the services required by this Agreement as an independent Contractor engaged by the Authority and not as an officer or employee of the Authority. No employee or agent of ERRR will be deemed to be an employee or agent of the Authority. ERRR will have exclusive control over the manner and means of performing its obligations under this Agreement. ERRR officers, employees or agents will not obtain any rights to retirement benefits, workers compensation or any other benefits that accrue to Authority employees.

12. PARTY’S REPRESENTATIONS. ERRR represents and warrants that it has full legal right, power and authority to execute, deliver, and perform its obligation under this Agreement.

13. ASSIGNMENTS. This Agreement may not be assigned in whole or in part without the Authority’s approval which shall not be unreasonably withheld.

14. AMENDMENTS. This Agreement may be amended only upon mutual written agreement duly authorized and executed by both parties.
15. **NOTICES.** Notices and other communications made under this Agreement shall be in writing, first class postage prepaid or delivered personally to the following address, which may be changed by notice from the parties:

To ERRR: c/o Harry Hardin, President  
Eel River Resource Recovery, Inc  
P.O. Box 266  
Fortuna, CA 95540  

HWMA: c/o Jill K. Duffy, Executive Director  
Humboldt Waste Management Authority  
1059 West Hawthorne Street  
Eureka, CA 95501

IN WITNESS WHEREOF, the parties to this Agreement have executed this Agreement effective on the date first above stated.

**HUMBOLDT WASTE MANAGEMENT AUTHORITY**

By: [Signature]  
Jack Thompson, Chairman  
Dated: 9/18/15

Approved as to form:

[Signature]  
Nancy Diamond, General Counsel, HWMA  
Dated: 9/10/15

**EEL RIVER RESOURCE RECOVERY, INC.**

By: [Signature]  
Harry Hardin, President  
Dated: 9/28/15

**READ AND APPROVED BY TRANSPORTATION CONTRACTOR, SOLID WASTES OF WILLITS**

By: [Signature]  
Gerald W. Ward, President  
Dated: 9/22/15

Exhibit A: HWMA, ERRR and SWOW Dispatch Loading Protocol (dated July 1, 2015)
Staff Report

DATE: June 27, 2017 For Board Meeting: July 13, 2017

FROM: Jill K Duffy, Executive Director

SUBJECT: Item 2e) Review letters of support on legislation approved during June 8, 2017 Board Meeting

RECOMMENDED ACTION: Approve letters of support for AB 1219 and SB 212;

DISCUSSION:

At the direction of the Board, staff has drafted the following letters in support to the noted pending legislation:

AB 1219 (Eggman) The California Good Samaritan Food Donation Act
SB 212 (Jackson) Medical Waste

FISCAL IMPACT:
Legislative Bill introduction for the year and tracking of their current status through the process is a function within HWMA Programs and is typically assigned to a Programs Analyst who works in concert with the Executive Director. Other groups with similar interest such as Californians Against Waste and the CA Product Stewardship Council network with us to help align similar goals. The final say in terms of support or opposition is at the sole discretion of the Board. On average, about six to eight hours of staff time per month is utilized to remain current on legislative status.

ATTACHMENTS:
AB 1219 Draft Letter of Support
SB 212 Draft Letter of Support
July 14, 2017

Senator Mike McGuire
1303 10th Street, Room 5061
Sacramento, CA 95814
Submitted Via Fax: Fax: 916-651-4902

Re: AB 1219 (Eggman) The California Good Samaritan Food Donation Act. - Support

Dear Senator McGuire:

The Humboldt Waste Management Authority (“HWMA”) manages solid waste, recycling, household hazardous waste and other diversion programs for our member agencies who include the cities of Arcata, Blue Lake, Eureka, Ferndale, Rio Dell and the County of Humboldt. The HWMA Board of Directors strongly support AB 1219, which would provide clarity regarding certain provisions within the federal “Bill Emerson Good Samaritan Act” and strengthens the protection of civil liability to persons, gleaners and food facilities.

In 1996 Congress approved the “Bill Emerson Good Samaritan Act” which provided protection to good faith food donors from civil and criminal liability. Despite this, surplus food in this State is often discarded, and one in every eight Californians suffer from food insecurity. A survey conducted by the Waste Reduction Alliance found that over 40% of manufacturers and restaurants cited ‘fear of liability’ as their largest barrier in donating left-over food. Additionally, organic waste is one of the more significant components in California’s waste stream, with over 5 million tons of food dumped in landfills every year in the State. Food and other organic waste in landfills also has the potential to release millions of tons of greenhouse gases each year.

Based on the current language AB 1219 (Eggman) will:

- State that donated food which has exceeded the sell-by date is subject to liability protection.
- Expand protection to nonprofits and their donors when they sell or charge for food, which can fill a specific need in many communities.
- Provide liability protection for donations made directly to end-users.
- Requires local environmental health enforcement officers to promote the recovery of food fit for human consumption during their normal, routine inspections.

AB1219 could encourage more food donations throughout the State by easing the fear of liability. It will not only help Californians that may struggle with hunger, but contribute towards the objectives of AB 1826 (Organics Diversion) to divert organic waste from landfills and help support SB 1383’s (Short-Lived Climate Pollutant Reduction Strategy) goal of 40% methane reduction by 2030.
Respectfully,

Jill Duffy  
Executive Director
July 14, 2017

Assemblyman Jim Wood
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0002
Submitted via Fax: (916) 319-2102

Re: SB 212 (Jackson) Medical Waste - Support

Dear Assemblyman Wood:

The Humboldt Waste Management Authority (“HWMA”) manages solid waste, recycling, household hazardous waste and other diversion programs for our member agencies who include the cities of Arcata, Blue Lake, Eureka, Ferndale, Rio Dell and the County of Humboldt.

HWMA has worked diligently over the years with local law enforcement to hold “Take Back Days” for home generated pharmaceuticals to encourage their proper disposal, and most recently has teamed up with several other community entities to place pharmaceutical drop-off bins located in several pharmacies throughout Humboldt County.

A study conducted by the United States Geological Survey (USGS) in 2002 sampled numerous streams across several states and found that 80% had measurable concentrations of prescription and nonprescription drugs, steroids, and reproductive hormones. Since the USGS released its report, a number of studies have demonstrated the low-level presence of pharmaceutical agents throughout the environment and water supply. One of the main sources of environmental contamination is a result of disposal into wastewater disposal systems. It is estimated that 30-50% of prescriptions are disposed of in this manner.

The HWMA Board of Directors expresses their support of AB 1219 (Jackson) “Medical Waste”. This proposed bill will provide regulatory guidance on how home-generated pharmaceutical waste should be classified in regard to California’s waste streams. SB 212 will eliminate regulatory uncertainty that exists around home generated pharmaceutical waste, and provide better guidance on how those materials should be disposed of.

Respectfully,

Jill Duffy
Executive Director
Staff Report

DATE: July 6, 2017 For Meeting of: July 13, 2017

FROM: Jill K Duffy, Executive Director

SUBJECT: Item 2f)
Consider Approval of the Draft Request for Proposals for Greenwaste Transportation Services from Hawthorne Street Transfer Station to Mad River Hardwoods; Provide Direction as Appropriate.

RECOMMENDED ACTION: Voice vote.
1) Consider Approval of the Draft Request for Greenwaste Transportation Services; and 2) Authorize Release of the Final Request for Proposals on September 18, 2017.

DISCUSSION:
HWMA has contracted with Steve Morris of Steve Morris Logging & Contracting (SML) to haul green waste from the Hawthorne Street Transfer Station to the Mad River Compost Facility located on West End Road, Arcata. SML has transported greenwaste from the Hawthorne Street Transfer Station since April of 2004 under a series of agreements. The current agreement terminates December 31, 2017.

Staff proposes that the Board consider issuing a Request for Proposals to solicit services for transportation of green waste collected at HWMA’s Hawthorne Street Transfer Station to the Mad River Compost Facility. This Draft RFP was prepared in-house by the Executive Director and the Director of Operations and Facilities Management, and provides background information, identifies the roles and responsibilities of the proposer and the Authority, and defines the draft scope of work.

Staff requests that the Board review, discuss and approve the Draft RFP for public release on the proposed date of July 18, according to the proposed schedule below. Any revisions requested by the Board will be integrated into the Final RFP prior to public release of the document for solicitations.
<table>
<thead>
<tr>
<th>Tasks</th>
<th>Target Date</th>
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<tbody>
<tr>
<td>1. Present Draft RFP for discussion and approval.</td>
<td><strong>July 13, 2017</strong></td>
</tr>
<tr>
<td>2. Final Transportation to Haul Green Waste RFP; Public Release</td>
<td><strong>Tuesday, July 18, 2017</strong></td>
</tr>
<tr>
<td>3. Optional Site Visit</td>
<td><strong>Tuesday, August 1, 2017 @ 11:00 AM</strong></td>
</tr>
<tr>
<td>4. Deadline for submission of questions</td>
<td><strong>Friday, August 4, 2017 @ 4 PM</strong></td>
</tr>
<tr>
<td>5. Amendment(s) to RFP and Responses, if necessary.</td>
<td><strong>Friday, August 11, 2017</strong></td>
</tr>
</tbody>
</table>
| 6. **Proposals Due**: RFP Evaluation Committee to Review, Analyze and Rank Proposers RFP Response | **Thursday, August 17, 2017 by 3 PM**  
Review Period: (Aug 18-Aug 28)  |
| 7. Board Consideration & Selection                                  | **Thursday, September 7, 2017**   |
| 8. Notification to Proposers                                         | **Friday, September 8, 2017**     |
| 9. Final Agreement for Board’s approval                             | **No later than Thursday, November 8, 2017** |

**FISCAL IMPACT:**
Minimal staff time to form committee, review submissions, and prepare report and recommendation for Board meeting; budgeting for this item included as part of staff payroll estimates for Fiscal Year-2017-18.

**ALTERNATIVES:**
The Board may choose not to publish an RFP for green waste transportation services, directing staff to extend the current agreement with Steve Morris Logging

**ATTACHMENT:**
Attachment 1: Draft Request for Proposals for Greenwaste Hauling Services (July 2017)
HUMBOLDT WASTE MANAGEMENT AUTHORITY
REQUEST FOR PROPOSALS
FOR GREEN WASTE TRANSPORTATION SERVICES

DRAFT: July 13, 2017

PROPOSALS:
JILL K. DUFFY, HWMA EXECUTIVE DIRECTOR
1059 WEST HAWTHORNE STREET
EUREKA, CA 95501
707.268.8680

PROPOSALS DUE:
THURSDAY, AUGUST 17, 2017
NO LATER THAN
3 p.m.
SECTION 1
GREEN WASTE TRANSPORTATION RFP OVERVIEW

1.1 INTRODUCTION AND PURPOSE OF THE RFP

The Humboldt Waste Management Authority (“Authority” or “HWMA”) is issuing a Request for Proposals (RFP) to select a qualified Contractor(s) to provide green waste transportation services from HWMA’s Hawthorne Street Transfer Station (“Transfer Station”). Green waste received from self-haulers and franchise haulers received at the Transfer Station will be loaded into Contractor provided containers for transport to the Authority’s contracted green waste processor, Mad River Hardwoods facility located on West End Road in Arcata, CA for processing and composting.

HWMW is looking to procure transportation services for a five (5) year period, effective January 1, 2018 through December 31, 2022.

Proposals are being solicited from qualified Contractors to provide transportation of greenwaste. The successful CONTRACTOR will be required to enter into a written agreement with the Authority, using the Authority’s Agreement form.

This Request for Proposal (RFP) provides background information, identifies roles and responsibilities of the PROPOSER and the Authority.

The Humboldt Waste Management Authority is hereinafter referred to as the “Authority or HWMA”. PROPOSERS are hereinafter referred to as the “PROPOSER and/or Contractor”.

1.2 RIGHTS RESERVED BY THE AUTHORITY

The Authority rights include but are not limited to the following conditions:

- Reissuing or modifying the RFP.
- Withdrawing the RFP at any time during the procurement process.
- Issuing addenda to the RFP, including extending or revising the timeline for submittals.
- Requesting clarification or additional information from the PROPOSERS at any time during the procurement process.
- Executing an Agreement with a PROPOSER on the basis of the original proposal.
- Rejecting any or all proposals, waiving irregularities in any proposals, accepting or rejecting all or part of any proposals, and waiving any requirements of the RFP, as may be deemed in the best interest of the Authority.
Discontinuing negotiations after commencing negotiations with a selected PROPOSER if progress is unsatisfactory in the sole judgment of the Authority, and commencing negotiations with another qualified PROPOSER.

Take any other action it deems necessary in its best interest.

Deviate from the selection process otherwise outlined in this RFP.

This RFP does not constitute or obligate the Authority to accept any proposal, negotiate with any PROPOSER, award an Agreement, or proceed with the development of any project or service described in response to the RFP. The Authority has no obligation to compensate PROPOSER for expenses related to this procurement process. Furthermore, nothing in this RFP obligates the Authority to award a contract to any party nor shall it be deemed to control in any manner the discretion of the Authority to award or not to award any contract.

Proposals must fully comply with the requirements detailed in this RFP. Required documentation must be included and appropriately identified. Incomplete proposals, proposals containing material errors, inconsistencies, false, inaccurate or misleading information, proposals not submitted with the proper number of copies or proposals with other process or content errors or deficiencies may be rejected by the Authority.

The Authority shall have the right (but not the obligation) to perform an independent background investigation of each PROPOSER’S financial stability and qualifications and each PROPOSER must agree to cooperate with an investigation and review of each PROPOSER’S ability to perform the work required.

Statistical data and information that may be contained in the RFP or any addenda are for informational purposes only. The Authority makes no warranty as to the accuracy of this information and is not responsible for any such information that may subsequently be determined to be incomplete or inaccurate.

1.3 PROPOSER’S RESPONSIBILITIES

Examine this RFP.

Become familiar with local conditions that may affect cost, permitting, progress, performance, or services described in this RFP.

Consider all federal, state and local laws, statutes, ordinances, regulations and other applicable laws, rules, and regulations that may affect costs, permitting, progress, performance, or services.

Clarify, with the Authority, any conflicts, errors, or discrepancies that the PROPOSER discovers in this RFP.

Prior to submitting a proposal, each PROPOSER will, at his/her own expense, make or obtain any additional examinations, investigations, and studies; and obtain any additional information and data that may affect costs, permitting, progress, performance or furnishing of the project that PROPOSER deems necessary to determine its proposal.
Each PROPOSER will use mail, fax, email or other delivery mechanism at its own risk, and the Authority will not be obligated to accept or respond to any submission that is delayed due to delivery failures.

The submission of a proposal will not be deemed an Agreement between the PROPOSER and the Authority, and the following conditions will apply:

1. Authority will not be obligated to respond to any proposal submitted nor is it bound in any manner by the submission of a proposal by a PROPOSER.
2. Acceptance of a proposal by the Authority obligates the PROPOSER to enter into good faith Agreement negotiations on the proposal submitted.
3. The Agreement will not be binding or valid against the Authority unless and until it is approved by the Authority Board of Directors (Board) and executed by the Authority and the selected PROPOSER.

1.4 OUTCOME OF SUBMISSION OF PROPOSAL

The submission of a proposal will constitute a binding representation and warranty by the PROPOSER that the PROPOSER has investigated all aspects of the RFP and its proposal; that the PROPOSER is aware of the applicable facts pertaining to the RFP process, its procedures and requirements; that the PROPOSER has read and understands the RFP and has complied with every requirement; that without exception the proposal is premised upon performing and furnishing the services and equipment required by this RFP and the attached Agreement and such means, methods, techniques, sequences or procedures as may be indicated in or required by this RFP and the Agreement; and that the RFP is sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the project.

As noted, the submission of a proposal will not be deemed an Agreement between the PROPOSER and the Authority. The proposal is a contractual offer by the PROPOSER to perform services in accord with the proposal.

The proposals received will become the exclusive property of the Authority. At such time, as an Agreement award is recommended to the Authority Board, all proposals submitted in response to this RFP will become a matter of public record and will be regarded as public records.

1.5 PROPOSAL COSTS

The cost of investigating, preparing, and submitting a proposal is the sole responsibility of the PROPOSER and will not be chargeable in any manner to the Authority. The Authority will not reimburse any PROPOSER for any costs associated with the preparation and submission of proposals or expenses incurred in making an oral presentation, participating in an interview, or negotiating an Agreement with the Authority.
1.6 Authority Goals and Objectives

The Authority is interested in receiving proposals from companies that are interested in providing or have demonstrated experience providing transportation of green waste and the reliability to ensure success of the services for the Authority. The Authority will place an emphasis on a PROPOSER who places a high priority on reliable, cost effective, and environmentally sound operations. The Authority seeks a Contractor that can provide:

- Low-cost and efficient transportation of green waste hauling services; and
- Full compliance with local, state and federal regulations; and
- Full cooperation with operators of the Hawthorne Street Transfer Station and Mad River Hardwoods facilities; and
- Maintain a high level of service (timely, courteous, and responsive) to the Authority.

1.7 Procurement Process and Schedule

Milestone dates and activities during the proposal process are listed below.

- Authority Board to review and approve RFP on Thursday, July 13, 2017.
- Authority releases RFP on Tuesday, July 18, 2017. RFP will be listed on Authority website at http://www.hwma.net/proposals.
- PROPOSERS to participate in an optional site visit to HWMA’s Hawthorne Street Transfer Station on Tuesday, August 1, 2017 at 11:00 a.m.
- Written question and answer period during the proposal preparation period. Deadline for written questions from PROPOSERS to HWMA by hard copy or email at jduffy@hwma.net by Friday, August 4, 2017.
- Amendment(s) to the RFP and Responses to Questions will be issued no later than Friday, August 11, 2017.
- PROPOSERS submit proposals to Humboldt Waste Management Authority, Attn: Ms. Jill Duffy no later than 3 p.m Thursday, August 17, 2017
- Authority Board selects CONTRACTOR at the September 7, 2017 Board meeting
- Parties to finalize Green Waste Transportation Agreement and necessary documentation no later than October 30, 2017.
- Authority Board approves Agreement no later than Thursday, November 8, 2017
- CONTRACTOR commences service on January 1, 2018.

Notwithstanding the foregoing, the Authority reserves the right, in its sole discretion, to change or extend any of the timelines set forth above.
1.8 ORGANIZATION OF THE RFP

The RFP is constructed in the following sections with information and requirements as listed below:

- Section 1 contains an RFP Overview introduction and purpose of the Proposal information, including the rights of the Authority, its goals and objectives, schedule, and other related matters.
- Section 2 contains pertinent Background Information including description of the Authority and its Member Agencies, transfer station description and green waste quantities and other related information.
- Section 3 defines the Scope of Services covered by this RFP.
- Section 4 identifies the Agreement(s) for Transportation Services.
- Section 5 describes the Proposal Submittal Requirements.
SECTION 2
BACKGROUND INFORMATION & REQUESTED SERVICE

Humboldt Waste Management Authority (HWMA), or the Authority, is a Joint Powers Authority consisting of the Member Agencies comprised of the Cities of Arcata, Blue Lake, Eureka, Ferndale, Rio Dell, and Humboldt County. The HWMA is governed by a six (6) member Board of Directors that is made up of representatives from each of the Member agencies.

HWMA was formed in 1999 for the purposes of economically coordinating the disposal of Solid Waste generated in the incorporated and unincorporated areas of Humboldt County and responsible for Closure and Post-Closure activities at the Cummings Road Landfill.

The Authority is looking to secure services which include a contractor that shall transport green waste collected from HWMA’s Hawthorne Street Transfer Station for transport to the Mad River Hardwoods facility located at 6063 West End Road, Arcata, CA 95521 for disposal. Contractor is required to provide containers for loading and green waste transportation services at a frequency and in such volume so as to manage green waste volumes at the Transfer Station. Contractor will operate such that, with the exception of the Holidays described below, hauling services are available 365 days per year.

All Contractor costs for providing the hauling services shall be accounted for and incorporated into Contractor’s base transportation quote.

2.1 HWMA HAWTHORNE STREET TRANSFER STATION

HWMA owns and operates a municipal solid waste transfer station located at 1059 West Hawthorne Street, in Eureka, California. This facility is open seven (7) days per week, excluding major holidays.

The Hawthorne Street Transfer Station is a full service facility where residents and businesses can dispose of Permitted Solid Waste, recyclable, household hazardous wastes and green waste materials at one location. Vehicles bringing or removing waste materials enter the station from West Hawthorne Street, a dedicated public street. Hawthorne Street and Felt Street are public roads with two-way traffic. Traffic entering the site is weighed on scales, then routed based upon the type of materials brought, for disposal or recycling.

_Hawthorne Street Transfer Station - Hours of Operation_

The Hawthorne Street Transfer Station is open to franchise collection trucks from 6:30 a.m. to 6:00 p.m. Monday through Friday and 7:00 a.m. to noon on designated holidays, 8:00 am to 4:00 pm on Saturday and 10:00 am to 4:00 pm on Sundays. The facility is open on a limited basis to franchise trucks on January 1, Easter Sunday, Memorial Day, July 4, Labor Day, Thanksgiving, and Christmas Day December 25, and other holidays as may be designated by the Authority.
Table 1: Hours of Operation, Hawthorne Street Transfer Station

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<tr>
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<th>SUN</th>
<th>MON</th>
<th>TUE</th>
<th>WED</th>
<th>THU</th>
<th>FRI</th>
<th>SAT</th>
</tr>
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<tbody>
<tr>
<td>Start Operations</td>
<td>8:00 am</td>
<td>6:30 am</td>
<td>6:30 am</td>
<td>6:30 am</td>
<td>6:30 am</td>
<td>6:30 am</td>
<td>8:00 am</td>
</tr>
<tr>
<td>Open for Franchise Haulers</td>
<td>10:00 am</td>
<td>6:30 am</td>
<td>6:30 am</td>
<td>6:30 am</td>
<td>6:30 am</td>
<td>6:30 am</td>
<td>8:00 am</td>
</tr>
<tr>
<td>Open for Public</td>
<td>10:00 am</td>
<td>7:00 am</td>
<td>7:00 am</td>
<td>7:00 am</td>
<td>7:00 am</td>
<td>7:00 am</td>
<td>8:00 am</td>
</tr>
<tr>
<td>Close Gates for Public</td>
<td>4:00 pm</td>
<td>5:00 pm</td>
<td>5:00 pm</td>
<td>5:00 pm</td>
<td>5:00 pm</td>
<td>5:00 pm</td>
<td>4:00 pm</td>
</tr>
<tr>
<td>Close Gates for Franchise Haulers</td>
<td>4:00 pm</td>
<td>5:00 pm</td>
<td>5:00 pm</td>
<td>5:00 pm</td>
<td>5:00 pm</td>
<td>5:00 pm</td>
<td>4:00 pm</td>
</tr>
<tr>
<td>End of Typical Operation</td>
<td>4:30 pm</td>
<td>5:30 pm</td>
<td>5:30 pm</td>
<td>5:30 pm</td>
<td>5:30 pm</td>
<td>5:30 pm</td>
<td>4:30 pm</td>
</tr>
</tbody>
</table>

For those days in which green waste hauling is required and the Hawthorne Street Transfer Station is closed to the public in observance of a national holiday, Contractor shall be responsible for weighing of tonnages hauled. The Authority shall provide Authority-approved hand tag forms for the recording of these weights, and shall make the forms available on those days in which its Hawthorne Street Transfer Station is closed to regular traffic.

### 2.2 Green Waste

In 2003, HWMA entered into a public-private partnership for the diversion and processing of green-waste received at the Authority’s Hawthorne Street Transfer Station. This initially enabled small volumes of green-waste to be diverted from out-of- area landfills, thereby reducing transportation and disposal costs, and processing the waste material into a product that could be blended into a beneficial soil amendment.

Today, HWMA’s Transfer Station receives approximately 4,000 tons of green waste annually from franchise collection haulers and the general public self-hauling the material to our facility. Green waste is delivered into a collection bunker, and HWMA staff loads material using an excavator into Contractor provided container(s). At regularly scheduled intervals, this material is transported from the Transfer Station to Mad River Hardwood’s greenwaste processing facility.

Green waste is currently loaded into two (2) empty 40-yard bins stored on site, then loaded onto rail truck for transportation several times a week. Transportation requirements vary slightly due to seasonal variations.

Each load of green waste shall be weighed at the HWMA’s Transfer Station on the franchise scale at no charge to the hauler. The volume will be weighed and recorded prior to delivery to the Mad River Hardwoods facility.
2.3 MAD RIVER HARDWOODS

Mad River Hardwoods is located at 6063 West End Road in Arcata, CA and the hauler will be responsible to delivering and disposing green waste to the appropriate location as identified by Mad River Hardwood staff. The Contractor must maintain and operate within the guidelines of the permit and policies of the Mad River Hardwoods.

2.4 Loading/Unloading Green Waste Protocol

- HWMA Hawthorne Street Transfer Station Loading Protocol
  Green waste shall be loaded into Contractor provided containers at the Transfer Station by HWMA staff.

- Mad River Hardwoods Unloading Protocol
  Green waste shall be unloaded at the Mad River Hardwoods facility according to the practices and policies of Mad River Hardwoods.

2.5 AVERAGE GREENWASTE TONNAGE

Approximately 4,000 tons per year is received from franchise haulers and the general public. Table 2 presents the average daily tonnage received at HWMA’s Transfer Station for Fiscal Year 2016-17. Green waste volumes appear to have increased over prior years, and is likely due to the higher than normal rainfall experienced this past year.

Based on a tonnage analysis of outbound containers loaded with green waste material from the Transfer Station, the average weight per load was 15 tons. At a minimum, the Authority intends to continue to utilize hauling services which meet this historic average.

Table 2: Average of Green Waste Volume Generation and Load Count from the HWMA Transfer Station to Mad River Hardwoods

<table>
<thead>
<tr>
<th>FY 2016-17</th>
<th>Average Tons per Day</th>
<th>Monthly Total Tons Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 2016</td>
<td>11.12</td>
<td>344.76</td>
</tr>
<tr>
<td>August</td>
<td>11.19</td>
<td>346.91</td>
</tr>
<tr>
<td>September</td>
<td>10.30</td>
<td>308.93</td>
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<tr>
<td>October</td>
<td>9.05</td>
<td>280.46</td>
</tr>
<tr>
<td>November</td>
<td>14.24</td>
<td>427.06</td>
</tr>
<tr>
<td>December</td>
<td>8.08</td>
<td>250.42</td>
</tr>
<tr>
<td>January 2017</td>
<td>9.87</td>
<td>306.04</td>
</tr>
<tr>
<td>February</td>
<td>11.04</td>
<td>309.02</td>
</tr>
<tr>
<td>March</td>
<td>10.01</td>
<td>310.38</td>
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<tr>
<td>April</td>
<td>14.71</td>
<td>441.26</td>
</tr>
<tr>
<td>May</td>
<td>17.42</td>
<td>539.88</td>
</tr>
<tr>
<td>June</td>
<td>16.40</td>
<td>492.06</td>
</tr>
</tbody>
</table>
SECTION 3
SCOPE OF SERVICES –

This section describes the scope of services that will be required for the selected Contractor to perform as part of the Agreement with the Authority for the purposes of transporting green waste from the HWMA’s Transfer Station to Mad River Hardwoods for disposal.

Essential portions of the scope of work required by the PROPOSER for this solicitation are detailed as follows:

The selected Contractor shall be responsible for the following:

- Annually, from the effective date of the Agreement - January 1, 2018 - until December 31, 2022, Contractor shall be responsible for accepting and delivering green waste from HWMA’s Transfer Station to Mad River Hardwoods, located in Arcata, CA.

- Container specifications – minimum capacity of 20 cubic yards or 15 tons per load

- Record weights of all Trailers at the Hawthorne Street Transfer Station then transport green waste for disposal to the Mad River Hardwoods.

- Provide truck and trailer, labor, rolling stock, stationary equipment, material storage containers, spare parts, maintenance supplies, and other consumables necessary to perform transportation operations.

- Contractor shall keep containers enclosed and/or tarped to contain green waste and prevent spilling or scattering of green waste during transportation.

- Contractor shall be available to transport containers from the Transfer Station to Mad River Hardwood facility, daily, 365 days per year.

- Dispatch shall be coordinated by HWMA Operations staff Monday through Friday at 10:00 AM, excepting weekday Holidays.

- Contractor shall supply an adequate number of trailers or frequency of delivery sufficient to meet green waste disposal demand.

- General Indemnification. Contractor shall provide indemnification to the Authority.
  - General Liability: General liability with minimum limits of liability per occurrence of Two Million Dollars ($2,000,000), and per aggregate of Two Million Dollars ($2,000,000).
  - Comprehensive automobile liability insurance: Comprehensive coverage for all vehicles and all motor equipment, owned, leased, hired, borrowed or operated by Contractor in its performance of this Agreement, and shall obtain uninsured/underinsured motorists liability coverage. Minimum limits of liability per occurrence shall be Two Million Dollars ($2,000,000), and per aggregate Two Million Dollars ($2,000,000).
o Pollution liability, environmental impairment: Environmental impairment and release or spill of “pollutants” or “wastes” and all cleanup costs relating thereto with minimum limits of liability per occurrence of Two Million Dollars ($2,000,000), and per aggregate of Two Million Dollars ($2,000,000).

o Workers’ compensation insurance: Workers’ compensation as required by state law.

o Employer’s liability insurance: Bodily injury by accident in the amount of Two Million Dollars ($2,000,000) each accident and bodily injury by disease in the amount of Two Million Dollars ($2,000,000) policy limit and each employee.

3.1 CONTRACTOR RATE COMPENSATION

All PROPOSERS shall submit with their proposals a rate schedule for transportation services in accordance with Section 3.2 below. Transportation rates are subject to annual adjustments based on the change in the Consumer Price Index (CPI-U for All Urban Consumers, US City Average, All Items, 1982-84 =100) for the 12 months ending every March 31st.

3.2 Calculation of Transportation Rates

The Transportation Rates to be proposed by the PROPOSER are to be comprised of two (2) separate cost components: For each ton of green waste transported to and disposed of at the Mad River Hardwoods, HWMA will pay an amount equal to: (a) the applicable Base Transportation Fee; plus (b) the Base Fuel Rate Fee.

- Base Transportation Fee component is comprised of all non-fuel related costs including driver labor wages and benefits, equipment repair, capital costs, overhead and profit, and;

- Base Fuel Rate Fee component is based on the total fuel cost to transport the container(s), round trip, from the Hawthorne Street Transfer Station to Mad River Hardwoods, at a base per-gallon fuel rate as set by the Contractor.

The Base Transportation Rate and Fuel Component Rate, when added together, arrive at the total Transportation Rate to be charged to the Authority for each green waste load delivered by the PROPOSER from the Cummings Road Landfill to the Mad River Hardwood facility.

Annual Adjustments to Base Transportation Fee

The Base Transportation Fee per load shall be adjusted annually on the Adjustment Date, beginning January 1, 2019, and every year thereafter for the Term of the agreement in an amount equal to seventy-five percent (75%) of the annual change in the Consumer Price Index for the U.S. City Average, All Urban Consumer Price Index (CPI-U): 1982-84 =100, for the month of March, compiled and published by the United States Department of Labor, Bureau of Labor Statistics of the preceding year multiplied by the then current Transportation Rate.
Monthly Adjustments to the Base Fuel Rate Fee

The Base Fuel Fee Component shall be adjusted each month by comparing the base per gallon fuel rate set in the Agreement with the lesser of:

1.) Contractor’s average cost of diesel fuel for the prior month; or

2). Average California weekly diesel Fuel Price Index for the four weeks prior to the month being invoiced, published by the US Department of Energy (http://www.eia.gov)

The Authority shall pay Contractor a monthly Fuel Rate Adjustment based on the difference in the current diesel fuel rate determined above and the base per gallon fuel rate set in the Agreement, multiplied by the number of trips performed by the Contractor in the preceding month, as outlined in Contractor’s monthly invoice.
SECTION 4
PROPOSAL SUBMITTAL REQUIREMENTS

The PROPOSER is to provide all information required in this section.

4.1 ORGANIZATION OF THE PROPOSAL RESPONSE

Each proposal will be organized in accordance with this Section as outlined below. PROPOSER will provide, at a minimum, all information required in each section and subsection as part of its proposal. Proposals should concentrate on demonstrating the PROPOSER’s ability to fulfill the obligations of the required scope of services.

PROPOSERS will provide the information as requested.

*Title Page, Cover Letter, Table of Contents, Executive Summary*

Each proposal must be accompanied by a title page, which provides the name of the proposal solicitation, name and address of the PROPOSER, and date of the submittal.

All proposals must be accompanied by a cover letter not exceeding three (3) pages and should provide the following information:

- Name, address, telephone number, fax number, and email address of the individual authorized to contractually bind the PROPOSER and be signed by the company’s authorized representative.
- Name, address, telephone number, fax number, and email address of PROPOSER’S key contact person.
- Description of the type of organization (e.g., corporation, partnership, joint venture, etc.) submitting the proposal.
- Name of the company that will execute the Agreement, in the event it is awarded.
- A written statement warranting that the requirements of the Agreement, as described in this RFP document, its enclosures, and all addenda, by listing all addenda and dates received, have been thoroughly reviewed and the PROPOSER has conducted all due diligence necessary to confirm material facts upon which the proposal is based.
- A written statement acknowledging the validity of the proposal contents including proposed rate and pricing for not less than one hundred and eighty (180) days.

PROPOSER must provide a complete and detailed table of contents including Section and subsection headers.

The executive summary should not exceed the equivalent of three (3) double-sided pages and should provide highlights of the major elements of the PROPOSER’S proposal. All information should be provided in a concise manner.
4.2 COMPANY DESCRIPTION AND QUALIFICATIONS

Business Structure

- Identify the company that will execute the Agreement. State whether the company is a sole proprietorship, partnership, corporation, limited liability company, or joint venture.
- State the number of years the company has been organized and doing business under their current legal structure.
- Provide evidence the company is qualified to do business in California.

PROPOSER’S Transportation Experience

The PROPOSER will describe its experience in the past five (5) years in providing similar, if applicable, transportation and disposal services as detailed in the scope of services. The description will include:

- A statement that the general experience as submitted in the proposal is current, correct, and complete.
- The term (start and end date) of the contract and any extension(s).
- Provide a minimum of three (3) references that can attest to PROPOSER experience and performance. References shall include all pertinent contact information to allow the Authority to independently check the reference.

PROPOSER’S Key Management and Support Personnel

- Describe relevant technical experience of key personnel, how long they have been with the company, and their backgrounds in the requested services.
- Provide a list showing the position and number as full-time equivalents (or partial FTE) of all company employees that will be involved with providing these services.

PROPOSER’S Worker Safety Record

- PROPOSER must provide information detailing its worker safety record for the past five (5) years for the company and its affiliates in California or pertinent State(s) where it operates.
- The worker safety record information will include, but not be limited to, employee safety metrics commonly used in the industry such as the number of hours lost for individual injuries per employee and workers’ compensation insurance ratios.

Transportation Services

- PROPOSER shall submit a rate schedule including the Base Transportation Rate and Fuel Rate components as described in Section 3.2.
- PROPOSER will describe how it plans to perform the transportation services.
Include in the proposal a description of the following information:

- Type of transportation equipment to be used including equipment manufacturer, age of equipment, vehicle description, volumetric capacity of the transfer trailer container body, and number of vehicles to be put into service.
- A map showing the route(s) transporter shall travel; include the round trip mileage and estimated round trip time. Describe alternate route(s) to be taken in the even the primary transportation route is temporarily closed due to weather or construction activities.

### 4.3 OTHER PROPOSAL CONSIDERATIONS AND REQUIREMENTS

It is the responsibility of each PROPOSER to do the following before submitting the proposal:

Examine this RFP, including all enclosures and the Agreement, thoroughly.

Attend an Optional site tour beginning at the Hawthorne Street Transfer Station and the Mad River Hardwoods facility.

Be familiar with local conditions that may affect cost, progress, performance, or furnishing of services described in this RFP.

Consider all federal, state, and local laws, statutes, ordinances, regulations and other applicable laws that may affect costs, progress, performance, or furnishing of the project.

Clarify, with the Authority, any conflicts, errors, or discrepancies in this RFP.

Before submitting a proposal, each Contractor shall, at Contractor's own expense, make or obtain any additional examinations, investigations, and studies, and obtain any additional information and data that may affect costs, permitting, progress, performance or furnishing of the project and that Contractor deems necessary to prepare its proposal.
SECTION 5
PROPOSAL SUBMITTAL INSTRUCTIONS

PROPOSAL SUBMITTALS
Proposals shall be submitted no later than 3 PM on Thursday, August 17, 2017. Late submittals will be returned unopened to the Proposers. Proposals shall be addressed to:

Ms. Jill Duffy
Executive Director
1059 West Hawthorne,
Eureka, CA 95501
Phone: 707-268-8680
Fax: 707-268-8927
Email: jduffy@hwma.net

Written Questions
The Authority requires that prospective PROPOSERS coordinate all questions and requests for information through Jill K. Duffy, Executive Director. Any questions, requests for clarification, or requests for additional information regarding the RFP content should be submitted in writing via email to Ms. Duffy on or before 5:00 p.m., Friday, August 4, 2017. *Electronic mail is the only acceptable method for the submission of questions. All requests for RFP clarification should contain the following words in the message subject line: “QUESTIONS: Humboldt Waste Management Authority Green Waste Transportation RFP”.*

Questions will be answered to the greatest degree possible through the Authority website and through written correspondence. No oral communications can be relied upon for this proposal.

PROPOSER’S Site Visits
The Authority will hold an optional PROPOSERS' meeting and site visit beginning at the HWMA Hawthorne Street Transfer Station and the Mad River Hardwood facility on **August 1, 2017 at 11:00 a.m.** to view the site facilities and operational requirements.

The site visits are scheduled to begin at 11:00 a.m. on the date above. The PROPOSERS' meeting will be held first at the HWMA Hawthorne Street facility, then proceed to the Mad River Hardwood facility.

Any changes, interpretations, or clarifications considered necessary by the Authority in response to PROPOSERS' questions will be issued in writing as addenda, listed on the Authority website, and emailed to all interested parties.
Submit Proposal

Submit 4 copies of your Proposal on at least 30% post-consumer recycled-content paper and (optional) a CD/DVD digital copy as a PDF to Ms. Jill Duffy, Executive Director, 1059 West Hawthorne, Eureka, CA 95501.

Proposals must be received at the Authority Administrative Office no later than 3 p.m. Thursday, August 17, 2017. Proposals should be sealed and marked "Humboldt Waste Management Authority — Proposal for Green Waste Transportation".

Clarification/Interviews

PROPOSERS may be asked to clarify information regarding their proposal through writing, interviews, and/or discussions with the Authority RFP Evaluation staff.
Staff Report

DATE: July 7, 2017 For Board Meeting: July 13, 2017

FROM: Jill K Duffy, Executive Director

SUBJECT: Item 4) Review and Approve Draft Agreement with Dry Creek Landfill for Transportation and Disposal of HWMA’s Municipal Solid Waste.

RECOMMENDED ACTION: Voice vote.
1.) Review Draft “Agreement Between HWMA and Dry Creek Landfill for Solid Waste Transportation and Disposal”; and
2.) Approve Resolution 2018-02 (“Title Pending Final Legal Counsel Review”); and
3.) Authorize the Board Chair to execute two originals of the Agreement.

DISCUSSION:
At the June 8th Board meeting, staff was directed to 1) negotiate and execute an amendment for “Early Termination of Transportation and Disposal of Municipal Solid Waste” with Solid Waste of Willits effective June 24, 2017, and 2) initiate negotiations with representatives from Dry Creek Landfill, Inc. and Bettendorf Trucking, and return to the Board with a draft agreement for solid waste transportation and disposal services.

Staff and Solid Wastes of Willits (SWOW) developed and executed Amendment No. 3 to the “Agreement between HWMA and SWOW to Provide Permitted Solid Waste Transportation and Disposal Services” which provided for the early termination of services. This amendment was reviewed and approved by the Authority’s Legal Counsel, and signed by both parties on June 15, 2017. Concurrently, due to a large volume of accumulated solid waste and insufficient SWOW trailer and driver availability, staff requested (and with SWOW’s agreement) that Bettendorf Transportation begin delivering trailers for loading and transportation destined for Dry Creek Landfill on Monday, June 19th.

HWMA staff initiated negotiations with Dry Creek Landfill and Bettendorf Trucking representatives using the general terms that were presented to the Board at the June 8th Board meeting. The draft “Agreement Between the Humboldt Waste Management Authority and Dry Creek Landfill for Solid Waste Transportation and Disposal Services” was jointly crafted and reviewed by respective legal counsel(s).
The draft Agreement is presented for the Board’s review and approval. Additionally, the Board is requested to approve Resolution 2018-03 (“Title Pending”) which waives the competitive bidding requirement and authorizes the Chair to execute the solid waste agreement.

Resolution 2018-03 has been drafted, and at the time of this staff report’s preparation, is under review by Legal Counsel. The final draft will be circulated to the Board and public once it is complete.

**Agreement Highlights:**
The proposed agreement will enable the following:

- **Term:** A 10-year agreement, with the Authority retaining an Option to Extend for an additional 5-year period.
- **Effective Date:** June 19, 2017 and the contract year will run July 1 to June 30th.
- **DCL agrees to:**
  - make available disposal capacity at the Disposal Site for Solid Wastes;
  - will enter into the Transportation Subcontract with Bettendorf Trucking to haul Solid Wastes from HWMA’s Transfer and Satellite Transfer Stations to the Disposal Site; and
  - dispose of the Solid Wastes at Dry Creek Landfill
- **HWMA agrees to:**
  - direct its Solid Wastes to be transported from its transfer stations to and disposed of at the Dry Creek Landfill. Additionally,
    - No minimum tonnage disposal requirements (no “Put or Pay” provision)
    - Authority to retain the right to Divert and Recycle materials
    - Liquated damages
- **Back Haul and Straight Haul Rates**
- **Insurance coverage for DCL, Transportation Subcontractor (Bettendorf Trucking) and HWMA.**
- **Other standard agreement provisions including but not limited to: payments, invoicing, record-keeping, indemnifications, default and termination.**

**FISCAL IMPACT:**
As presented at the June 8th meeting, there will be an unexpected financial impact to the FY 2017-18 Budget of approximately $533,535. The following agenda item (Agenda Item 5) will present a general guide to the Board to discuss strategies to internally absorb this impact without increasing the Waste Management Fee for this fiscal year.

**STRATEGIC PLAN OBJECTIVE:**
Strategic Plan Strategy 1.1 – Secure Long-Term Disposal Capacity.

**ALTERNATIVES:**
Board’s discretion.

**ATTACHMENTS:**
Attachment A: Draft Agreement
***PLACEHOLDER***

FOR RESOLUTION 2018-03
(under final review by Legal Counsel)
AGREEMENT BETWEEN THE HUMBOLDT WASTE MANAGEMENT AUTHORITY
AND DRY CREEK LANDFILL FOR
SOLID WASTE TRANSPORTATION AND DISPOSAL SERVICES

THIS SOLID WASTE TRANSPORTATION AND DISPOSAL AGREEMENT (this “Agreement”) is made and entered into as of June 19, 2017 (the “Effective Date”), by and between Dry Creek Landfill, Inc., an Oregon corporation (“DCL”), and the Humboldt Waste Management Authority, a public body and joint powers authority organized and existing under the laws of the State of California pursuant to Government Code section 6500 et. seq. (“HWMA” or the “Authority”), hereafter collectively referred to as the “Parties” and individually as a “Party”.

RECITALS

A. The Authority was formed in accordance with California Government Code section 6500 et. seq. for the purposes, in part, of providing for the economical disposal of solid waste generated within the jurisdictions of its Member Agencies in accordance with the California Integrated Waste Management Act of 1989 (California Public Resources Code section 40000, et. seq., “AB 939”), including the transfer and disposal of solid waste, as provided in California Public Resources Code section 40057.

B. Through the enactment of AB 939, the State of California recognizes the important health and safety considerations of long-term planning for local governments’ adequate disposal needs. The State of California requires local governments to make adequate provision for at least fifteen (15) years of Covered Waste (as defined herein) capacity to preserve the health, safety and well-being of the public.

C. The Authority is presently comprised of local governmental Member Agencies including the County of Humboldt and the Cities of Arcata, Blue Lake, Eureka, Ferndale, and Rio Dell, and provides for the disposal of solid waste generated within the jurisdiction of its Member Agencies.

D. The Authority owns and operates the Hawthorne Street Transfer Station (as more particularly defined herein) located in Eureka, California, and contracts with a privately owned Satellite Transfer Station (as more particularly defined herein) located in the City of Fortuna to receive municipal solid waste for transportation to a solid waste disposal facility (the Hawthorne Street Transfer Station and the Satellite Transfer Stations, together, the “Transfer Stations”).

F. On July 13, 2017, the Board of the Humboldt Waste Management Authority adopted Resolution 2018-03 finding that the public health, safety and wellbeing require HWMA to enter into an exclusive agreement for solid waste transportation and disposal services without competitive bidding. This Agreement is being entered into pursuant to and in accordance with
such finding.

E. DCL is the owner and operator of a solid waste disposal facility consisting of a landfill located in Jackson County, Oregon and commonly known as the Dry Creek Landfill (the “Disposal Site”). DCL is operating the Disposal Site under a disposal franchise agreement with Jackson County, Oregon dated October 25, 1996.

F. The Authority and DCL are entering into this Agreement pursuant to which: (i) DCL agrees to: (a) make available disposal capacity at the Disposal Site for the Covered Waste; (b) enter into the Transportation Subcontract pursuant to which the Transportation Subcontractor will transport the Covered Waste from the Transfer Stations to the Disposal Site; and (c) dispose of the Covered Waste at the Disposal Site; and (i) HWMA agrees to direct its Covered Waste to be transported to and disposed of at the Disposal Site pursuant to this Agreement.

G. The Authority has found and determined that DCL has the qualifications, skills and expertise necessary to provide transportation and landfill disposal services for HWMA’s Covered Waste on the terms and conditions set forth herein. DCL is willing to enter into this Agreement in consideration of HWMA agreeing that during the term of this Agreement the Covered Waste will be transported by a DCL Transportation Subcontractor from the Transfer Stations to the Disposal Site and disposed of at the Disposal Site, all as provided herein and on the terms and conditions hereinafter set forth.

H. This Agreement sets forth the terms and conditions for the disposal at the Disposal Site of the Covered Waste and the obligations of HWMA and DCL with respect thereto.

NOW THEREFORE, for and in consideration of the premises and the mutual covenants and undertakings of the Parties as hereinafter set forth, DCL and HWMA hereby agree as follows:

ARTICLE 1. -- DEFINITIONS

As used in this Agreement, the following terms shall have the respective meanings assigned thereto as provided below:

**Acceptable Waste** means any and all waste that is Solid Waste as defined herein (but is not Unacceptable Waste as defined herein) and which, in compliance with governmental licenses and permits in effect from time to time during the term of this Agreement, may be disposed of at the Disposal Site.

**Additional Satellite Transfer Station** means a transfer station that HWMA designates as a Satellite Transfer Station by:

(a) giving not less than ninety (90) calendar days’ prior written notice of such designation to DCL, which notice shall specify the location of such additional facilities; and
(b) negotiating in good faith with DCL an adjustment to the Transport Fee portion of the Base Tipping and Transportation Fee to be applicable to Covered Waste transported from such additional facilities to the Disposal Site in order to take account of the difference (if any) in the distance from the Disposal Site of such additional facilities and the distance from the Disposal Site of the Satellite Transfer Stations as they exist as of the Effective Date (it being acknowledged and agreed that the Base Tipping and Transportation Fee has been established based on the locations as of the Effective Date of the Satellite Transfer Stations and their respective distances from the Disposal Site).

**Affiliate** means, when used with respect to a designated person, any other person that, directly or indirectly, is controlled by such designated person, or is under common control with such designated person. For purposes of this definition, “control” means: (i) the power to direct the management of a person through the ownership of its voting securities or other ownership interest; (ii) the right to designate or elect, by contract or otherwise, a majority of the members of such person’s board of directors or other governing board or body; and (iii) the power to direct, by law or by contract, the place of disposal of Solid Waste collected, controlled, transported, handled, processed or owned by such person.

**Applicable Law** means all statutes, laws, ordinances, rules, regulations, resolutions, requirements, permits, orders, or other directives of the United States, State of Oregon, State of California, Jackson County, Humboldt County, and state and local government authorities and agencies having applicable jurisdiction, that apply to or govern the Disposal Site, Transfer Stations, or the performance of the Parties' respective obligations hereunder decisions, orders, rules or regulations that pertain to the handling, loading, storage, transportation, treatment and disposal of Covered Waste pursuant to this Agreement.

**Back Haul** means a round-trip by the Transportation Subcontractor from a Transfer Station to the Disposal Site and back, where the Transport Vehicle(s) container(s) on the return trip from the Disposal Site contains commodities other than Covered Waste.

**Base Tipping and Transportation Fee** means:

(a) when used to respect to Covered Waste other than Special Waste, the per ton fee provided for in Section 5.1 hereof, as the same may be adjusted from time to time in accordance with the terms and provisions set forth herein (including but not limited to any adjustment of the Transport Fee with respect to Covered Waste to be transported from an Additional Satellite Transfer Station to the Disposal Site); and

(b) when used with respect to Special Waste, the per ton fee to be established from time to time by HWMA and DCL as provided in Section 5.4 hereof.

**Business Day** means any day other than a Saturday, Sunday or a day upon which banks in the State of Oregon or the State of California are authorized or permitted by law to close.

**Capacity** means the physical space guaranteed by DCL to be available at the Disposal Site
to receive and dispose of Authority Covered Waste throughout the Term of this Agreement.

**Closure, Post-Closure** means all activities involved in the operational closure, and post closure monitoring period, of the Disposal Site or portions of the Disposal Site in accordance with all Applicable Law.

**Contract Year** means each one year period during the Term of this Agreement, with each such one year period to begin on July 1 and end on the next succeeding June 30. For the first year of this Agreement, Contract Year shall mean the period from June 19, 2017 through June 30, 2018.

**Covered Waste** means all of:

(a) the Acceptable Waste generated within the jurisdictional boundaries of HWMA and its Member Agencies; and

(b) Special Waste:

   (i) that is generated within the jurisdictional boundaries of HWMA and its Member Agencies, and

   (ii) as to which that DCL and HWMA have agreed upon a Tipping Fee in accordance with Section 4.4 hereof; and

(c) all Recycling Residue;

*provided that* for the sake of clarity, the Parties acknowledge and agree that “Covered Waste” does not include any Acceptable Waste or Special Waste that is Recycled as contemplated by Section 1.2 hereof.

**Damages** shall have the meaning assigned thereto in Section 10.1 hereof.

**DCL** means Dry Creek Landfill, Inc., an Oregon corporation.

**DCL Indemnified Party** shall have the meaning assigned thereto in Section 10.1 hereof.

**DEQ** shall mean the Oregon Department of Environmental Quality or any successor to such agency’s functions.

**Disposal Site** means the Dry Creek Landfill disposal site operated by DCL, or successors or assigns and located within Section 1, Township 37 South, Range 1 West, Jackson County, Oregon at 6260 Dry Creek Road, Eagle Point, Oregon 97524.

**Disputed Invoice Amount** shall have the meaning assigned thereto in Section 5.5(b) hereof.
**Divert, Diverted, Diversion** means activities which reduce or eliminate the amount of Solid Waste from solid waste disposal including but not limited to Recycling, as required under the laws of the State of California.

**Effective Date** shall have the meaning assigned thereto in the opening clause of this Agreement.

**Eel River Transfer Station** means the Satellite Transfer Station located in Fortuna, California, currently operated by Eel River Disposal and to be operated by Recology Eel River beginning on or about July 25, 2017.

**Expiration Date** means June 30, 2027; provided that if HWMA exercises its option to extend for an additional five (5) years as provided in Section 3.2 hereof, then the Expiration Date shall be June 30, 2032.

**Force Majeure** means acts of God, landslides, lightning, forest fires, storms, floods, freezing, earthquakes, civil disturbances, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, public riots, breakage, explosions, or other similar causes, whether of the kind enumerated or otherwise, which are not reasonably within the control of the party whose ability to perform under this Agreement is impaired or prevented by the Force Majeure event. However, a Force Majeure event shall not include: (i) damage or destruction caused by any of the following events: operational error; improperly designed facilities; increased costs of transportation or materials (including fuel), labor, subcontractors or supplies; or careless or improper operation; or (ii) the availability of means of disposing of Covered Waste at a price lower than that provided for in this Agreement. A Force Majeure affecting the Transportation Subcontractor’s ability to perform the transportation function under this Agreement shall constitute a Force Majeure affecting DCL’s ability to perform such function under this Agreement.

**Fuel Credit** shall have the meaning assigned in Section 5.2(b) of this Agreement.

**Fuel Surcharge** shall have the meaning assigned in Section 5.2(a) of this Agreement.

**Governmental Charges** means any tax, howsoever denominated, imposed, levied or assessed by any governmental authority on DCL or on or with respect to the Base Tipping and Transportation Fees or Base Fuel Rate Fees or the use or operation of the Disposal Site for disposal purposes as contemplated herein initially imposed after the Effective Date of this Agreement, but not including any federal or state income taxes or local property taxes.

**Hawthorne Street Transfer Station** means HWMA’s Transfer Station located at 1059 W. Hawthorne Street, Eureka, California.

**Hazardous Waste** shall have the meaning set forth in ORS 466.005(7), or any successor thereto, and/or matter that is required to be accompanied by a written manifest or shipping document describing the waste as hazardous waste or dangerous waste pursuant to any federal law or any law of the State of California or the State of Oregon, including but not limited to, the

**Holidays** means those days when the Hawthorne Street Transfer Station is closed. As of the Effective Date, the following are the Holidays for purposes of this Agreement: New Year’s Day, Easter, Thanksgiving Day, and Christmas Day. HWMA may modify this list of Holidays upon ninety (90) calendar days’ written notice to DCL.

**Household Hazardous Waste** means Conditionally Exempt Small Quantity Generator Waste (as defined in 40 CFR 261.5) that is generated by a residential customer.

**Humboldt Sanitation Transfer Station** means the Satellite Transfer Station currently operated by Humboldt Sanitation and located in McKinleyville, California.

**HWMA** means the Humboldt Waste Management Authority, a joint powers authority composed of the cities of Eureka, Arcata, Blue Lake, Rio Dell and Ferndale and Humboldt County, and its successors.

**HWMA’s Indemnified Parties** shall have the meaning assigned thereto in Section 10.2 hereof.

**Indemnitor** shall have the meaning assigned thereto in Section 10.3 hereof.

**Invoice** shall have the meaning assigned thereto in Section 4.5.1 hereof.

**Invoice Amount** shall have the meaning assigned thereto in Section 4.5.1 hereof.

**Invoice Dispute Notice** shall have the meaning assigned thereto in Section 4.5.2 hereof.

**Joint Exercise of Powers Agreement** means that certain Joint Exercise of Powers Agreement among the Member Agencies adopted November 17, 1999, and amended on April 8, 2002, July 12, 2012, and November 10, 2016, pursuant to which HWMA was created and empowered to act on behalf of the Member Agencies.

**Liquidated Damages** means the liquidated damages provided for in **Exhibit A** hereto.

**Members or Member Agencies** means those agencies who comprise HWMA including at present the unincorporated County of Humboldt and the Cities of Arcata, Blue Lake, Eureka, Ferndale, and Rio Dell, and any other entity that becomes a Member Agency in the future in accordance with the provisions of HWMA’s Joint Exercise of Powers Agreement.

**No Service Day** means each day that DCL is required to provide transportation and disposal services hereunder and fails to do so where it is not prevented from providing such service due to an Uncontrollable Circumstance or a default by HWMA or its subcontractors in respect of
HWMA’s obligations hereunder.

**Paint Filter Test** means the US Environmental Protection Agency (EPA) Method 9095B. This method is used to detect the presence of free liquids in a representative sample of waste to determine compliance with Title 40 of the Code of Federal Regulations, Sections 264.314 and 265.314.

**Recycle** means the recovery from Covered Waste of glass, plastics, metals, wood waste, paper fibers or organic wastes in order to re-use such materials. Recycling includes the composting of organic wastes, reuse, repair, or partial salvage of products, the recovery and re-use of paper fibers, glass, plastics, tires, concrete, asphalt, soils and metals as materials for making tangible products, and the use of wood wastes as hog fuel. With the exception of the use of wood waste as hog fuel and the use of food waste to produce biogas, Recycling does not include any process that uses all or any portion of the Covered Waste as an energy source for the production of heat, steam or electricity or otherwise to be used as a mass reduction technology.

**Recycling Residue** means, in the case of any Covered Waste that is processed for Recycling, that portion of the Covered Waste remaining after Recycled materials are extracted.

**Satellite Transfer Station** means any transfer station other than the Hawthorne Street Transfer Station designated by HWMA as a facility from which HWMA provides for the transportation of Covered Waste to the Disposal Site for disposal. As of the Effective Date, the Satellite Transfer Stations consist of the Humboldt Sanitation Transfer Station and the Eel River Transfer Station. From time to time during the Term of this Agreement, HWMA may designate one or more Additional Satellite Transfer Stations as a “Satellite Transfer Station”.

**Small Quantity Generator Waste** means Small Quantity Generator Waste as such term is defined in 40 CFR 261.5.

**Solid Waste** means all putrescible and nonputrescible solid semisolid, and liquid wastes (provided such liquid wastes pass the Paint Filter Test), including but not limited to: garbage, trash, rubbish, refuse, ashes, paper, cardboard, commercial and industrial wastes, street sweepings, catch basin residue, construction and demolition waste not classified as discarded materials, bulky goods not classified as Recycled materials, discarded brown goods not classified as Recycled materials, dewatered, treated or chemically fixed sewer sludge which is not Hazardous Waste, manure, vegetable, or animal solids or semi-solid wastes, residues from composting and similar processes, and all waste capable of being Recycled that is commingled with other wastes; incidental Household Hazardous Wastes; or Small Quantity Generator Waste; Special Waste; Recycling Residue; and all other acceptable solid waste that requires landfill disposal. The term Solid Waste shall not include Hazardous Waste, dead animals (except small dead animals) or liquids that do not pass the Paint Filter Test.

**Special Waste** shall mean Acceptable Waste resulting from an industrial, agricultural or manufacturing operation or process or waste which requires handling or extraordinary management at the Disposal Site, including, without limitation, contaminated soil, non-hazardous contaminated materials, containerized ash, wire, dead animals (but not including small dead animals), bulk tanker waste, waste containing free liquids and other wastes that may be covered by a Special Waste Handling Plan for the Disposal Site as approved by DEQ in accordance with
the Disposal Site Permit or any other waste of a character that is significantly different from general mixed residential Solid Waste and that is produced by the commercial, industrial or agricultural operations of a single generator in sufficient quantities to be handled or disposed of by DCL at the disposal site that may be pursuant to a specially negotiated contract with DCL.

Suspicious Waste means waste which DCL determines or reasonably suspects may be or contains Unacceptable Waste.

Term means the term of this Agreement as provided in Article 4 hereof.

Trailer means the trailer portion of a Transport Vehicle into which Covered Waste will be loaded at a Transfer Station for transport to the Disposal Site.

Transfer Stations means the Hawthorne Street Transfer Station and the Satellite Transfer Stations.

Transport Fee has the meaning assigned thereto in the Transportation Subcontract, being that portion of the Base Tipping and Transportation Fee that reflects the amounts to be paid to the Transportation Subcontractor under the Transportation Subcontract.

Transportation Subcontract means that certain Solid Waste Transportation and Disposal Agreement between DCL and the Transportation Subcontractor, or any transportation subcontract entered into in replacement thereof following termination upon default.

Transportation Subcontractor means Bettendorf Enterprises, Inc., a California corporation doing business as Bettendorf Trucking, or any subcontractor replacing said company following termination of the Transportation Subcontract with said company following a default under such subcontract. Except in the event of a termination of the Transportation Subcontract due to a default by the Transportation Subcontractor, DCL may not replace Bettendorf Enterprises, Inc. as the Transportation Subcontractor without HWMA’s advance written approval, which approval shall not be unreasonably withheld, conditioned or delayed; it being understood and agreed that DCL cannot perform its obligations hereunder in the absence of a Transportation Subcontract and therefore DCL shall not be in default hereof during any period in which a Transportation Subcontractor has not been approved by HWMA following a written request for such approval from DCL to HWMA.

Transport Vehicles means the tractors and trailers utilized by the Transportation Subcontractor to transport Covered Waste from the Transfer Stations to the Disposal Site.

Unacceptable Waste means any and all waste that is either:

(a) Waste which is prohibited from being received at the Disposal Site by state, federal or local law, regulation, rule, code, ordinance, order, permit, or permit condition; or,
(b) Hazardous Waste as defined above.

**Uncontrollable Circumstances** shall mean:

(a) a Force Majeure event; or

(b) a change of local law, state or federal law or regulation which has a substantial adverse effect on the ability of DCL or HWMA to perform their respective obligations hereunder or that has a substantial adverse effect on the operating or capital costs incurred by DCL or HWMA in connection with the performance of their respective obligations hereunder. A change described in this subpart (b) that has such a substantial adverse effect on the operating or capital costs incurred by the Transportation Subcontractor in the performance of the transportation function hereunder shall be deemed to be such a change that has a substantial adverse effect on the operating or capital costs of DCL in connection with the performance of its obligations hereunder.

**Undisputed Invoice Amount** shall have the meaning assigned thereto in Section 4.5.2 hereof.

### ARTICLE 2. -- TRANSPORTATION SERVICES

#### 2.1 Transportation Subcontractor.

Beginning on the Effective Date, DCL shall be responsible for causing the Transportation Subcontractor to transport Covered Waste from the Hawthorne Street Transfer Station Satellite Transfer Stations, as directed by HWMA, to the Disposal Site for the management, storage, treatment, utilization, processing and final disposal by DCL. Upon HWMA’s request, DCL shall provide a copy of the Transportation Subcontract to HWMA with all pricing information redacted. DCL shall cause the Transportation Subcontractor to provide sufficient personnel and equipment to transport Covered Waste from the Transfer Stations to the Disposal Site in compliance with the provisions of this Agreement. The Authority shall determine the schedule and number of Transport Vehicles deliveries by DCL to the Disposal Site.

#### 2.2 Back Haul.

DCL shall permit the Transportation Subcontractor to Back Haul commodities other than Covered Waste, in the Transportation Subcontractor’s discretion, provided such Back Haul is in compliance with Applicable Law. The insurance and indemnity provisions of this Agreement shall apply to any Back Haul activity of the Transportation Subcontractor. Back Hauls will be subject to the provisions of Article 5 of this Agreement, including the Back Haul Credit.

#### 2.3 Transportation Subcontractor Operational Requirements.

(a) **Supplying Trailers.** DCL shall cause the Transportation Subcontractor to supply, repair and replace, at DCL’s or the Transportation Subcontractor’s own cost and expense, a sufficient number of transport-ready Trailers to safely, lawfully, and in compliance with all terms of this Agreement, transport Covered Waste to the Disposal Site.
Trailers shall be top-loading and shall have a minimum capacity of 120 cubic yards, shall be leak resistant and configured with impermeable tarps to prevent blowing out of wastes and infiltration of rainwater while in transit. Empty Trailers shall be delivered to the Transfer Stations ready for loading with tops open, tarps rolled up and all other Trailer openings closed to prevent leakage or spill. The Trailer delivery schedule shall be directed by HWMA pursuant to a dispatch protocol developed between HWMA and the Transportation Subcontractor. At HWMA’s request, DCL shall cause the Transportation Subcontractor to provide additional empty Trailers as may be needed for managing Covered Waste at the Transfer Stations.

(b) **Trailer Loading.**

(i) **Hawthorne Transfer Street Station.** HWMA will properly and lawfully load Trailers at the Hawthorne Street Transfer Station with a monthly average minimum of twenty-three and one-half (23.5) tons of Covered Waste, provided that in no event shall a single Transport Vehicle be loaded with more than twenty-five (25) tons of Covered Waste. HWMA will visually screen Covered Waste to remove Unacceptable Waste prior to loading, and shall load and shall weigh all Trailers at the Hawthorne Street Transfer Station.

(ii) **Eel River Satellite Transfer Station.** HWMA will cause its subcontractor (Eel River Disposal or Recology Eel River, as appropriate) to properly and lawfully load and weigh Trailers at the Eel River Transfer Station with a monthly average minimum of twenty two and one-half (22.5) tons of Covered Waste, provided that in no event shall a single Transport Vehicle be loaded with more than twenty-five (25) tons of Covered Waste. HWMA will cause such subcontractor to visually screen Covered Waste to remove Unacceptable Waste prior to loading, and to load and weigh all Trailers at the Eel River Transfer Station. HWMA shall consult with DCL and Transportation Subcontractor to ensure that HWMA’s arrangements with such subcontractor are acceptable to DCL and Transportation Subcontractor.

(iii) **Humboldt Sanitation Transfer Station.** HWMA will cause its subcontractor (Humboldt Sanitation) to properly and lawfully load and weigh Trailers at the Humboldt Sanitation Transfer Station with a monthly average minimum of nineteen tons (19) tons of Covered Waste, provided that in no event shall a single Transport Vehicle be loaded with more than twenty-five (25) tons of Covered Waste. HWMA will cause such subcontractor to visually screen Covered Waste to remove Unacceptable Waste prior to loading, and to load and weigh all Trailers at the Humboldt Sanitation Transfer Station. HWMA shall consult with DCL and Transportation Subcontractor to ensure that HWMA’s arrangements with such subcontractor are
acceptable to DCL and Transportation Subcontractor.

(iv) **Additional Satellite Transfer Stations.** In the event HWMA designates an additional Satellite Transfer Station, HWMA will, or will cause its subcontractor for such additional Satellite Transfer Station to, properly and lawfully load and weigh Trailers at such additional Satellite Transfer Station with a monthly average minimum tons of Covered Waste as shall be agreed upon by DCL and the Transportation Subcontractor, provided that in no event shall a single Transport Vehicle be loaded with more than twenty-five (25) tons of Covered Waste. HWMA will, or will cause such subcontractor, to visually screen Covered Waste to remove Unacceptable Waste prior to loading, and to load and weigh all Trailers at such additional Satellite Transfer Station. HWMA shall consult with DCL and Transportation Subcontractor to ensure that the HWMA’s arrangements with such subcontractor are acceptable to DCL and Transportation Subcontractor.

(c) **Vehicle Inspection, Damage and Reimbursement for Repair Costs.** HWMA will load, or will cause its subcontractor to load, each Transport Vehicle so as to avoid damaging such Transport Vehicle. The Transportation Subcontract will provide that prior to departure from a Transfer Station, the Transportation Subcontractor’s Transport Vehicle driver shall inspect the Transport Vehicle’s Trailer to determine if damage has occurred during loading, and in such event, the Transportation Subcontract shall file a report with HWMA before departing the Transfer Station (a copy of which report will be provided to DCL upon request). In the event such damage is caused by HWMA or its subcontractor, HWMA shall reimburse the Transportation Subcontractor for the actual cost of repairs (labor, parts and material costs only) as approved by HWMA in writing in advance upon submittal by the Transportation Subcontractor of repair cost estimates to HWMA, with a copy to DCL. For the sake of clarity, the Transportation Subcontractor shall be an express third party beneficiary of HWMA’s obligations under this Section 2.3(c) and the Transportation Subcontractor shall be the party entitled to reimbursement for the actual costs of such repairs as aforesaid.

(d) **Yard Tractor.** The Transportation Subcontract shall provide as follows:

(i) The Transportation Subcontractor will supply and maintain for use by HWMA at the Hawthorne Street Transfer Station one California Air Resources Board (CARB) compliant yard tractor, where compliance may be established by CARB rule including rule exemption, to be used by HWMA while moving, loading and relocating the Transportation Subcontractor’s Trailers at the Hawthorne Street Transfer Station.

(ii) The Transportation Subcontractor shall periodically inspect the yard tractor to determine if damage has occurred while at the Hawthorne Street Transfer
Station. In the event of any damage to the yard tractor, HWMA shall reimburse the Transportation Subcontractor for the actual cost of repairs (labor, parts and material costs only) as approved by HWMA in writing in advance upon submittal by the Transportation Subcontractor of repair costs estimates.

Upon the expiration or earlier termination of the Transportation Subcontract, such yard tractor shall be returned by HWMA to the Transportation Subcontractor in good repair and working order, ordinary wear and tear excepted. For the sake of clarity, the Transportation Subcontractor shall be an express third party beneficiary of HWMA’s obligations under this Section 2.2 (d) and the Transportation Subcontractor shall be the party entitled to reimbursement for the actual costs of such repairs as aforesaid.

(e) **Transport Vehicle Queue.** DCL shall cause the Transportation Subcontractor to ensure that Transport Vehicles queue in such manner at the Transfer Stations as to not disrupt the flow of traffic within the Transfer Station or on any nearby public street.

(f) **Transport within 24 Hours, Covered Trailers.** DCL shall cause the Transportation Subcontractor to remove each loaded Trailer from the Transfer Stations within 24 hours of being notified that such Trailer has been loaded, and to keep all Trailers enclosed, covered and/or sealed to contain Covered Waste and prevent spilling or scattering during transport.

(g) **Trip to Originate from Single Transfer Station.** Each trip from a Transfer Station to the Disposal Site shall originate from a single Transfer Station and no Transport Vehicle shall be required to stop at more than one Transfer Station for loading in connection with a single trip to the Disposal Site.

(h) **Hours of Transfer Station.** HWMA will make the Transfer Stations available to the Transportation Subcontractor and cause the Transport Vehicles to be loaded with Covered Waste from 7:00 a.m. to 5:00 p.m., Monday through Friday of each week and from 7:00 a.m. to 1:30 p.m. on Saturday of each week, but not including Holidays.

(i) **Time Allowed for Loading Transport Vehicles at Eel River Transfer Station.** HWMA will use commercially reasonable efforts to cause each Transport Vehicle to be fully loaded within fifty (50) minutes from the time such Transport Vehicle arrives at the gate of the Eel River Transfer Station.

2.4 **Point of Transfer of Title to Covered Waste.** Except as otherwise provided in this Agreement, title to Covered Waste shall transfer from HWMA to DCL when the Trailer in which such Covered Waste has been loaded at a Transfer Station exits the Transfer Station in route to the Disposal Site. Notwithstanding the foregoing or anything else expressed or implied herein to the contrary, title to Covered Waste that is reasonably rejected by DCL as Unacceptable Waste or Suspicious Waste as provided herein shall be deemed not to pass to DCL.
2.5 **Transportation Reporting Requirements.**

(a) **Quarterly Reports.** By the fifteenth (15th) calendar day of each quarter, DCL shall submit to HWMA reports summarizing the daily Tons of Covered Waste accepted and delivered to the Disposal Site. Unless otherwise specified by HWMA, this portion of the requirement shall be met by providing HWMA monthly invoices. Quarterly reports shall additionally include calendar year-to-date monthly totals, and shall specify any operational problems at a Transfer Station, or any material changes in the financial or legal situation of DCL that in any way may or could affect the ability of the DCL to fully meet its obligations under this Agreement. Reports shall be provided by DCL to HWMA in hard copy and electronic format compatible with HWMA’s software systems.

(b) **Annual Reports.** No later than August 1 of each year, DCL shall submit to HWMA an annual report for the previous Contract Year that aggregates and summarizes the previously submitted quarterly reports. If DCL has at any time during the previous year failed to comply with DCL obligations resulting in Liquidated Damages, the annual report shall also include the amount of any damage calculated and previously paid to HWMA, or owed by DCL to HWMA.

(c) **Other Reporting Requirements.** HWMA reserves the right to require DCL and/or the Transportation Contractor to supply additional data and reports as are required under any law of the State of California enacted after the Effective Date. In the event DCL or the Transportation Subcontractor incurs any significant expense in collecting such additional data or providing such additional reports, HWMA shall reimburse DCL or the Transportation Subcontractor, as the case may be, for such expense upon being provided with reasonably documentation thereof.

2.6 **Emergency Operations and Response Plan.** The Transportation Subcontract shall provide that the Transportation Subcontractor, DCL and HWMA shall cooperate to develop and revise from time to time as appropriate a written comprehensive emergency operations plan. Such plan shall be designated to mitigate and correct hazards that may arise due to accidents or disruption of transport of Covered Waste under this Agreement including, but not limited to, damage to property, release of hazardous or dangerous materials, and the release of Covered Waste.

**ARTICLE 3. – DISPOSAL SERVICES**

3.1 **Disposal of Covered Waste.** DCL shall receive and dispose of Authority Covered Waste at the Disposal Site. DCL guarantees adequate daily and annual Capacity over the Agreement Term and any extensions which is sufficient to ensure Disposal of all Covered Waste received from HWMA hereunder. Subject to DCL’s right to reject Unacceptable Waste and Suspicious Waste, DCL shall be responsible for the management, storage, treatment, utilization, processing and final disposal of all Covered Waste accepted by DCL for disposal at the Disposal Site. DCL shall also be responsible to comply with the state and federal requirements to fund and
implement closure and post-closure maintenance of the Disposal Site until such time as final Closure and Post-closure of the Disposal Site is certified complete by DEQ and/or other regulatory agency with jurisdiction.

3.2 **No Minimum Tonnage; Right to Recycle and Divert.** Through its Joint Exercise of Powers Agreement, HWMA has absolute flow control over the Covered Waste generated within the jurisdictions of its Member Agencies and presently directs such flow to the Hawthorne Street Transfer Station or the Satellite Transfer Stations. HWMA commits all of its Covered Waste tonnage which is intended for landfill disposal to DCL under the terms of this Agreement, expressly excepting Solid Waste that Authority intends to Recycle or Divert. HWMA currently operates programs intended to reduce the amount of Covered Waste for landfill disposal. Nothing in this Agreement shall prevent, penalize, or impede, in any manner, the HWMA from continuing and expanding these programs or developing new programs that reduce the amount of Covered Waste disposed. It is the HWMA’s intent to continue to improve, develop, or enhance existing programs as well as to implement new programs and services throughout the Term to meet the Diversion goals, for example, those set by the California Integrated Waste Management Act of 1989 (California Public Resources Code section 40000, et seq., “AB 939”), the California Jobs and Recycling Act of 2011 (Public Resources Code section 42649 et seq. “AB 34.1”), the California “Mandatory Commercial Organics Recycling Act,” (Public Resources Code Section 42649.8 et seq.), and the HWMA’s goal of achieving 75% Diversion by the year 2020. As a result, the characterization and quantity of materials destined to the Disposal Facility will change over the Term and may be materially different than that as of the Effective Date of the Agreement, and nothing herein is intended, nor shall it be construed, to prevent HWMA from Recycling or Diverting any Covered Waste.

3.3 **Right to Inspect.** DCL reserves the right to inspect any and all Covered Waste or other material delivered to the Disposal Site for disposal. Transport Vehicles transporting Covered Waste from the Transfer Stations to the Disposal Site shall be subject to such inspections and delays in the same manner as all other trucks coming into the Disposal Site.

3.4 **Right to Reject Unacceptable and Suspicious Waste.** DCL shall not be required to receive, accept, or dispose of any Unacceptable Waste or Suspicious Waste, and DCL may reject any Unacceptable Waste or such Suspicious Waste that:

(a) DCL reasonably believes would, upon disposal, not be consistent with DCL’s waste management plan or be in violation of local, state, or federal law or regulation, or

(b) would, in DCL’s reasonable belief, present a significant risk to human health or the environment or create or expose DCL to potential liability.

3.5 **Notice of Rejection.** DCL shall give immediate notice to HWMA by facsimile transmission or e-mail of its decision to reject any Unacceptable Waste or Suspicious Waste. Upon receiving such a notice of rejection, HWMA will have the option of:
(a) immediately picking up and removing from the Disposal Site the rejected waste; or

(b) paying such reasonable charges for the disposal, cost, expense or liability or the cost of special environmental handling for transportation and disposal of such Unacceptable Waste or Suspicious Waste.

HWMA shall exercise such option by giving written notice to DCL within seventy-two (72) hours of receiving the notice of rejection from DCL. If, for any reason, HWMA fails to exercise such option by giving DCL written notice within the time period provided in the preceding sentence, DCL shall take such actions as are necessary in its reasonable judgment to dispose of the same, and HWMA shall pay or reimburse DCL for all costs and expenses incurred in connection therewith.

3.6 Disposal Site Weighing; Recordkeeping. DCL shall weigh all Covered Waste transported and delivered to the Disposal Site pursuant to this Agreement to determine the number of tons of Covered Waste disposed of each month hereunder at the Disposal Site. DCL shall maintain records of the types and weights or volume of all Covered Waste disposed of at the Disposal Site, the Transfer Station origin of such Covered Waste, and the charges therefor and shall provide copies of such records to HWMA upon request.

3.7 Liquidated Damages. Reference is made to Exhibit A - Liquidated Damages attached hereto. The Parties acknowledge that timely, consistent, and efficient operations are of utmost importance to the HWMA; failure to conduct transportation operations or operate the Disposal Facility in accordance with obligations in the Agreement and failure to allow for Transport Vehicles efficiently to unload at the Disposal Facility increase the HWMA’s costs; and the HWMA has considered and relied on DCL’s representations as to its quality of service commitment in entering into this Agreement. The Parties further recognize that quantified standards of performance are necessary and appropriate to ensure consistent and reliable service. The Parties further recognize that if the DCL fails in its obligations, the HWMA and its residents and businesses will suffer damages and that it is and will be impracticable and extremely difficult to ascertain and determine the exact amount of such damages. Therefore, the Parties agree that the Liquidated Damages at set forth in Exhibit A represent a reasonable estimate of the amount of such damages, considering all of the circumstances existing on the date hereto, including the relationship of the amounts to the range of harm to the HWMA that reasonably could be anticipated and anticipation that proof of actual damages would be costly or inconvenient. DCL agrees to pay the amounts listed in Exhibit A as Liquidated Damages, and not as a penalty, for the performance failures specified Exhibit A.

Payment of Liquidated Damages in no way limits HWMA’s ability to seek other damages provided that the recovery of duplicate damages shall not be permitted; and does not excuse DCL from conducting appropriate cure of breach or default as provided in Article 11, or such other remedies as may be provided in this Agreement. The assessment of Liquidated Damages and/or deductions as provided under this Agreement shall not relieve DCL of its obligation to provide sufficient service or to meet any of the terms of this Agreement. In signing this Agreement, DCL
specifically confirms the accuracy of the statements made in this Article with respect to Liquidated Damages for all events of failure listed in Exhibit A and the fact that it had ample opportunity to consult with legal counsel and obtain an explanation of such liquidated Damage provisions at the time that this Agreement was made.

The HWMA may deduct Liquidated Damages owed as provided for in this Agreement from payments to DCL.

ARTICLE 4. -- TERM OF AGREEMENT

4.1 Term. The Term of this Agreement shall commence on the Effective Date and shall continue in effect for ten (10) years ending on midnight (Prevailing Pacific Time) on the Expiration Date, unless terminated earlier pursuant to the terms of this Agreement; provided that notwithstanding the foregoing or anything expressed herein to the contrary, this Agreement shall terminate on the date upon which DEQ, or other governmental entity with jurisdiction over the Disposal Site, restricts the disposal of Solid Waste at the Disposal Site in such a manner that, in DCL’s reasonable judgment, the Disposal Site can no longer be utilized for the purposes contemplated hereunder.

4.2 Option to Extend Term. HWMA is hereby granted the option to extend the Term of this Agreement for one addition period of five (5) Contract Years, such option to be exercised by HWMA giving written notice thereof to DCL no later than March 15, 2027. In the event HWMA duly exercises the option provided in this Section 4.2, then and in such event the Term of this Agreement shall be extended for an additional period of five (5) Contract Years commencing on July 1, 2027 and the Expiration Date shall be midnight on June 30, 2032.

ARTICLE 5. -- CONTRACTOR FEES, PAYMENT

5.1 Base Tipping and Transportation Fees; Adjustments. For each ton of Covered Waste transported to and disposed of at the Disposal Site pursuant to the terms of this Agreement, HWMA shall pay to DCL an amount equal to: (1) the applicable Base Tipping and Transportation Fee as set forth in Section 5.1(a) (and adjusted as provided in Section 5.1(b)); plus (2) any applicable Fuel Surcharge pursuant to Section 5.2(a); minus (3) any applicable Fuel Credit pursuant to Section 5.2(b). The Base Tipping and Transportation Fee and the Base Fuel Rate Fee required to be paid by HWMA are provided for in this Section 5.1 and shall include all charges for operations, closure and post-closure.

(a) Base Tipping and Transportation Fee for all Covered Waste Other than Special Waste. The Base Tipping and Transportation Fee for all Covered Waste other than Special Waste for the first Contract Year shall be as follows:

(i) Trips Originating at Hawthorne Street Transfer Station. For trips originating at the Hawthorne Street Transfer Station, the Base Tipping and Transportation Fee shall be an amount equal to:
(A) Sixty Dollars and Ninety-Eight Cents ($60.98) per ton for each trip by the Transportation Subcontractor from the Hawthorne Street Transfer Station to the Disposal Site that does not include a Back Haul; and

(B) Forty-Nine Dollars and Thirty-Five Cents ($49.35) per ton for each trip by the Transportation Subcontractor from the Hawthorne Street Transfer Station to the Disposal Site that includes a Back Haul.

(ii) Trips Originating at Eel River Transfer Station. For trips originating at the Eel River Transfer Station, the Base Tipping and Transportation Fee shall be an amount equal to:

(A) Sixty-Five Dollars and Ninety-Two Cents ($65.92) per ton for each trip by the Transportation Subcontractor from the Eel River Transfer Station to the Disposal Site that does not include a Back Haul; and

(B) Fifty-Five Dollars and Seventy-Eight Cents ($55.78) per ton for each trip by the Transportation Subcontractor from the Eel River Transfer Station to the Disposal Site that includes a Back Haul.

(iii) Trips Originating at Humboldt Sanitation Transfer Station. For trips originating at the Humboldt Sanitation Transfer Station, the Base Tipping and Transportation Fee shall be an amount equal to:

(A) Sixty-Eight and Eighty Cents ($68.80) per ton for each trip by the Transportation Subcontractor from Humboldt Sanitation to the Disposal Site that does not include a Back Haul; and

(B) Fifty-Four and Forty Two ($54.42) per ton for each trip by the Transportation Subcontractor from the Humboldt Sanitation Transfer Station that includes a Back Haul.

(b) Cost of Living Adjustment for Base Tipping and Transportation Fee for all Covered Waste Other than Special Waste. The Base Tipping and Transportation Fees set forth in Sections 5.1(a)(i), (ii) and (iii) above shall each be adjusted annually, up or down, during the Term of this Agreement, commencing with the first day of the second Contract Year (i.e., the Contract Year that begins on July 1, 2018) and continuing on the first day of each Contract Year thereafter, pursuant to the following formula:

(i) the Base Tipping and Transportation Fees in effect as of the last day of the immediately preceding Contract Year shall be multiplied by one hundred percent (100%) of the percentage annual change in the Consumer Price Index for All Urban Consumers, U.S. City Average, all items (1982-84 = 100) as published monthly] by the Bureau of Labor Statistics or its successor for the 12 month period ending on the March 31st immediately preceding the first day of the Contract Year.
in which such adjustment takes effect; and

(ii) the amount (expressed in dollars and cents) determined pursuant to Section 5.1(b)(i) above shall be added to the Base Tipping and Transportation Fees in effect as of the last day of the immediately preceding Contract Year;

with the amounts determined pursuant to this Section 5.1(b) to be the Base Tipping and Transportation Fees for the Contract Year to which such adjustment pertains.

5.2 Fuel Surcharge: Adjustments. The Base Tipping and Transportation Fee includes compensation for diesel fuel at the minimum rate of $3.00 per gallon for five miles per gallon. Due to the potential volatility of diesel fuel prices during the Term of this Agreement, the Parties have agreed to the adjustments set forth in this Section 5.2.

(a) Fuel Surcharge. If the Transportation Subcontractor’s actual average cost of diesel for the prior month or the average California monthly diesel fuel index for the four weeks prior to the month being invoiced, published by the US Department of Energy (https://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_sca_w.htm) is greater than $3.00 per gallon, a monthly fuel surcharge calculated as provided in this Section 5.2(a) (“Fuel Surcharge”) will be due and owing by HWMA in additional to the Base Tipping and Transportation Fees owing hereunder. The monthly Fuel Surcharge shall be an amount equal to the positive difference between $3.00 per gallon and the lesser of:

(i) The Transportation Subcontractor’s actual average cost of diesel for the prior month; or

(ii) The average California weekly diesel fuel index for the four weeks prior to the month being invoiced, published by the US Department of Energy (https://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_sca_w.htm) plus 3%.

The fuel rate difference shall be applied to the number of gallons per trip as specified in the sample calculation set forth in Exhibit B hereto.

(b) Fuel Credit. If the Transportation Subcontractor’s actual average cost of diesel for the prior month or the average California monthly diesel fuel index for the four weeks prior to the month being invoiced, published by the US Department of Energy (https://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_sca_w.htm) is below $2.35 per gallon, HWMA shall receive a monthly fuel credit (“Fuel Credit”) calculated as provided in this Section 5.2(b), which Fuel Credit shall be applied as a credit against the Base Tipping and Transportation Fees otherwise owing hereunder. The monthly Fuel Credit shall be an amount equal to the positive difference between $2.35 per gallon and the lesser of:

(i) The Transportation Subcontractor’s actual average cost of diesel for the prior month; or

(ii) The average California monthly diesel fuel index for the four weeks
prior to the month being invoiced, published by the US Department of Energy (https://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_sca_w.htm).

The fuel rate difference shall be applied to the number of gallons per trip as specified in the sample calculation of Fuel Credit set forth in Exhibit B hereto.

(c) Fuel Surcharge and Fuel Credit Invoicing. DCL shall document the monthly Fuel Surcharge and Fuel Credit separately from the Base Tipping and Transportation Fee on each monthly invoice to HWMA.

5.3 Governmental Charges Adjustment for Base Tipping and Transportation Fee. The Parties acknowledge that the use or operation of the Disposal Site for disposal services as contemplated herein and the Base Tipping and Transportation Fee provided for herein may hereafter be subject to Governmental Charges not in effect on the Effective Date of this Agreement, and that the Base Tipping and Transportation Fee provided for herein has not been established to take account of any such Governmental Charges. The Parties therefore agree that if any Governmental Charge not in effect on the Effective Date is hereafter imposed, then the Base Tipping and Transportation Fee provided for herein shall be increased by an amount equal to the amount of such Governmental Charge but may not take effect until after at least 90 days’ advance notice is given to HWMA.

5.4 Base Tipping and Transportation Fee for Special Waste. The Base Tipping and Transportation Fee for disposal of Special Waste at the Disposal Site shall be negotiated in good faith from time to time between DCL and HWMA. A failure of DCL and HWMA to successfully negotiate a Base Tipping and Transportation Fee for any particular Special Waste shall have the effect of placing that Special Waste outside the scope of this agreement, in which case HWMA shall not be required to make available such Special Waste for pick up by DCL at the Transfer Stations, and DCL shall not be required to pick up, transport or dispose of the Special Waste as to which DCL and HWMA have failed to agree upon a Base Tipping and Transportation Fee.

5.5 Payment.

(a) Invoicing and Payments. On or before the 10th day of each month, DCL shall submit an invoice (“Invoice”) to HWMA, showing the number of loads and tons of Acceptable Waste and Special Waste so disposed of at the Disposal Site in the preceding calendar month, including the Transfer Station of origin. The Invoice shall specify the amount of Base Tipping and Transportation Fee and Fuel Surcharge owing by HWMA to DCL with respect thereto as provided in this Agreement. Each Invoice shall include a calculation of the applicable monthly adjustment to the Fuel Surcharge as provided in Section 5.2(b) above to be applicable in the calendar month next following the calendar month to which such Invoice relates. In addition, in May of each Contract Year, DCL shall provide HWMA with a written calculation of the annual cost of living adjustment to the Base Tipping and Transportation Fees as provided in Section 5.1(a) above. Invoices shall
be in a form satisfactory to HWMA.

(b) **Disputed Amounts.** In the event of a good faith dispute as to services rendered or payment owed, HWMA shall, within ten Business Days of receipt of the related Invoice, notify DCL in writing of such dispute (an “Invoice Dispute Notice”), which Invoice Dispute Notice shall specify in reasonable detail the basis for the dispute and the portion of the Invoice Amount that is being disputed (the portion of the Invoice Amount that is identified in the Invoice Dispute Notice as being subject to dispute is herein called the “Disputed Invoice Amount” and the portion of the Invoice Amount that is not identified in the Invoice Dispute Notice as being subject to dispute is herein called the “Undisputed Invoice Amount”). Any such dispute shall be resolved by HWMA and DCL as provided in Article 12 hereof. HWMA shall pay the Undisputed Invoice Amount within 45 days of the date of the related Invoice.

(c) **Late Payment Fee.** Any Invoice Amount (other than any portion thereof that may constitute a Disputed Invoice Amount as provided above) that is not paid to DCL within forty-five (45) days of the date of the related Invoice shall be subject to a late payment fee in an amount equal to:

1. one percent (1%) of the portion of such Invoice Amount that is not paid within such thirty (30) day period, multiplied by
2. the number of thirty (30) day periods (or portions thereof) between the thirtieth (30th) day following the date of the related Invoice and the date upon which the unpaid Invoice Amount is paid.

If the unpaid portion of the Invoice is a Disputed Amount as described in Section 5.5(b), Late Payment Fees will not be due for the Disputed Amount to the extent such Dispute Amount is found not to be owing; however, to the extent the Disputed Amount is found to be owing, such Late Payment Fees shall be due and payable with respect to the portion of the Disputed Amount found to be owing and shall accrue from the date upon which such portion of the Disputed Amount would have originally been due and payable hereunder in the absence of such dispute.

**ARTICLE 6. -- UNCONTROLLABLE CIRCUMSTANCES**

6.1 **Uncontrollable Circumstances.** Provided that the requirements of this Article 6 are met, neither DCL nor HWMA shall be considered in default in the performance of its respective obligations under this Agreement to the extent that such performance is prevented or impaired by the occurrence of an event of Uncontrollable Circumstances. DCL and HWMA agree that no other events shall excuse nonperformance of either Party of its obligations under this Agreement and no events within the control of DCL or HWMA, including breakage or accidents to machinery, equipment or other facilities, shall excuse nonperformance of the obligations of DCL or HWMA...
under this Agreement.

6.2 **Notice of Uncontrollable Circumstances; Suspension of Performance.** If, as a result of an event of Uncontrollable Circumstances, either DCL or HWMA is wholly or partially unable to meet its obligations under this Agreement, then the affected Party shall give the other Party prompt written notice by confirmed fax, e-mail or other electronic transmission of such event, describing it in reasonable detail. The obligations under this Agreement of the Party giving the notice of the event of Uncontrollable Circumstances shall be suspended, other than for payment of monies due, but only with respect to the particular component of obligations affected by the event and only for the period during which the event of Uncontrollable Circumstances exists. The affected Party shall use due diligence to resume performance at the earliest practicable time and shall notify the other Party when the effect of the event has ceased. During any period in which an Uncontrollable Circumstance prevents the delivery of Covered Waste to the Disposal Site, HWMA may, in its sole discretion, make alternate arrangements with any third party of its choosing (including but not limited to the Transportation Subcontractor) to deliver and dispose of the affected Covered Waste at any other disposal facility.

6.3 **Right to Resolve Certain Force Majeure Events.** Notwithstanding anything to the contrary expressed or implied herein, the parties agree that the settlement of strikes, lockouts or other industrial disturbances, and litigation, including appeals, shall be entirely within the discretion of the particular Party involved therein, and such Party may make settlement thereof at such time, and on such terms and conditions as it may deem to be advisable, and no delay in making such settlement shall deprive such Party of the benefit of this Section 6.3.

**ARTICLE 7. -- COMPLIANCE WITH LAWS**

7.1 **Compliance with Laws.** During the Term of this Agreement, DCL and HWMA shall each comply, and DCL shall cause the Transportation Subcontractor to comply, with all Applicable Law. DCL, the Transportation Subcontractor and/or HWMA shall be deemed to be in compliance with Applicable Law if they are in timely compliance with any regulatory order, including but not limited to any preliminary assessment, remedial investigation, remedial action or corrective action or any legal appeal or review of such orders or requirements.

7.2 **DCL Rules and Regulations.** DCL shall have the right to establish, amend, modify and revise from time to time reasonable rules and regulations relating to the disposal of Covered Waste by all users at the Disposal Site, including but not limited to rules and regulations relating to safety, the loading of trailers to facilitate the efficient unloading thereof at the Disposal Site, and the staging of deliveries of Covered Waste to the Disposal Site.

7.3 **HWMA Rules and Regulations.** HWMA shall have the right to establish, amend, modify and revise from time to time reasonable rules and regulations relating to the operation of its Transfer Stations, including but not limited to rules and regulations relating to safety, the loading of trailers to facilitate the other operations at the Transfer Stations, and the staging of deliveries of trailers to the Transfer Stations.
ARTICLE 8. -- COVENANTS, REPRESENTATIONS AND WARRANTIES

8.1 Covenants, Representations and Warranties of HWMA. HWMA covenants, represents and warrants that:

(a) all of the Solid Waste loaded on Transport Vehicles at a Transfer Station by HWMA shall conform to the definition of Acceptable Waste set forth in this Agreement;

(b) HWMA shall load or cause to be loaded the Acceptable Waste onto Transport Vehicles at the Transfer Stations in a safe and workmanlike manner in full compliance with Applicable Law;

(c) HWMA has all required power and authority to enter into and be bound by the terms and conditions of this Agreement and to carry out its obligations hereunder; and

(d) HWMA has, by proper action of its governing body (and, if required under Applicable Law, by proper action by its members), duly authorized the execution and delivery of, and the performance of its obligations under, this Agreement, and this Agreement constitutes the valid and binding legal obligation of HWMA enforceable in accordance with its terms.

8.2 Covenants, Representations and Warranties of DCL. DCL covenants, represents and warrants that:

(a) it holds all required permits to operate the Disposal Site as a sanitary landfill, including DEQ permit number 190;

(b) the Disposal Site complies with all Applicable Law and all current state and federal design and performance standards;

(c) it has entered into a Transportation Subcontract with Bettendorf Enterprises, Inc. to cause the Transportation Subcontractor to transport the Covered Waste from the Transfer Stations to the Disposal Site in a safe and workmanlike manner in full compliance with all Applicable Law, and all relevant permits and licenses, as necessary to fulfill all transportation requirements of this Agreement for the Term of the Agreement;

(d) it shall dispose of the Covered Waste in a safe and workmanlike manner and in full compliance with all applicable federal, state and local laws, ordinances, decisions, orders, rules or regulations, and all relevant permits and licenses;

(e) it has all requisite power (corporate or otherwise) to enter into and be bound by the terms and conditions of this Agreement and to carry out its obligations under this Agreement;

(f) it has, by proper corporate action, duly authorized the execution and
delivery of, and the performance of its obligations under, this Agreement, and this Agreement constitutes the valid and binding legal obligation of DCL enforceable in accordance with its terms; and

(g) it has adequate daily and annual Capacity over the Term of the Agreement as necessary to provide permanent disposal for all Covered Waste delivered hereunder.

ARTICLE 9. -- INSURANCE

9.1 **DCL and Transportation Subcontractor Coverage.** DCL has obtained and shall maintain during the term of this Agreement Commercial General Liability and Property Liability Insurance (including pollution liability coverage) which conforms to the industry standard for landfill operations. Coverage shall include, but not be limited to, operations of DCL (including pollution liability coverage). Such insurance shall have limits of not less than:

**COVERAGE LIMITS**

Bodily Injury or Property Damage: $1,000,000 for each person or occurrence, with an aggregate limit of $2,000,000.

Pollution and/or Environmental Impairment Liability: $3,000,000 each occurrence, with an aggregate limit of $10,000,000.

DCL shall cause the Transportation Subcontractor to maintain a commercial policy of insurance against liability for bodily injury and property damages arising out of or in connection with its performance of the transportation service to be provided under this Agreement, exclusive of environmental impairment coverage, in such amounts and subject to such deductibles as are customarily maintained by trucking operations. Coverage shall include but not be limited to operations of the Transportation Subcontractor. Such insurance shall have limits of not less than:

**COVERAGE LIMITS**

Bodily injury and/or property damage: $1,000,000.00 each person or occurrence, with an aggregate limit of $2,000,000.00.

9.2 **HWMA Coverage.** HWMA has obtained and shall maintain during the term of this Agreement Commercial General Liability and Property Liability Insurance (including pollution liability coverage) which conforms to the industry standard for landfill operations. Coverage shall include, but not be limited to, operations of HWMA (including pollution liability coverage). Such insurance shall have limits of not less than:

**COVERAGE LIMITS**

Bodily Injury or Property Damage: $1,000,000 for each person or occurrence, with
an aggregate limit of $2,000,000.

Pollution and/or Environmental Impairment Liability: $3,000,000 each occurrence, with an aggregate limit of $10,000,000.

9.3 Additional Insureds. The insurance maintained hereunder by DCL and HWMA, and the insurance maintained by the Transportation Subcontractor under the Transportation Subcontract, shall be without prejudice to coverage otherwise existing and shall name as an additional insured DCL and the Transportation Subcontractor (in the case of any insurance required to be carried by HWMA) or HWMA (in the case of insurance required to be carried by DCL or the Transportation Subcontractor). Notwithstanding the naming of the additional insured, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must apply to claims between insurers on the policy.

9.4 Notice of Cancellation or Alteration, Certificates. The insurance maintained hereunder by DCL and HWMA, and the insurance maintained by the Transportation Subcontractor under the Transportation Subcontract, shall provide that the insurance shall not be canceled or materially altered without thirty (30) days written notice first being given to each named additional insured, if insurance meeting the foregoing requirement can be obtained. DCL and HWMA shall provide to the other certificates of insurance certifying the coverage required above.

ARTICLE 10. -- INDEMNIFICATION

10.1 DCL Indemnity. The term “DCL Indemnified Parties” means each of HWMA and its employees, officials, officers, owners and directors. DCL shall indemnify the DCL Indemnified Parties against, and hold the DCL Indemnified Parties harmless from, any and all claims, demand, lawsuits, administrative proceedings, liabilities, penalties, fines, forfeitures, causes of action, suits, judgments and costs and expenses incidental thereto, including attorneys' fees and expenses whether incurred at trial, on appeal, in negotiations or otherwise related to the resolution of such matter (collectively, “Damages”), which any DCL Indemnified Party may hereafter suffer, incur, be responsible for or pay out as a result of bodily injury, property damage, or contamination of or adverse effects on the environment, or other loss, to the extent caused by:

(a) the breach of any obligations, representations or warranties of DCL set forth in this Agreement; or

(b) any negligent or intentional actions or omissions or willful misconduct of DCL, its Affiliates, the Transportation Subcontractor or their respective agents, employees, officers, owners, directors, agents or subcontractors in the performance of:

(i) its obligations under this Agreement; or
(ii) in the operation, closure or post-closure of the Disposal Site.

The failure of DCL to discover Unacceptable Waste delivered to the Disposal Site by the Transportation Subcontractor shall not constitute a breach by DCL of this Agreement or any representation or warranty made by DCL herein. Such indemnity shall be limited to exclude Damages to the extent they arise as a result of any negligent or intentional actions or omissions or willful misconduct of any DCL Indemnified Party.

10.2 HWMA Indemnity. The term “HWMA’s Indemnified Parties” means DCL and its Affiliates, the Transportation Subcontractor, and their respective employees, officers, owners and directors. To the fullest extent permitted under applicable law, HWMA shall indemnify the HWMA’s Indemnified Parties against, and hold the HWMA’s Indemnified Parties harmless from, any and all Damages which any HWMA’s Indemnified Party may hereafter suffer, incur, be responsible for or pay out as a result of bodily injury, property damage, contamination of or adverse effects on the environment, or other loss, to the extent caused by:

(a) the breach of any obligations, representations or warranties of HWMA set forth in this Agreement;

(b) any negligent or intentional actions or omissions or willful misconduct of HWMA or its agents, employees, officials, officers, directors, or subcontractors, in the performance of HWMA’s obligations under this Agreement; or

(c) the delivery by HWMA or its agents, employees, officials, officers, directors, or subcontractors, of Unacceptable Waste to the Disposal Site, including without limitation, the delivery to the Disposal Site by HWMA or its agents, employees, officials, officers, directors, or subcontractors, of Unacceptable Waste that is not discovered by DCL and the mistaken acceptance thereof by DCL.

Such indemnity shall be limited to exclude Damages to the extent they arise as a result of:

(1) any negligent or intentional actions or omissions or willful misconduct of DCL, its Affiliates, the Transportation Subcontractor or their respective employees, officers, owners, directors, agents or subcontractors;

(2) the landfill gas arising from the operation of the Disposal Site; or

(3) pollution, contamination or release of chemicals or other substances arising from the operation of the Disposal Site, but only to the extent such pollution, contamination or release does not result from Unacceptable Waste delivered to the Disposal Site pursuant to this Agreement (including, without limitation, Unacceptable Waste that is not discovered by DCL and is mistakenly accepted by DCL).

Such indemnity shall be limited to exclude Damages to the extent they arise as a result of any
negligent or intentional actions or omissions or willful misconduct of any HWMA Indemnified Party.

10.3 **Defense of Suit.** In the event of any suit against any person indemnified under this Section 10 (the “Indemnitee”), the indemnifying Party (the “Indemnitor”) shall appear and defend such suit provided that the Indemnitor is notified in a timely manner of the suit. The Indemnitee shall have the right to approve counsel chosen by the Indemnitor to litigate such suit, which approval shall not be unreasonably withheld. In the event a dispute exists over whether a person is entitled to indemnification under this Article 10, each such person shall defend itself until the dispute is resolved and upon resolution of such a dispute, the person prevailing shall be entitled to indemnification for its attorneys’ fees and expenses whether incurred at trial, on appeal, in negotiations or otherwise related to the resolution of such matter.

10.4 **Limitations.** If any claims indemnified against under this Section 10 have the potential for coverage under any insurance, then the indemnities set forth in this Agreement shall be limited as follows:

(a) The indemnities under this Section 10 shall apply only to the extent the amount of any indemnified claim exceeds all amounts collectable under any insurance covering such claim. Before pursuing recovery under this indemnity the indemnitee shall exhaust all recovery available for such claim from insurance.

(b) The Indemnitor shall not be obligated to pay for the defense of any claim or suit that any insurer has a duty to defend. If no insurer defends, then the Indemnitor shall, to the extent obligated to do so by this Agreement, pay for the defense, but shall be entitled to the insured's rights against all insurers with a potential for coverage of such claim.

10.5 **Payment.** Once the indemnitee has exhausted all recovery under all insurance, the Indemnitor shall pay only the amount of the loss, if any, that exceeds the total amount that all insurance has paid for the loss.

10.6 **Insurance; Subrogation.** Nothing in this Agreement shall constitute a waiver or relinquishment of any claims which the parties may have against insurers, nor shall any provision of this Agreement waive or relinquish any subrogation or contribution rights that the Parties or their insurers may have against another insurer or other potentially liable person. Any monies received from the insurers shall be used to pay any claims covered by such insurance and reimburse the insured for all reasonable costs and expenses, including attorneys’ fees and expenses (whether incurred at trial, on appeal, in negotiations or otherwise related to the resolution of such matter), expended by it to seek recovery of sums from its insurers.

10.7 **Survival of Indemnification Obligations.** Notwithstanding anything expressed or implied herein to the contrary, the indemnification obligations of the parties under this Section 10 shall survive the expiration or earlier termination of this Agreement.

**ARTICLE 11. -- DEFAULT; OPPORTUNITY TO CURE; TERMINATION**
11.1 **Events of Default.** The following shall constitute events of default by a Party under this Agreement:

(a) any representations and warranties set forth in this Agreement shall prove to be untrue in any material respect when given but only if the same has a material adverse effect on the other Party, in which case the Party making such representations and warranties shall be the defaulting Party;

(b) default in the payment of any amounts owing hereunder, or default in the performance of any other material obligations under this Agreement, including, without limitation, noncompliance with laws and failure to maintain insurance, in which case the Party defaulting in such payment or performance shall be the defaulting Party;

(c) seizure or attachment (other than a prejudgment attachment) of, or levy affecting possession of, the operating equipment of a Party of such proportion as to impair its ability to perform under this Agreement and which cannot be released, bonded, or otherwise lifted within two (2) Business Days, in which case the Party whose operating equipment is the subject thereof shall be the defaulting Party;

(d) the filing by a Party of a voluntary petition in bankruptcy or the entry of a decree or order by a court in any involuntary petition in bankruptcy against a Party, or the commencement of any voluntary or involuntary action by or against a Party under any applicable insolvency, debtor relief, or other similar law now or hereafter in effect, or the consent by a Party to the appointment of or the entry of a decree or order appointing or the taking of possession by a receiver, liquidator, trustee, custodian, or sequestrator (or similar official) of all or substantially all of the assets of a Party, or the making by a Party of any general assignment for the benefit of creditors, or the entry of an order for the winding up or liquidation of the affairs of such Party, or the taking of any action in furtherance of any of the foregoing, in which case the Party that is the subject of any of the foregoing shall be the defaulting Party;

(e) the failure by a Party to pay its debts as they become due, in which case the Party failing to pay such debts shall be the defaulting Party; or

(f) the dissolution of a Party, whether by operation of law or voluntary action, in which case the Party dissolving shall be the defaulting Party.

11.2 **Opportunity to Cure, Termination.** If at any time a Party determines or becomes aware of an event of default by the other Party, the non-defaulting Party may transmit a written notice to the other Party as to the nature of such default. Except in the case of an event of default consisting of the dissolution of a Party or the failure to make a payment hereunder when due, the defaulting Party shall have thirty (30) days from the date of said notice to commence actions to cure said default and a reasonable period of time (but in no event more than 90 days from the date of such notice) to cure. In the case of an event of default consisting of the failure to make a payment
hereunder when due, the defaulting Party shall have ten (10) days from the date of said notice to cure such default, but such cure period shall not diminish or otherwise affect the defaulting Party’s obligation to pay, or the affected Party’s right to receive, the late payment penalty provided for in Section 4.5 hereof. In the case of an event of default consisting of the dissolution of a Party, no cure period shall be allowed. If an event of default consisting of the dissolution of a Party occurs or if the defaulting Party fails to cure any other default within applicable period of time provided for above, the non-defaulting Party, in addition to any other remedies it may have hereunder or at law or in equity, shall have the right to terminate this Agreement upon giving written notice to the other parties.

11.3 **No Consequential Damages.** No Party shall be liable hereunder to the other Party for any damages other than actual damages, and without limiting the generality of the foregoing, no Party shall be liable for any punitive, special, incidental, exemplary, indirect or consequential damages, whether based on contract or tort (including such Party’s own negligence).

**ARTICLE 12. -- DISPUTE RESOLUTION.**

12.1 **Continued Performance.** In the event of a dispute arising under this Agreement, the parties shall continue performance of their respective obligations under this Agreement and shall attempt to resolve such dispute in a cooperative manner, including but not limited to negotiating in good faith.

The dispute resolution procedure may be initiated by either Party upon providing Notice to the other specifying the matter in dispute. Upon receipt of such Notice, both Parties shall, within five (5) Working Days of receipt of such Notice, meet and confer in good faith to resolve such dispute. Each Party shall, in good faith and in writing, promptly provide to the other Party any and all information and documentation reasonably related to the dispute requested by the other Party. If Parties are unable to satisfactorily resolve the dispute within thirty (30) calendar days then HWMA and DCL shall have all legal and equitable remedies as provided for in this Agreement.

12.2 **Arbitration.**

(a) **Scope of Arbitration.** In the event the Parties are not able to resolve any dispute through good faith negotiation as set forth in Section 12.1, such dispute shall be decided by binding arbitration and not by lawsuit. Notwithstanding anything expressed or implied herein to the contrary, person other than a Party shall have any right to submit any dispute arising hereunder to arbitration, it being understood and agreed that all obligations and rights hereunder are rights and obligations of, and between, the Parties, and no other person or entity is or shall be a third Party beneficiary of this Agreement or have any rights hereunder. Either Party may, in its sole discretion and at its own risk, elect to perform all or any portion of its obligations hereunder through the use of subcontractors (including, in the case of DCL, but not limited to, the Transportation Subcontractor and, in the case of HWMA, the operators of the Transfer Stations), but that Party shall be and remain liable hereunder for all acts and omissions of its subcontractors.
(b) **Bound Parties.** As used in this Agreement, “Bound Parties” means DCL, HWMA and all their respective successors, heirs, assigns or legal representatives of the foregoing. This Section 12 shall be binding upon all Bound Parties and all disputes between Bound Parties shall be arbitrable as among the Bound Parties even if other parties are involved in such disputes.

(b) **Venue and Jurisdiction.** Unless all the parties to an arbitration consent in writing to a different place, the arbitration hearings and the place of entry of the award shall be San Francisco, California.

(c) **AAA Administration and Rules.** The arbitration shall be administered in accordance with such procedures as may be mutually agreed upon by the parties to the arbitration as provided in this Section 12.2(c). Within twenty (20) days of receipt of notice from any Party of a dispute hereunder to be submitted to arbitration, the parties to such arbitration shall endeavor in good faith to agree upon the arbitration procedures to be utilized in connection with the arbitration of such dispute. If, for any reason, the parties to such arbitration do not agree upon such arbitration procedures within such twenty day period, then such arbitration shall be administered by the American Arbitration Association (AAA) under the Rules for Commercial Arbitration of the AAA as modified by this Agreement.

(d) **Arbitrators: Hearing by Arbitrators.** The arbitration shall be conducted by a panel of three neutral arbitrators selected as follows: Within ten days from the date upon which either Party invokes the right to arbitration under this section, HWMA and DCL shall each select one arbitrator, and within ten days of such selections the two arbitrators so selected shall select the third arbitrator. The panel of arbitrators shall hear the matter within 30 days of the selection of the third arbitrator and shall render their decision within thirty days of the close of such hearing.

(e) **Joinder and Consolidation.** Except as provided below in Section 12.2.6, the arbitrators may allow any Bound Party against who an arbitration claim is brought under this Agreement to join any other Bound Party in that arbitration and arbitrations may be consolidated for any or all purposes.

(f) **Exceptions to Joinder and Consolidation.** No Bound Party may, without its consent, be made a Party to an arbitration in which, because of the Agreement of the other parties to the arbitration, venue has been varied from that required by Section 12.2(c).

(h) **Interest.** All monetary awards bear post-award and post-judgment interest on the award at the California statutory rate for post-judgment interest.

(i) **Entry of Judgment.** Judgment on the award may only be entered in any court with jurisdiction in San Francisco, California.
(j) **Litigation as a Breach.** Except for proceeding to enforce, confirm, vacate or modify any award, the initiation of any suit relating to a dispute that is arbitrable under this Agreement is a material breach of this Agreement.

(k) **Confidentiality.** Except as necessary in a judicial proceeding allowable under this Section or otherwise required by law or legal process, the parties shall keep all matters relating to any arbitration confidential to the fullest extent permitted under Applicable Law.

Section 13.   SUCCESSORS AND ASSIGNS.

13.1 **Binding on Successors and Assigns; Assignment.** This Agreement shall be binding upon the successors and permitted assigns of the parties hereto. No party hereto may assign this Agreement without the prior consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed. No assignment shall be valid and binding that endeavors to relieve the assigning party of any obligations to make payments that accrued prior to the date of assignment, or of which the assignee has not affirmatively agreed, in writing, to assume all obligations of the assignor thereunder.

13.2 **HWMA Commitment of Covered Waste for Transport and Disposal Hereunder.** The parties acknowledge and agree that in order to be able to perform its obligations hereunder, DCL must take steps to ensure that it has Disposal Site capacity available during the term of this Agreement sufficient to dispose of the Covered Waste to be delivered to Disposal Site for disposal in each Contract Year during the Term of this Agreement. As part of the consideration for DCL’s agreement to have such capacity available, DCL requires, and HWMA agrees, that HWMA shall, subject to the terms, conditions and limitations set forth herein, cause in each Contract Year during the Term all Covered Waste to be loaded on Transport Vehicles at the Transfer Stations for transport to the Disposal Site by the Transportation Subcontractor and disposed of at the Disposal Site by DCL in accordance with the terms of this Agreement, and that such obligation shall not be avoided by any means, including but not limited to the transfer to any third Party, howsoever accomplished, of all or any portion of the Covered Waste collection, handling, transportation, processing and disposal operations subject to HWMA’s jurisdiction; *provided that* it is understood and agreed that this Section 13.3 is intended, nor shall it be construed, to prevent HWMA from reducing the volume of Covered Waste disposed of at the Disposal Site by means of the Recycling or Diversion of any portion of the Covered Waste as contemplated by Section 3.2 hereof. In furtherance of such covenant and agreement, HWMA further covenants and agrees that during the Term of this Agreement, HWMA will not take any action, or omit to take any action, that prevents HWMA from causing all Covered Waste generated in each Contract Year during the Term from being loaded onto the Transport Vehicles at the Transfer Stations and transported to and disposed at the Disposal Site.

ARTICLE 14. --MISCELLANEOUS

14.1 **Amendments.** This Agreement may only be amended by a written agreement duly
executed by HWMA and DCL.

14.2 **Waiver.** No waiver by a Party of any default hereunder shall be effective unless the same is reduced to writing and signed by the Party granting such waiver. No such written waiver by a Party of any one or more defaults or breaches by the another Party in the performance of this Agreement shall operate or be construed as a waiver of any future defaults or breaches, whether of a like or different character.

14.2 **Entire Agreement.** This Agreement and any exhibits attached hereto and referenced herein shall represent the entire understanding between the parties with respect to the subject matter hereof and, unless set forth in this Agreement, no representations, statements or agreements, unless agreed to by the parties in writing, shall modify, change, amend or otherwise affect the obligations undertaken in this Agreement.

14.3 **Change in Law/Regulations.** This Agreement is subject to all present and future valid laws and lawful orders of all regulatory bodies, except as otherwise provided herein. Should either DCL or HWMA, by force of any such law or regulation, at any time during the term hereof, be ordered or required to do any act relative to this Agreement which substantially impairs or materially changes such Party's ability to perform under this Agreement, then the affected Party shall notify the other Party of this condition. Following the receipt of any such notice and for a period of one hundred and twenty (120) days thereafter, HWMA and DCL shall negotiate in good faith in order to reform the terms of this so as to permit the continuation of this Agreement on reasonable terms in light of such change, and if the parties do not reach mutual agreement on such reformed terms, then the reformed terms and provisions on which the parties have not so reach mutual agreement shall be submitted for dispute resolution pursuant to Section 12 hereof. Nothing herein shall preclude the arbiter from rendering a decision to the effect that the change in law or regulation so substantially impairs or materially changes a Party's ability to perform this Agreement that this Agreement is to be terminated. Nothing in this Agreement shall prohibit either DCL or HWMA from obtaining or seeking to obtain modification or repeal of such law or regulation or restrict either Party's right to legally contest the validity of such law or regulation. Neither DCL nor HWMA shall be considered in breach of this Agreement during the period of time such Party is contesting or appealing any notice of violation, ordinance, rule, regulation or law.

14.4 **Severability.** If any provision of this Agreement is declared invalid or unenforceable, then such portion shall be deemed to be severable from this Agreement and shall not affect the remainder hereof.

14.5 **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the state of California and the regulations, ordinances, or other legal requirements of any governmental agency having jurisdiction over the Disposal Site. The venue for any action in connection with this Agreement shall be San Francisco, California.

14.6 **Counterparts; Execution by Electronic Means.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which
together shall constitute one and the same agreement. This Agreement may be executed by fax, email (including the e-mailing of a signature page signed by a party and transmitted in the form of an Adobe PDF file) or other electronic delivery of signatures, with the signatures so delivered having the same force and effect as the delivery of original signed signatures pages.

14.7 Notices. All notices required or provided for under this Agreement shall be in writing and shall be effective if: (1) delivered personally or sent by certified or registered mail with postage prepaid, or by overnight carrier to the respective addresses set forth below; (2) are transmitted by fax machine to the respective fax numbers set forth below; or (3) are transmitted by e-mail to the respective e-mail addresses set forth below.

If to HWMA, addressed to:

Humboldt Waste Management Authority
Attention: Jill Duffy
Executive Director
1059 W. Hawthorne Street
Eureka, California 95501
Fax Number: (707) 268-8927
E-mail: jduffy@hwma.net

With a copy to the attorney for HWMA:

Nancy Diamond
Attorney at Law
822 G Street, Suite 3
Arcata, CA 95521
Fax Number (707) 826-8541
E-mail: ndiamond@ndiamondlaw.com

If to DCL, address to:

Lee Fortier
General Manager
Dry Creek Landfill, Inc.
One West Main, Suite 401
Medford, Oregon 97501
Fax Number: (541) 779-4366
E-mail: lfortier@roguedisposal.com

With a copy to the attorney for DCL:

Richard A. Stark
Stark and Hammack, P.C.
Attorneys at Law
or to such other address, e-mail address or fax number as any Party shall specify by written notice so given. Any notice sent by mail shall be deemed given and received three (3) Business Days after the date deposited in the United States mail. Any notice or communication given by personal delivery or sent by overnight carrier or confirmed facsimile shall be deemed given upon receipt. Any notice sent by fax shall be deemed given and received when sent and confirmed by the fax machine of the sender.

14.8 **Independent Contractor.** The parties intend that each Party shall perform the services required by this Agreement as an independent contractor and not as an officer or employee of any other Party nor as a partner of or joint venturer with any other Party. No employee or agent of a Party shall be deemed to be an employee, agent, subagent or servant of any other Party. Each Party shall have the exclusive control over the manner and means of performing its obligations hereunder. Each Party shall be solely responsible for the acts and omissions of its officers, employees, subcontractors and agents. Nothing herein shall be construed as creating the duty of any Party to supervise or control the acts or omissions of any other Party or any person performing performance obligations hereunder.

14.9 **Performance Through Subcontractor.** In the event either Party performs any of its obligations hereunder through any subcontractor, the subcontracting Party shall be and remain liable for the performance of all of its obligations hereunder. Any act or omission by any subcontractor in violation or breach of the terms and provisions of this Agreement shall be deemed to be the act or omission of subcontracting Party for all purposes of this Agreement, and the subcontracting Party shall be and remain liable therefor. The subcontracting Party shall have full power and authority to deal in its sole discretion with any subcontractor engaged by it to perform any of the subcontracting Party’s obligation hereunder, including but not limited to termination of any subcontract for default and replacement of such franchise or subcontract in its discretion, subject to the right of HWMA to approve in advance all Transportation Subcontractors as provided above.

14.10 **No Other Third Party Beneficiaries.** The Transportation Subcontractor shall be an express third party beneficiary of the terms and provisions of this Agreement that pertain to the transportation of Covered Waste from the Transfer Stations to the Disposal Site. With the exception of the Transportation Subcontractor as aforesaid, DCL and HWMA shall be the sole beneficiaries of this Agreement, and no other person or entity is intended to be, nor shall they be, a third Party beneficiary of this Agreement or have any rights hereunder.

14.11 **HWMA’s Audit Rights.** HWMA shall have the right to request an independent review or audit of DCL’s scale tickets and invoices pertaining to the tonnage of Covered Waste transported and disposed of pursuant to this Agreement, and information obtained or reviewed by
HWMA during such independent review or audit shall be treated as confidential to the extent permissible under the California Public records Act, Government Code sections 6540 et seq., or to the extent such information cannot be kept confidential, to provide such information solely by examination of DCL’s books and records at the offices of DCL with no right to take or retain any copies of such records so that no public records with respect thereto are created.

Likewise, the Transportation Subcontract shall provide that HWMA shall have the right to request an independent review or audit of the Transportation Subcontractor’s scale tickets and invoices pertaining to the tonnage of Covered Waste transported and disposed of pursuant to this Agreement and records pertaining to Back Hauls, and information obtained or reviewed by HWMA during such independent review or audit shall be treated as confidential to the extent permissible under the California Public records Act, Government Code sections 6540 et seq., or to the extent such information cannot be kept confidential, to provide such information solely by examination of the Transportation Subcontractor’s books and records at the offices of the Transportation Subcontractor with no right to take or retain any copies of such records so that no public records with respect thereto are created.

[This space intentionally left blank. Signatures and exhibits appear on the pages that follow.]
IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed and delivered by their duly authorized representatives as of the date first set forth above.

Humboldt Waste Management Authority

By: ________________________________ Date: As of June 19, 2017
Chair of the Board
Attest: ________________________________ Date: As of June 19, 2017
Clerk of the Board

Approved as to form:

______________________________ Date: As of June 19, 2017
Nancy Diamond, HWMA Counsel

All Certificates Received:

By: ________________________________

[This space intentionally left blank. The signature of DCL appears on the page that follows.]
DRY CREEK LANDFILL, INC.

By: __________________________
    Stephen M. Gambee, CEO
Exhibit A
LIQUIDATED DAMAGES

The following Liquidated Damages shall be levied for DCL’s failure to meet specific DCL obligations due to DCL’s fault. The amounts for Liquidated Damages will be adjusted annually to reflect changes in CPI.

<table>
<thead>
<tr>
<th>Event</th>
<th>Transportation Liquidated Damage</th>
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<tr>
<td>Reporting</td>
<td>• One hundred dollars ($100) per Business Day for each calendar day that a report required by this Agreement is past due to HWMA.</td>
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<tr>
<td></td>
<td>• More than seven (7) Business Days past due, the rate of Liquidated Damages shall increase to two hundred and fifty dollars ($250).</td>
</tr>
<tr>
<td></td>
<td>• More than fifteen (15) Business Days past due, the rate of Liquidated Damages shall be increased to five hundred dollars ($500) for each additional day beyond fifteen that the report is past due.</td>
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<tr>
<td></td>
<td>• Reports that are more than thirty (30) Business Days past due may result in potential Default in accordance with Article 11.</td>
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<tr>
<td>Weighing</td>
<td>• Rate of five hundred dollars ($500) per load of Authority Permitted Solid Waste that is delivered to the Disposal Facility and is not accurately weighed, recorded, and reported to HWMA.</td>
</tr>
<tr>
<td>Transfer Trailer Container</td>
<td>• Rate of one hundred dollars ($100) per empty Transfer Trailer Vehicle container delivery delays at the Hawthorne Street Transfer Station Facility resulting in overtime pay for Authority personnel.</td>
</tr>
<tr>
<td>Delivery</td>
<td></td>
</tr>
<tr>
<td>Transfer Trailer Container</td>
<td>• Rate of one hundred dollars ($100) empty Transfer Trailer Vehicle container that is not available for loading at any one time at the Hawthorne Street Transfer Station Facility resulting in delay of loading Permitted Solid Waste and resulting in additional costs to HWMA.</td>
</tr>
<tr>
<td>Availability</td>
<td></td>
</tr>
<tr>
<td>No Service</td>
<td>• Rate of $12,750 per each No Service Day.</td>
</tr>
<tr>
<td></td>
<td>• HWMA may terminate the Agreement for default when the total number of No Service Days equal three (3) calendar days within any ninety (90) day period.</td>
</tr>
</tbody>
</table>
Exhibit B
SAMPLE CALCULATIONS OF FUEL SURCHARGE AND FUEL CREDIT

Sample Calculation of Fuel Surcharge:

If the Transportation Subcontractor’s actual average cost of diesel for the preceding month is $3.30 per gallon, and the California monthly diesel fuel index for the four weeks prior to the month being billed is $3.45 per gallon, the per gallon diesel rate used for calculation of the Fuel Surcharge would be based on $3.30 per gallon, for a difference of $0.30 ($3.30 - $3.00) per gallon used.

Sample Calculation of Fuel Credit:

If the Transportation Subcontractor’s actual average cost of diesel for the preceding month is $2.25 per gallon, and the California monthly diesel fuel index for the four weeks prior to the month being billed, is $2.30 per gallon, the per gallon diesel rate used for calculation of the Fuel Credit would be based on $2.25 per gallon, for a difference of $0.10 ($2.35 - $2.25) per gallon used.

Assumptions Used In Calculating Fuel Surcharge and Fuel Credit:

In calculating the amount of the monthly Fuel Surcharges and the Fuel Credits for purposes of this Agreement, the gallons used in such calculation will be as follows:

(a) For trips originating from the Hawthorne Street Transfer Station:
   (i) For trips that include a Back Haul: 40.70 gallons of diesel per trip (based on 50% of the round-trip distance of 407 miles).
   (ii) For trips that do not include a Back Haul: 81.40 gallons of diesel per trip.

(b) For trips originating from the Eel River Transfer Station:
   (i) For trips that include a Back Haul: 44.10 gallons of diesel per trip (based on 50% of the round-trip distance of 441 miles).
   (ii) For trips that do not include a Back Haul: 88.20 gallons of diesel per trip.

(c) For deliveries from the Humboldt Sanitation Transfer Station:
   (i) Back Hauls: 37.8 gallons of diesel per trip (based on 50% of the round-trip distance of 378 miles).
(ii) Straight Hauls: 75.60 gallons of diesel per trip.

Each respective per trip rate is multiplied by the number of loads delivered from the applicable Transfer Station, to derive the total monthly Fuel Surcharge.
Staff Report

DATE: July 5, 2017 For Meeting Of: July 13, 2017

FROM: Jill Duffy, Executive Director
Tyler Egerer, Administrative Services Manager

SUBJECT: Item 5)
Receive Proposal for Strategies to Increase Funding of the Unanticipated $535,535 Annual Cost Increase Related to Transportation and Disposal of Solid Wastes. Review and Provide Direction as Necessary.

RECOMMENDED ACTION: Voice vote.
That the Board:
1) Adjust Budget Line Items 43, 44, and 45 by $479,844, $(409.00), and $54,100.00 respectively, of $533,535 for Unanticipated Costs Related to Secure Alternate Transportation and Disposal of Solid Wastes; and
2) Receive Proposal for Strategies to Decrease General Expenditures of $535,535; and
3) Approve Undesignated Reserve Funding to be less than 15%; and
4) Direct $25,000 from Solid Waste of Willits Year One Consideration Payment to Offset Costs; and
5) Amend Facility Operational Hours effective November 5, 2017
6) Receive and Approve the Revised Organizational and Classification Plan:
   • Eliminate Two (2) Vacant Utility Worker Positions effective November 1, 2017.
   • Reclassification of One (1) Account Clerk II Position to “Account Clerk II – Confidential Designation”.
   • Eliminate Two (2) Vacant Positions: Organics & Materials Diversion Coordinator and Account Clerk effective July 1, 2017.
7) Discuss and Take Other Direction as Appropriate.

DISCUSSION:
Solid Waste of Willits (SWOW) submitted on May 30, 2017, and the Board approved at the June 8th meeting a request from SWOW for early termination of the Agreement for Long-Term Transportation and Disposal of Solid Wastes due to the Contractor’s financial duress and an inability to meet contract service obligations. Effective June 24, 2017, SWOW ceased transportation and disposal of the Authority’s solid waste.

The Board reviewed projected costs to continue transporting solid waste to Potrero Hills Landfill, but preliminary costs were estimated to increase by $2.5 million annually. Following
review and discussion, the Board directed that Authority staff move forward with necessary steps for solid waste to be transported by Bettendorf Trucking for disposed at Dry Creek Landfill, which is estimated to increase transportation and disposal costs by $533,535 for FY 2017-18.

Bettendorf Trucking began hauling solid waste to Dry Creek Landfill, under an extension of their previous contract, beginning June 19th due to SWOW’s lack of available trailers and drivers. The Authority will be considering approval of an agreement for transportation and disposal of solid waste with **agenda item number 4**.

The Fiscal Year 2017-2018 Budget was approved on May 11, 2017. There was no change to the “Waste Management Fee”, and member agencies have incorporated the HWMA Waste Management Fee, as well as any additional franchise solid waste fee adjustments, into their budgets for adoption in the June month.

Staff recommended to the Board that the increased costs be absorbed using a combination of strategies while minimizing any increase to the Waste Management Fee, or “Tip Fee” because the Authority’s long-term debt obligation of $800,000 annually will cease in November 2021.

This broad three-year budget strategy is intended to provide a general framework to absorb cost increases related to securing reliable long-term transportation and disposal while recognizing the need to maintain core services to the Authority’s member agencies and the public. As such, it is not a one-size-fits-all approach, but rather a guide.

**General Proposed Strategy**

HWMA is dependent upon collection of “Waste Collection Fees” ("Tip Fee") to fund Authority operations, programs and activities. Over the past four years, the Authority has effectively built a lean and sustainable budget while accomplishing several significant projects and implementing goals of the “2013-2023 Strategic Plan”. Additionally, Authority staff based our budget forecast scenarios incorporating the upcoming retirement of long-term annual debt obligation payments of $800,000 ceasing in November 2021.

The approved FY 2017-18 Budget estimated costs for transportation and disposal by SWOW and Potrero Hills Landfill at $3.23 million for member agency and public solid wastes from the combined Hawthorne Street, Eel River Disposal and Humboldt Sanitation sites. With the need to secure a new hauler and alternate landfill, costs are expected to increase an additional $533,535, plus an average annual 2% CPI annual increase. It should be noted that this ‘increase’ is consistent with costs the Authority incurred prior to 2014, when the Board decided to award the transportation and disposal to SWOW. The Board awarded the agreement because, based on the SWOW’s proposal, the Authority would avoid about $300,000 annually in expenses.

In order to absorb the cost increases with minimal impact to the ‘Tip Fee’, staff proposes the following actions to absorb these unexpected expenditures:
1. **Allow Undesignated Reserves to Fall Below 15%**

HWMA Policy 3030.1 established an undesignated reserve policy goal to maintain a reserve fund equal to 15% of annual projected operating expenses. This policy was established to ensure fund availability for 1) contingencies for unseen or capital needs; 2) economic uncertainties; and/or 3) cash flow requirements. Based on projected FY 2017/18 Operational Expenses, a 15% target reserve is $1,069,349.

Increasing Operational Expenses by $533,535 would also require the Authority to increase funding to the Undesignated Reserves by $44,685.00. Staff recommends the Board approve the Undesignated Reserves to remain below the policy goal of 15%, until sufficient revenue is able to replenish the reserves to the policy goal.

2. **Apply $25,000 of First and Second Year’s Early Termination Consideration from SWOW**

In consideration for HWMA’s consent to early termination of the Agreement, SWOW agreed to pay the Authority $50,000, over a two-year period. The first installment is due on or before August 1, 2017, and second installment due on or before May 31, 2018.

Staff proposes that the Board direct the SWOW payments to off-set a portion of transportation and disposal costs.

3. **Amend Hawthorne Street Transfer Station Operational Hours**

The Eureka Recycling Center and Transfer Station operations at the Hawthorne Street facility have different operational hours. The separate hours of operation are a residual effect from when the Hawthorne Street Transfer Station and Eureka Recycling Center were managed by two separate contract operators.

Staff proposes to modify the hours effective November 5, 2017 in order to establish a singular “Hawthorne Transfer Station Facility Hours”. Customers arriving at the early or late ends of the day will be able access both areas of the facility which will further enhance the “One-Stop Service” approach the Authority has been working towards for several years.

Modifying the hours on Sunday, November 5, 2017 will enable HWMA to notify our regular customers who typically arrive either very early or late in the afternoon of the proposed hour change, promote the new hours through local media and website, and enable a smooth transition following the “Daylight Savings Time” change.

The Authority projects that we will need two fewer Utility Worker employees if the facility hours are modified. Staff also anticipates incidental expenditure reductions related to equipment operation, energy and fuel costs that are difficult to quantify at this time.

4. **Approve Revised Organizational Chart & Classification Plan**

Staff recommends 1) implementation of reclassification of an Account Clerk II position; and 2) elimination of four (4) full-time positions. Combined this will result in a savings of approximately $235,000 annually.
Reclassification
There are three (3) Account Clerk I/II positions, two are currently filled and one is vacant due to retirement. As of the preparation and final approval of the FY 2017/18 Budget, the Board approved an allocation for a designation of an “Account II Clerk – Confidential Designation” in the Finance and Administrative Services Division. This reclassified position establishes the designation and compensation for a position that will have access to privileged and confidential information relating to the Authority’s administration, employee relations and other personnel matters that are currently handled by the Director of Finance and Administrative Services. The proposed position will provide direct assistance to the Director of Finance and Administrative Services and the Executive Director.

Proposed Position Elimination
The Authority proposes to eliminate the following four (4) vacant positions:

1) Account Clerk (1 F.T.E) – This position was vacated following a retirement, and is no longer necessary due to a combination of software upgrade and other employee efficiencies.
2) Organics and Materials Management Coordinator (1 F.T.E) – This position was vacated, and is no longer necessary due to other employee efficiencies. There may be a need to re-evaluate a similar position need in the future.
3) Utility Worker (2 F.T.E.) – Need for these two positions are predicated on the Board approving the requested Facility Hours of Operation modification. Currently the Authority has two vacant Utility Worker positions, and staff proposes to eliminate these permanent positions, and use Extra-Help employees until November 1, 2017 to meet the demand.

As part of the recommended employee classification action, the attached revised HWMA’s Organization Chart and Classification Plan (attached) will approval by the Board.

5. 10% Reduction in Expenditures Across Authority Divisions
For FY 2017-18 set a goal to achieve a 10% reduction in division costs where possible. This may result in possible deferment of maintenance and improvement projects, equipment replacement, reducing training, conference attendance and advertising.

Staff will continue to pursue grant funding opportunities for recycling, household hazardous wastes and other projects where identified.

Estimated savings: $84,500

6. Use of Designated Reserves and Annual “Tip Fee” Increases
The Rate Stabilization Reserve may be requested to be used as part of the Mid-Year Budget Adjustment review process to assist in offsetting cost increases. This designated reserve was established with a base allocation of $400,000 to be available for use in the event of unexpected fuel spike increases or other unexpected costs increases in contracted services related to
recycling, green waste, household hazardous waste, solid waste disposal services or State mandated pass through fees.

Additionally, a possible “Tip Fee” increase between 1-2% annually beginning in FY 2018-19 would be necessary until retirement of the long-term debt obligations.

ATTACHMENTS:
Attachment 1: HWMA Organization Plan
Attachment 2: Proposed Account Clerk Job Description including “Confidential Designation”
Attachment 3: HWMA Classification Plan
Account Clerk I
Account Clerk II
Account Clerk II – Confidential Designation

SUMMARY

This is a full-time, non-exempt position with accounting and administrative responsibilities and requires contact with the public. This position assists the Director of Finance and Administrative Services in the maintenance of the Authority’s financial and payroll records. An Account Clerk II may be assigned confidential responsibilities related to sensitive employee information and contract negotiations.

SUPERVISION RECEIVED AND EXERCISED

The Account Clerk I and Account Clerk II report to the Director of Finance and Administrative Services.

TYPICAL DUTIES

Accounting Duties
- Gather data and prepare information related to vendor payments, customer statements, in accordance with fiscal policies and procedures established by the Authority.
- Provide review of scale house reports and cash handling activities.
- Create monthly accounts receivable (A/R) statements using Authority software.
- Enter data, age accounts, and process vendor and customer account adjustments in the Authority’s accounting and waste management computer systems.
- Print and distribute vendor checks, reports, or other forms.
- Audit payables for accuracy and obtain authorizations from appropriate staff.
- Prepare and/or review semimonthly and annual payroll records and reports.
- Develop and implement division-oriented, clerical, and fiscal procedures and policies; maintain and organize purchasing, inventory, and budget records; analyze office methods, procedures, and forms and recommend methods for improvement.

Other Duties
- Answer and handle calls to the Main Business Office
- Provide customer service & research customer questions.
- Prepare collection letters for delinquent accounts
- Provide backup for scale attendants.
- Assist with annual audit of Authority finances as directed.
- Perform other duties as assigned by the Director of Finance and Administrative Services.

Account II Confidential (Only) Duties
The “Account II Confidential” designation is intended to provide an Account Clerk II with additional responsibilities and job duties, with a commensurate increase in pay. The confidential designation allows an Account Clerk II to work closely with all Authority management on matters related to sensitive employee activity and communications of a confidential nature related to contract management. Typical confidential duties include:
• Assist the Executive Director, Director of Finance and Administration, and Director of Operations and Maintenance by handling and composing various types of correspondence.
• Demonstrate excellent administrative and organizational skills, including fast and accurate typing and dictation skills with a minimum of errors, and the ability to manage the Authority’s digital and physical filing systems for retrieval of requested information in a timely and responsive manner.
• Due to the nature of sensitive information, maintain strict confidential information and all aspects of the job designated “Confidential” by the Director of Finance and Administrative Services and the Executive Director.
• Collect and maintain confidential information related to financial data and personnel management.
• Perform confidential clerical tasks related to Human Resources and Financial activities based on Authority, State, and Federal rules and regulations.
• Handle mail and correspondence, and maintain confidential correspondences, reports, and other documentation related to Authority activity.
• Process all incoming and outgoing employee and new hire information, and prepare reports and applications for new hires/retirees as needed, and provide finalized documents to Director of Finance and Administrative Services and/or Executive Director for review and approval.

QUALIFICATIONS

Knowledge of:
• Manual payroll preparation.
• Modern office practices and procedures.
• Computer accounting procedures.
• Able to communicate effectively with the public.

Skill in:
• Following written and oral instructions.
• Operating a computer and other common office equipment.
• Creating intermediate level Excel and Word documents.
• Ability to keep financial records and perform varied clerical work.
• Accurately count cash.
• Ability to maintain confidences (required for confidential designation).
• Demonstrating excellent integrity and good moral character and initiative (required for confidential designation).
• Must have valid California drivers’ license.

EXPERIENCE AND EDUCATION

Account Clerk I
• High School Diploma or GED.
• Minimum of two years’ experience in general office and accounting procedures.
• Any combination of experience and education that could provide entry level knowledge of office and accounting procedures.

Account Clerk II
• High School Diploma or GED.
• College-level introductory and intermediate accounting classes.
• A minimum of three years experience in computerized general accounting procedures and two years experience preparing payrolls.
• Any combination of experience and education that could provide journey level knowledge of office and accounting procedures.

Confidential Designation
• All experience required for Account Clerk II, plus:
• A minimum of five years’ experience in the Authority’s Administrative or Programs Division, or the ability to demonstrate commensurate work related to those divisions.
# Fiscal Year 2017-18
## Exempt and Non-Exempt Employee Classification Plan

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<tr>
<th>Classification Grade</th>
<th>Steps</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6 (2.5%)</th>
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<td>Operations and Facility Maint.</td>
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<td>$36.69</td>
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</tr>
</tbody>
</table>
Staff Report

DATE: July 13, 2017

FROM: Tyler Egerer, Director of Finance and Administrative Services

SUBJECT: Item 6) Review the Scale Software Evaluation Committee Recommendation to Select and Award Scale Software

RECOMMENDED ACTION:
1. Receive Presentation and Scale Software Evaluation Recommendation; and
2. Select and Award Software Scale; and
3. Following Review by Legal Counsel, Authorize Executive Director to Execute Agreement for Software and Services

DISCUSSION:
This project is the second of two planned upgrade to the Authority’s software platforms. This upgrade will replace the aging weigh scale software in HWMA’s Transfer Station Scale-House. Additionally, the software will allow for unified reporting in, at least, the Hazardous Waste division, with a potential to fully unify the Authority’s active software platforms by servicing the Recycling Division as well.

The Board approved release of the RFP document and timeline at the June 8, 2017 Board meeting. Three responsive (3) proposals were received by the stated deadline of 4:00 PM on Friday, June 30, 2017 and evaluations were slightly delayed to the July 4th Holiday. Staff will present a summary of the proposal and the recommended proposal to the Board at the July 13th meeting.

By the proposal submittal deadline of June 30, 2017 at 4:00 p.m., HWMA received three proposals. The three proposers and costs are listed alphabetically below:

<table>
<thead>
<tr>
<th>Name</th>
<th>Proposal Cost</th>
<th>Recurring Annual Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Creative Info Systems</td>
<td>$53,095.00</td>
<td>$4,745.00</td>
</tr>
<tr>
<td>Paradigm Software, LLC</td>
<td>$68,730.00</td>
<td>$6,372.00</td>
</tr>
<tr>
<td>Soft-Pak</td>
<td>$31,262.00</td>
<td>$5,840.12</td>
</tr>
</tbody>
</table>

The Software Scale evaluation team is continuing to evaluate these proposals as of the time of Board packet posting, and therefore no immediate recommendation is available. Staff will provide a recommendation report as an addendum to this agenda item by Thursday, July 13, 2017.
ALTERNATIVE:
Conversely, if the Board believes that, upon reception of the evaluation team’s recommendation, it does not have sufficient time to make a final decision, this item may be tabled until the September meeting. Proposers will be notified of the change in timeline and the item, in its entirety, will be included in the September Agenda and Board packet.
Staff Report

DATE: June 30, 2017 For Meeting of: July 13, 2017
FROM: Jill Duffy, Executive Director
SUBJECT: Item 7) Executive Director Report for June 2017

RECOMMENDED ACTION: Informational Only.

Administration

Solid Wastes of Willits – Solid Waste Transportation & Disposal, & Recycling Processing Agreement(s)
Authority staff worked on several significant matters related to the Early Termination of the Solid Wastes of Willits transportation and disposal of solid waste, and related agreements, and the necessary transitional activities related to service termination on June 24th

1. Amendment No. 3 for Early Agreement Termination was executed by both parties on Thursday, June 15th.
2. Received copy of Early Termination of Waste Disposal Agreement between SWOW and Potrero Hills Landfill. This relieves SWOW of disposal obligations related to HWMA wastes effective June 24, 2017.

Bettendorf Transportation & Disposal of Solid Waste at Dry Creek Landfill.
Due to solid waste accumulation, lack of SWOW trailers and available drivers, and SWOW equipment breakdowns, Bettendorf Trucking services was brought in earlier than the anticipated June 26th date to ensure timely solid waste disposal.

Staff also worked on necessary coordination activities for transportation services from the Eel River Disposal and Humboldt Sanitation satellite transfer stations, the drafting of solid waste transportation and disposal agreements and related financial impacts.

Change of Notice of Control
The Authority received a “Change of Notice of Control” on Friday, June 16th. This notice informed the Authority that Recology was in escrow for the purchase of “Eel River Resource & Recovery”. HWMA prepared a consent for assignment of the Loading Services Agreement (Agenda Item 2d) so that member agency material would continue to be loaded at the Eel River Transfer Station into Authority designated trucks.
Mad River Composting Draft Agreement Finalization
Staff met with Wes & Teresa Green to review final draft of the agreement in early June for the item before the Board on July 13th. Details are contained in Agenda Item 2c.

Website Development
Accelerant Design and HWMA staff have completed the redesign and modernization of the Authority’s website. Please visit www.hwma.net
If any revisions or corrections are needed, please let us know!

Presentation to Eureka Rotary
Myself and Linda Wise, General Manager of Recology, provided a presentation of solid waste and diversion services, transportation and disposal to the Eureka Rotary Club on Monday, June 19th.

Cummings Road Burn Ash Debris Mitigation, Monitoring & Reporting – Year 3
As part of the (former) Cummings Road Burn Ash Debris project that removed 91,600 cubic yards of material from properties owned by HWMA and Recology in 2014, the Authority is required to perform 5 years of mitigation, monitoring and reporting on the project site.

On June 26th, staff initiated debris and bottle removal in the project area for the third consecutive year. Clean up activities were completed June 30th, and Daily Field Reports were submitted to the NCRWQCB. The Vegetation Survey is scheduled to occur between September and October. Following completion of these two items, the annual report will be prepared and submitted to the North Coast Regional Water Quality Control Board by December 31st of this year.

Forest Property Acquisition
Staff and legal counsel are working with Recology towards finalization of the forest property acquisition efforts. The escrow account was opened, preliminary title reports received with final review and purchase expected to be complete by mid-July of 2017.

Carl Moyer Equipment
For the first time, HWMA staff applied to the North Coast Unified Air Quality Management District’s Carl Moyer Memorial Incentive Grant program for possible grant funding assistance of $152,000 to replace one of the Authority’s excavators.

Unfortunately, HWMA was notified on June 26th our equipment replacement project was unable to be funded due to the lack of available funding. The District received 35 project applications during the fiscal year 2017-2018 application cycle which requested a combined amount of over $3.9 million, but only $325,000 was available this fiscal year.

Operations
Landfill
- The Second Quarter activities for methane and leachate monitoring were completed at the landfill, and are under review prior to submission to regulatory agencies.
- June Maintenance Activity included:
  o Keyway & Toe pumps were removed, cleaned, checked, reassembled & placed back on-line.
All AP-4 pneumatic field pumps were pulled for their Semi & Annually cleaning & replacement of parts. There are 21, pneumatic AP-4 pumps in ground ranging from 19ft to 180ft down.

Additionally, the red regulator boxes are being repaired, painted, and restored.

Leachate field compressor had its 5000hr complete tune-up. Separator, solenoid, hydraulic fluid, hydraulic filter, air filter, & belt was checked. It is back on line as well.

The flare station, blower bearings were greased & blowers were switched.

With the weather finally permitting, Landfill staff started their spring & summer projects. Paths to all the wells, gas lines, air lines & leachate lines are being cut down & cleared to for access purposes and minimize ticks from getting on staff while doing their daily activities. Clearing the paths & lines also help staff see leaks & other things that might happen if they are not cleared.

Dave Kuznetsov & crew from Able Logging are cleaning debris from S-9 (Ryan creek). It is a 5 year monitoring project & they are on their 3rd year.

Safety meeting for the month was on Landfill Gas Condensate & Emergency First Aid Procedures.

All other monitoring, sampling, testing, maintenance, reporting, adjustment, record keeping and scheduling of duties was completed for the month.

**Programs:**

**Household Hazardous Wastes:**

**Permanent Red Shed Collection Events:**

**July 1**

The First Saturday collection event had 120 attendees delivering household hazardous wastes for disposal. Additionally, 282 residential customers dropped off HHW throughout the month of June.

**Tire Amnesty Grant**

At the March 9, 2017 meeting the Board approved Resolution 2017-07 which authorized the submittal of a regional application related the Waste Tire Amnesty Grant Program. The Authority received notification that HWMA was granted $88,180 for FY 2017-18. These funds will be used to receive and properly dispose of tires at no-cost to participating consumers. Staff will provide additional information at the Board meeting.

**Household Hazardous Waste Grant**

HWMA was notified on Friday, July 7, 2017 that our application for a project to resurface the “HHW Red Shed’s Floor” was recommended by CalRecycle staff to be funded at $66,958. The final decision will be made on July 18th.

**Mattress Recycling Program**

To date, HWMA has recycled 1,860 in calendar year 2017. This results in over 52 tons of mattresses diverted from landfilling.
REQUEST FOR APPROVAL

To: Howard Levenson  
Deputy Director, Materials Management and Local Assistance Division

From: Michelle Martin  
Branch Chief, Financial Resources Management Branch

Request Date: June 5, 2017

Decision Subject: Awards for the Local Government Waste Tire Amnesty Grant Program (Tire Recycling Management Fund, Fiscal Year 2017–18)

Action By: June 20, 2017

Summary of Request
Staff requests approval of grant awards for the Local Government Waste Tire Amnesty (Tire Amnesty) Grant Program, Fiscal Year (FY) 2017–18. CalRecycle received 43 complete applications for this competitive grant program, requesting a total of $1,914,037.19. Four applications were disqualified, and one applicant withdrew their application.

Recommendation
Staff recommends approval of 38 grant awards listed below for $1,619,916.

Table 1. Recommended Awards

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Total Award</th>
</tr>
</thead>
<tbody>
<tr>
<td>Butte County</td>
<td>$30,000</td>
</tr>
<tr>
<td>City of Ceres</td>
<td>4,020</td>
</tr>
<tr>
<td>City of Coalinga</td>
<td>6,908</td>
</tr>
<tr>
<td>City of Elk Grove</td>
<td>27,094</td>
</tr>
<tr>
<td>City of Fresno</td>
<td>40,000</td>
</tr>
<tr>
<td>City of Hesperia</td>
<td>34,420</td>
</tr>
<tr>
<td>City of Lake Elsinore</td>
<td>32,620</td>
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<td>City of Long Beach</td>
<td>39,995</td>
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<td>City of Los Angeles</td>
<td>19,000</td>
</tr>
<tr>
<td>City of Madera</td>
<td>90,000</td>
</tr>
<tr>
<td>City of Modesto</td>
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</tr>
<tr>
<td>Applicant</td>
<td>Total Award</td>
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<tr>
<td>------------------------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>City of Pomona</td>
<td>8,530</td>
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<td>City of Reedley</td>
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<td>City of Tulare</td>
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<td>Fresno County</td>
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<td>Glenn County</td>
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<td>Humboldt Waste Management Authority</td>
<td>88,180</td>
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<td>Imperial Valley Resource Management Authority</td>
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<td>Mendocino Solid Waste Management Authority</td>
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<td>Merced County Regional Waste Management Authority</td>
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<td>Phelan Piñon Hills Community Services District</td>
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<td>Regional Waste Management Authority</td>
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<td>Riverside County</td>
<td>37,737</td>
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<tr>
<td>Rural Counties ESJPA</td>
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<tr>
<td>Salinas Valley Solid Waste Authority</td>
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<tr>
<td>San Bernardino County</td>
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<td>San Diego County</td>
<td>39,500</td>
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<tr>
<td>San Joaquin County</td>
<td>85,000</td>
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<tr>
<td>Santa Cruz County</td>
<td>21,097</td>
</tr>
<tr>
<td>Siskiyou County</td>
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</tr>
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<td>Stanislaus County</td>
<td>53,155</td>
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<td>Tehama County</td>
<td>44,709</td>
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<td>Town of Apple Valley</td>
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<tr>
<td>Town of Paradise</td>
<td>30,000</td>
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<tr>
<td>Yolo County</td>
<td>40,000</td>
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<td><strong>Total</strong></td>
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Funding

Table 2. Funding

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<th>Amount Remaining</th>
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<td>Tire Recycling Management Fund (FY 2017–18)</td>
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Deputy Director Action
On the basis of the information and analysis in this Request for Approval and the findings set out herein, I hereby conditionally approve the grant awards for the Local Government Waste Tire Amnesty Grant Program as listed in Table 1. Each proposed grantee’s award is conditional upon:

1. The full payment within sixty (60) days of the date of this grant award of all outstanding debt(s) or scheduled payment(s) owed by the proposed grantee to the Department of Resources Recycling and Recovery (CalRecycle).

2. The return by the proposed grantee of a completed and executed Grant Agreement within sixty (60) days from the date that CalRecycle staff emails the Grant Agreement.

Howard Levenson
Deputy Director
Dated 9 Jan 17

Background and Findings

Statutory Authority
Public Resources Code section 42889(b)(5) authorizes CalRecycle to award grants to cities, counties, and other local agencies, and Qualifying Indian Tribes for the costs of cleanup, abatement, removal or other remedial action related to waste tire stockpiles throughout the state, including all approved costs incurred by other public agencies involved in these activities by contract with CalRecycle.

Program Background
The Tire Amnesty Grant Program offers competitive grants to cities, counties, other local agencies, and Qualifying Indian Tribes for collection events which allow citizens to bring their waste tires to
convenient locations at no charge. The maximum grant award is $40,000 per applicant and up to $90,000 per regional applicant. Grant funds can be used for advertisement of events, personnel and administrative time related to the events, collection, transport, and end use or disposal only.

On November 15, 2011, the Deputy Director approved the request to change the solicitation of the Local Government Waste Tire Cleanup and the Local Government Waste Tire Amnesty Grant Programs. The Five-Year Plan combined allocations for the two programs into one program each fiscal year, extended the grant term for each program to two years, and allowed for awards in alternating fiscal years. This change began with the Local Government Waste Tire Cleanup Grant Program in FY 2012–13. This is memorialized in the Request for Approval entitled Eligibility Criteria, Ranking Criteria, Evaluation Process for the Local Government Waste Tire Cleanup Grant Program (Tire Recycling Management Fund, 2012–13), and Programmatic Changes for the Local Government Waste Tire Cleanup and Waste Tire Amnesty Event Grant Programs (Tire Recycling Management Fund).

Criteria and Process
The Program Eligibility Criteria, Ranking Criteria, and Evaluation Process were discussed at the January 24, 2017 CalRecycle Public Meeting and subsequently approved by the Deputy Director. The Notice of Funds Availability was placed on the CalRecycle web site on February 1, 2017.

Applications were due March 7, 2017, with a secondary due date of April 5, 2017 for Resolution submission. CalRecycle received 43 applications requesting a total of $1,914,037.19. All applications were reviewed for completeness and evaluated in accordance with the approved eligibility criteria and evaluation process. Four applications were disqualified as their total cost per tire was more than allowed and one applicant requested their grant application be removed from consideration. The remaining 38 applications requested a total of $1,688,652.71.

After reducing applicant budgets for ineligible costs, the eligible requests from the 38 applications total $1,619,916, reflected in Table 1. While only $1,600,000 was available for the Tire Amnesty Grant Program when the Criteria was presented in January 2017, the additional $19,916 needed to fund all eligible applications was allocated from the Tire Recycling Management Fund and approved in the revised draft Five-Year Plan for the Waste Tire Recycling Management Program (Ninth Edition Covering Fiscal Years 2017–18 – 2021–22).
REQUEST FOR APPROVAL

To: Howard Levenson  
Deputy Director, Materials Management and Local Assistance Division

From: Michelle Martin  
Branch Chief, Financial Resources Management Branch

Request Date: July 3, 2017

Decision Subject: Awards for the Household Hazardous Waste Grant Program (Integrated Waste Management Account, Fiscal Year 2017–18)

Action By: July 18, 2017

Summary of Request
Staff requests approval of grant awards for the Household Hazardous Waste Grant Program (Program) for fiscal year (FY) 2017–18. A total of $1.5 million is available, with $500,000 for construction projects and $1,000,000 for small projects. Staff received 4 eligible applications requesting $680,695 for construction projects and 39 eligible applications requesting $2,071,752 for small projects.

Recommendation
Staff recommends approval of 3 construction project awards listed below in Table 1 for $500,000 and 21 small project awards listed below in Table 2 for $1,000,000, for a total of $1,500,000.

Table 1. Construction Projects (Cycle 28) Recommended Awards

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Total Award</th>
</tr>
</thead>
<tbody>
<tr>
<td>San Luis Obispo County Integrated Waste Management Authority</td>
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<tr>
<td>Riverside County</td>
<td>191,235</td>
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<td>City of Folsom (partially funded)</td>
<td>59,082</td>
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<td><strong>Subtotal</strong></td>
<td><strong>$500,000</strong></td>
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Table 2. Small Projects (Cycle 29) Recommended Awards – List A

<table>
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<td>Ventura County</td>
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<td>City of Oceanside</td>
<td>50,000</td>
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<td>Tehama County Solid Waste Management Agency</td>
<td>75,000</td>
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<td>City of Lancaster</td>
<td>4,339</td>
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<td>Sonoma County Waste Management Agency</td>
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<td>Merced County Regional Waste Management Authority</td>
<td>50,000</td>
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<tr>
<td>Humboldt Waste Management Authority</td>
<td>66,958</td>
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</tbody>
</table>

Item 7)
<table>
<thead>
<tr>
<th>Applicant</th>
<th>Total Award</th>
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</thead>
<tbody>
<tr>
<td>Siskiyou County</td>
<td>5,500</td>
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<tr>
<td>Mariposa County</td>
<td>37,500</td>
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<tr>
<td>Alameda County</td>
<td>49,000</td>
</tr>
<tr>
<td>San Joaquin County</td>
<td>50,000</td>
</tr>
<tr>
<td>Glenn County</td>
<td>75,000</td>
</tr>
<tr>
<td>City of Glendale</td>
<td>50,000</td>
</tr>
<tr>
<td>Town of Truckee</td>
<td>50,000</td>
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<tr>
<td>Town of Paradise</td>
<td>50,000</td>
</tr>
<tr>
<td>Yurok Tribe</td>
<td>46,894</td>
</tr>
<tr>
<td>City of San Jose</td>
<td>47,525</td>
</tr>
<tr>
<td>City of Citrus Heights</td>
<td>50,000</td>
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<tr>
<td>Lassen Regional Solid Waste Management Authority</td>
<td>42,981</td>
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<tr>
<td>San Diego County</td>
<td>50,000</td>
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<tr>
<td>City and County of San Francisco (partially funded)</td>
<td>29,903</td>
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<tr>
<td><strong>Subtotal</strong></td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$1,500,000</strong></td>
</tr>
</tbody>
</table>

Table 3. Small Projects (Cycle 29) Recommended Awards (if additional funds become available) – List B

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Total Requested - Not Awarded</th>
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</thead>
<tbody>
<tr>
<td>City and County of San Francisco (partially funded)</td>
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<tr>
<td>Butte County</td>
<td>75,000</td>
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<tr>
<td>City of Huntington Beach</td>
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<tr>
<td>Nevada County</td>
<td>35,420</td>
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<tr>
<td>Los Angeles County</td>
<td>50,000</td>
</tr>
<tr>
<td>Mendocino Solid Waste Management Authority</td>
<td>60,000</td>
</tr>
<tr>
<td>Tuolumne County</td>
<td>50,000</td>
</tr>
<tr>
<td>City of Woodland</td>
<td>75,000</td>
</tr>
<tr>
<td>City of Culver City</td>
<td>50,000</td>
</tr>
<tr>
<td>Costa Mesa Sanitary District</td>
<td>41,000</td>
</tr>
<tr>
<td>Riverside County</td>
<td>50,000</td>
</tr>
<tr>
<td>San Bernardino County Fire Protection District</td>
<td>50,000</td>
</tr>
<tr>
<td>City of Santa Barbara</td>
<td>50,000</td>
</tr>
<tr>
<td>City of Norwalk</td>
<td>50,000</td>
</tr>
<tr>
<td>El Dorado County</td>
<td>25,595</td>
</tr>
<tr>
<td>City of Modesto</td>
<td>50,000</td>
</tr>
<tr>
<td>West Contra Costa Integrated Waste Management Authority</td>
<td>75,000</td>
</tr>
<tr>
<td>City of Monrovia</td>
<td>50,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$892,112</strong></td>
</tr>
</tbody>
</table>
Funding
The FY 2017–18 Budget Act allocates $1,500,000 to the Integrated Waste Management Account for the Program. These allocated funds were split between two cycles: $500,000 for construction projects (Cycle 28) and $1,000,000 for small projects (Cycle 29).

<table>
<thead>
<tr>
<th>Fund Source</th>
<th>Amount Available</th>
<th>Amount to Fund Item</th>
<th>Amount Remaining</th>
<th>Line Item</th>
</tr>
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<tbody>
<tr>
<td>Integrated Waste Management Account</td>
<td>$1,500,000</td>
<td>$1,500,000</td>
<td>$0</td>
<td>Local Assistance/Grants</td>
</tr>
<tr>
<td>(FY 2017–18)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>$1,500,000</td>
<td>$1,500,000</td>
<td>$0</td>
<td></td>
</tr>
</tbody>
</table>

Deputy Director Action
On the basis of the information and analysis in this Request for Approval and the findings set out herein, I hereby conditionally approve the grant awards for the Household Hazardous Waste Grant Program as listed in Tables 1 and 2. Each proposed grantee’s award is subject to two conditions.

1. The recommended grantee’s Signature Authority (or where delegation is authorized, his or her Designee) must sign and return the Grant Agreement to CalRecycle. The signed Grant Agreement must be received by CalRecycle within 60 days of the date of the award email.

2. The recommended grantee must a) pay all outstanding debts due CalRecycle, or b) bring current outstanding payments owed to CalRecycle, within 60 days from the date CalRecycle conditionally awarded the grant.

Howard Levenson
Deputy Director

Dated 6/27/17

Background and Findings

Statutory Authority
Public Resources Code section 47200(a) authorizes CalRecycle to award grants to cities, counties, or other local agencies with responsibility for solid waste management to implement programs that reduce household hazardous waste disposal.

Program Background
The program offers competitive grants to cities, counties and other local agencies, and Qualifying Indian Tribes with responsibility for solid waste management and local household hazardous waste collection programs. Grant funds may be used to establish or expand...
household hazardous waste programs with respect to collection, public education, waste reduction, source reduction, reuse, or recycling of household hazardous waste.

Criteria and Process
The Eligibility Criteria and Evaluation Process was discussed at the January 24, 2017 CalRecycle meeting and subsequently approved by the Deputy Director.

Construction Projects: The Notice of Funds Available for construction projects (Cycle 28) was placed on the CalRecycle website on February 7, 2017, with an appropriate notice sent to stakeholders. Applications were due March 7, 2017, with a secondary due date of April 11, 2017 for Resolution submission. The maximum grant award is $250,000 for a single or multi-jurisdictional (regional) applicant. CalRecycle received five applications requesting $930,695. Staff reviewed the applications in accordance with the approved evaluation and scoring criteria. Subsequently, one application did not receive a passing score, and one application was determined to be ineligible. Two of the remaining applicants are recommended to receive full grant awards, and one applicant is recommended to receive a partial grant award.

The types of projects recommended for construction projects (Cycle 28) funding included: construction of a new permanent household hazardous waste facility, and expansion of existing household hazardous waste facilities by adding large concrete pads, hazardous material storage buildings, chemical storage containers, an office building, a supply storage container, awnings, and construction related upgrades.

Small Projects: The Notice of Funds Available for small projects (Cycle 29) was placed on the CalRecycle website on February 13, 2017, with an appropriate notice sent to stakeholders. Applications were due March 21, 2017, with a secondary due date of April 25, 2017 for Resolution submission. The maximum award for individual applicants is $50,000. The maximum award for regional applicants or rural county applicants with less than 200,000 in population is $75,000. CalRecycle received 40 applications requesting $2,121,752. Staff reviewed the applications in accordance with the approved eligibility criteria. Subsequently, one application was determined to be ineligible. Additionally, one application has withdrawn prior to the grant awards. Because this cycle was oversubscribed, CalRecycle conducted a random selection drawing to determine the recommended funding order of the 39 eligible applications. Of the 39 applications received, 20 will be fully funded for their eligible projects, and one will be partially-funded with the remainder of available funding.

The types of projects recommended for small projects (Cycle 29) funding include: household hazardous waste education programs, personnel protection equipment purchases, expansion of storage capacity, single or multi-day household hazardous waste collection events, and implementation of pilot projects to collect one-pound propane gas cylinders and marine flares and to instead promote the use of reusable products.

If additional funding becomes available, CalRecycle may consider awarding List B applicants, as identified in Table 3, with the additional funds.