



CITY OF WHEATLAND

CITY COUNCIL MEETING STAFF REPORT

October 12, 2021

SUBJECT: Adoption of proposed amended Regional Waste Management Authority Joint Powers Agreement and amended Regional Agency Formation Agreement expanding the powers and authority of the Regional Waste Management Authority; modifying provisions for future amendments; modifying provisions for the withdrawal of a member agency; and, establishing provisions for removal of a member agency.

PREPARED BY: Jim Goodwin, City Manager

Recommendation

Adopt Resolution No. 36-21 approving the proposed Regional Waste Management Authority Fourth Amended and Restated Joint Powers Agreement and Regional Waste Management Authority Amended Regional Agency Formation Agreement.

Background/Discussion

At the October 15, 2020, meeting of the Regional Waste Management Authority (RWMA) Board of Directors, the recommendations of the RWMA Organizational Study, prepared and presented by HF&H Consultants, were approved conceptually as proposed, and RWMA staff was directed to initiate the implementation process. For reference, the RWMA Organizational Study was initiated in response to the development of state regulations regarding Short-lived Climate Pollutants: Organic Waste Reductions [Senate Bill 1383 (Lara, Chapter 395, Statutes of 2016)] and anticipated RWMA organizational staffing challenges. The RWMA Organizational Study noted that SB 1383 programs will be more successful if generators have a clear understanding and belief in the consistent region-wide application of ordinances; programs and services; generator requirements; inspections; waivers; and, levying of fines.

The next step in the implementation process was to begin drafting the amended RWMA Joint Powers Agreement (JPA) and the Regional Agency Formation Agreement for review and consideration first by the member jurisdiction administrators; second by the RWMA Board of Directors; and then finally by each of the policy bodies of the member jurisdictions after the SB 1383 regulatory process was concluded. The SB 1383 regulations were finalized in late 2020. Based on the final SB 1383 regulatory package, it was understood that a JPA agency would be

able to accept regional responsibility to CalRecycle and liability for any state fines for regional programs resulting in the reduction of the total amount of such liability. However, new guidance subsequently issued by CalRecycle prohibits a jurisdiction from delegating full responsibility for regulatory compliance with SB 1383 to a JPA, leaving formation of a special legislative district as the only option for protecting the member jurisdictions from much of any future regulatory compliance enforcement action by the state.

After discussing the pros and cons of a special district, the RWMA administrators directed RWMA staff to modify the draft amended JPA Agreement to reflect the new guidance, meaning that individual member jurisdictions will remain accountable for more provisions of the Senate Bill 1383 regulatory requirements than was originally conceptualized. Revised draft amended Joint Powers Authority and Regional Agency Formation Agreements were provided to the RWMA administrators for review prior to submittal to the Board and no comments were received. At their July 15th meeting, the RWMA Board of Directors directed RWMA staff to forward the proposed amended RWMA Joint Powers Agreement (JPA) and Proposed Amended RWMA Regional Agency Formation Agreement to the member jurisdictions for adoption consideration.

It should be noted that while amendments to the existing JPA and Regional Agency Formation Agreements require approval only by each county and the city in each county which contains the majority of the population of the incorporated area of each county, one of the modifications in the proposed amended agreements is that future amendments will require the approval of all member jurisdictions. ***In effect, if Sutter County, Yuba County, Yuba City and Marysville all approve these proposed amendments, the proposed changes will go into effect regardless of any action by the Wheatland City Council. Once adopted, going forward, Wheatland will have a meaningful vote on any future amendments.***

Proposed Regional Waste Management Authority Fourth Amended and Restated Joint Powers Agreement

Attached as a separate document is the proposed amended RWMA JPA with the proposed amended text shown as tracked changes. The proposed amended JPA is intended to serve as the framework for continued cooperation and sharing of resources by the six member jurisdictions while providing the necessary powers and authorities to the RWMA to comply with expanding state requirements and the associated complexity of municipal waste management services on behalf of the member jurisdictions. This amended JPA draws on guidance provided by CalRecycle and example language gleaned from other solid waste management joint powers agreements. It has also been reviewed for legal sufficiency by the RWMA's legal counsel Brant Bordsen.

In addition to a variety of minor editing and legal clean-up language changes, the proposed amended JPA addresses the following new and/or modified responsibilities and authorities that would be assigned to the RWMA as stated in the following sections:

Section 3.G. TECHNICAL ADVISORY COMMITTEE – This section was added to reflect the desire of the RWMA member jurisdiction administrators to have a specified role in RWMA projects.

Section 4. FUNDING – The proposed revisions would allow the RWMA Board to establish the surcharge value that the member jurisdictions would then be required to incorporate into their local rate structure. Should the RWMA become the contracting authority for the provision of solid waste collection, processing and disposal services, the RWMA Board will have the authority to directly adjust the rates to include the surcharge value. The proposed amendment also expands

and clearly defines the list of possible RWMA funding sources. The existing JPA provides for some restrictions on funding sources which would be modified by the proposed amended JPA.

Section 5. POWERS OF THE AUTHORITY – The proposed revisions to this section represent a significant expansion of the powers and authority of the RWMA as deemed necessary for compliance with expanding state requirements and the associated increased complexity of the management of solid waste services.

Section 5.A. – Adoption and amendment of some or all ordinances governing compliance with the Senate Bill 1383 regulatory compliance requirements by organic waste generators, haulers, commercial edible food generators and other subject entities and to provide model ordinances governing the collection of solid wastes for adoption consideration by each of the member jurisdictions. Examples of ordinances that could be adopted by the RWMA include, but are not limited to:

- i. An enforceable ordinance requiring organic waste generators, haulers and other entities subject to Senate Bill 1383 to participate in organic waste separation and diversion programs.
- ii. An enforceable ordinance requiring commercial edible food waste generators, haulers and other entities subject to Senate Bill 1383 to participate in commercial edible food waste recovery activities.

Examples of model ordinances that could be drafted by the RWMA for adoption consideration by each of the member jurisdictions include, but are not limited to:

- iii. General ordinances governing the collection of solid waste.
- iv. Extension of the Program Areas in the unincorporated areas of Yuba and Sutter Counties, as necessary, and likely up to the boundaries of the low population Census Tracts that are eligible for waivers.
- v. Establish and/or extend enforceable mandatory refuse collection areas, as necessary.
- vi. Ordinances and/or policies related to the procurement of recovered organic waste products and recycled content paper procurement requirements of Senate Bill 1383.
- vii. Enforceable ordinances relative to the construction and demolition debris diversion requirements and provision of readily accessible areas that serve multi-family and non-residential developments as specified by CALGreen which is part of the State Building Code and already adopted by each of the member jurisdictions.
- viii. Enforceable ordinances relative to the California Model Water Efficient Landscape Ordinance requirements of Senate Bill 1383.

Section 5.B. – This section was added to provide for the development of a master franchise agreement for solid waste services rather than six individual franchise agreements if all of the member jurisdictions are in agreement. If the RWMA becomes the contracting entity for the member jurisdictions this would require the City of Marysville, the County of Yuba and Yuba City to establish separate agreements for provision of street sweeping services in Marysville, for the Ponderosa Landfill Closure and Transfer Station Services and Ponderosa Transfer Station User Fees in Yuba County and for sludge disposal from Yuba City. The same would apply for any other jurisdiction specific programs. This section of the amended JPA also provides for compliance monitoring for selected provisions of the member jurisdictions' collection services agreements, if so, delegated to the RWMA. It should be noted that since 2019 the RWMA has been delegated compliance monitoring authority by each of the member jurisdictions for some selected provisions of the member jurisdictions' collection services agreements.

Sections 5.C. – I. – These sections provide the RWMA the funding and other powers and authorities necessary to further the purposes of the agreement including to purchase and develop real and personal property for the provision of solid waste services. This would include the associated issuance of bonds, incurring debt, etc. should the acquisition or construction of any solid waste facilities ever be considered necessary for the provision of solid waste management services.

Section 5.J. – This section of the amended JPA specifically provides the power and authority to apply for and execute appropriate grants or contracts of financial assistance from local, state and federal agencies. While the RWMA has been engaged in this activity for some time, this section specifically provides that authority to make the application process more efficient by decreasing the number of letters of authorization that the RWMA has to seek from member jurisdictions for each application. Due to state laws, the CalRecycle Beverage Container Recycling City/County Payment Program will still require one of the member jurisdictions (e.g., Yuba County) to continue to serve as the Lead Agency for each regional funding request.

Sections 5.K. – L. – These sections include no substantive modifications.

Section 5.M. – This section delegates the RWMA to act on behalf of each of the member jurisdictions for compliance with specific provisions of Senate Bill 1383. These include coordinating, administering and/or implementing certain organic waste collection and diversion programs and the edible food recovery program, including the associated education and outreach, monitoring, record keeping and reporting and enforcement programs. Responsibility for some provisions will remain with the individual member jurisdictions with the RWMA providing support and reporting services. The provisions that will remain the primary responsibility of individual jurisdictions include:

- i. Monitoring and enforcement of the construction and demolition debris diversion requirements and provision of readily accessible areas that serve multi-family and non-residential developments as specified by CALGreen which is part of the State Building Code and already adopted by each of the member jurisdictions.
- ii. Monitoring and enforcement of the California Model Water Efficient Landscape Ordinance requirements of Senate Bill 1383.
- iii. Procurement of recovered organic waste products and recycled content paper as required by Senate Bill 1383.

Section 5.N. – This section formally allows the RWMA to coordinate and/or implement on behalf of each of the member jurisdictions compliance activities relative to Assembly Bill 341 and Assembly Bill 1826 even though the RWMA has effectively been serving in this capacity. Each of the member jurisdictions also previously designated the RWMA in late 2019 to work on their behalf to review compliance with certain provisions of their respective Collection Service Agreements with Recology Yuba-Sutter, including public education and information activities and compliance with Assembly Bill 341 and Assembly Bill 1826 requirements. It is important to note that this delegation is to the extent allowed by law and that the individual member jurisdictions will still be subject to state enforcement.

Section 5.O. – This section includes no modifications.

Section 5.P. – This section was modified to eliminate the prohibition on the RWMA to enter into contracts or agreements and incur financial obligations that would be binding on any of the member jurisdictions should any jurisdiction withdraw from the RWMA or the RWMA JPA be

terminated. Elimination of this prohibition is necessary to prevent conflict with other provisions of the amended JPA Agreement under which contracts and agreements for significant programs and facilities might now be undertaken.

Section 5.Q. – This section was modified to include the power and authority to purchase, lease or rent real property in addition to the previously listed capital equipment and facilities necessary to provide the services furnished by the RWMA. “Real property” was added to this list to cover any potential future action to acquire or develop solid waste facilities.

Section 5.S. – This section was previously Section 13 in the current JPA Agreement.

Section 5.T. – This section includes no modifications.

Section 6. TREASURER AND AUDITOR – This section includes additional language regarding accountability for all funds, receipts and disbursements per Section 6505 of the Government Code.

Section 9. DUTIES AND RESPONSIBILITIES OF MEMBER JURISDICTIONS – This is a new proposed section that outlines the duties and responsibilities of the member jurisdictions to support the programs and activities of the RWMA including issuing and adopting letters and resolutions of support for regional grant and payment program applications and adoption consideration of ordinances or contract provisions necessary to further the purposes of the JPA Agreement and to comply with state law. Other provisions of the proposed amended JPA Agreement that give the RWMA responsibility for solid waste management will serve to reduce the number of letters of authorization needed from member jurisdictions for grant and city/county payment program applications. Going forward, the Beverage Container Recycling City/County Payment Program will likely be the only funding program for which letters of authorization will still be needed from individual member jurisdictions as state law prohibits a regional agency from directly applying for these funds.

Examples of ordinances and/or contract provisions that member jurisdictions will be responsible for adoption consideration include, but are not limited to:

- i. Mandatory solid waste collection.
- ii. Expansion of the Program Areas in the unincorporated areas of Yuba and Sutter Counties.
- iii. Mandatory recycling and organic materials collection programs.
- iv. Monitoring and enforcement of the construction and demolition debris diversion requirements and provision of readily accessible areas that serve multi-family and non-residential developments as specified by CALGreen which is part of the State Building Code and already adopted by each of the member jurisdictions.
- v. Monitoring and enforcement of the California Model Water Efficient Landscape Ordinance requirements of Senate Bill 1383.
- vi. Procurement of recovered organic waste products and recycled content paper products as required by Senate Bill 1383.

Section 11. AMENDMENT – Following discussion and concurrence by the RWMA administrators, this section was modified to require future amendments and modifications to the JPA Agreement to be approved by each of the member jurisdictions instead of only by each of the counties and the city with the largest population in each of the counties. This modification was recommended to fully support the provisions of this JPA Agreement by requiring all parties to approve future amendments and modifications.

Section 12. WITHDRAWAL OF MEMBER AND AGREEMENT TERMINATION – This section was modified to change the withdrawal and termination notification provisions from 180 days in advance of the requested withdrawal and termination notification date to two years prior to the termination date of the then current solid waste service agreement. The reason for this change is to allow for certainty in planning, implementing and funding programs and to provide sufficient time to put adjustments in place if one or more of the member jurisdictions desires to withdraw from the JPA. Provisions were also added to this modified section stipulating that any debts, liabilities and obligations remain the responsibility of the withdrawing member jurisdictions. Specific provisions were also added stating that withdrawal or termination may result in the loss of use or special charges for continued use of the Yuba-Sutter Household Hazardous Waste Facility, any other regional facilities or programs that may be developed in the future, and yet to be established requirements for continued funding of the Local Enforcement Agency.

Section 13. REMOVAL OF A MEMBER – This section was added to provide for removal of a member agency from the RWMA for material breaches of the JPA Agreement that remain uncured after six (6) months' notice.

Section 14. CONTINGENCY PLAN FOR MEMBER JURISDICTIONS – This section was added to outline contingency plans for member jurisdictions in the event of withdrawal from or termination of the JPA, including program funding and/or implementation and required state planning documents and reporting.

Section 16. LIMITATION OF POWERS – This section was added to establish the statutory limitations on the exercise of powers based on statutory limitations applicable to the County of Yuba, and if the County of Yuba ceases to be a member jurisdiction, on the statutory limitations applicable to the County of Sutter.

Proposed Regional Waste Management Authority Amended Region Agency Formation Agreement

Also attached as a separate document is the proposed RWMA Amended Regional Agency Formation Agreement showing the amended text as tracked changes. The Regional Agency Formation Agreement is an overlay agreement that follows the JPA and was established for the purposes of combining disposal and diversion quantities for determining compliance with the California Integrated Waste Management Act of 1989; to assign responsibility for any civil penalties incurred pursuant to the California Integrated Waste Management Act of 1989 to the RWMA; to allow for the efficient operation of diversion programs on a region-wide basis; to allow the RWMA to prepare disposal reports to CalRecycle; and, to allow for the preparation, adoption and submittal of the Regional Integrated Waste Management Plan including the Source Reduction and Recycling, Household Hazardous Waste, Nondisposal Facility and Regional Siting Elements and any additional elements or plans, amendment or revisions thereto. Relative to any civil penalties incurred for non-compliance with the California Integrated Waste Management Act of 1989, the Regional Agency Formation Agreement authorizes the RWMA to allocate the responsibility to the member jurisdictions based on relative population of each jurisdiction for the year in which the civil penalties are incurred. Regional Agency formation agreements are subject to approval by CalRecycle.

The proposed amended Regional Agency Formation Agreement addresses the following modifications:

1. To reflect the amended provisions of California Public Resources Code Section 41821.5 that resulted in the elimination of the requirement for counties to serve as the agency responsible for compiling the disposal information from haulers and facility operators for determination of compliance with PRC Section 41780 (i.e., achievement of the 50 percent diversion goal per AB 939) which had previously been assigned to the RWMA. California Public Resources Code Section 41821.5 now requires that haulers and facility operators report diversion and disposal information directly to CalRecycle.
2. To reflect that the JPA is simultaneously being amended and may be amended from time to time.
3. To reflect the potential activation of amended provisions of the RWMA JPA to grant the RWMA the power and authority to contract for solid waste services in Section 7. Duties and Responsibilities of Member Jurisdictions of the JPA.
4. To establish as part of the contingency plan that member jurisdictions are responsible for program funding and/or implementation for programs that were established based on the powers and authorities provided to the JPA should the JPA be terminated, modified or implemented in such a way as to affect the RWMA's power to require funding and/or implementation of programs in Section 8. Contingency Plan for Member Jurisdictions of the JPA.
5. To reflect the proposed amended provisions of the RWMA JPA regarding the timing of notifications for withdrawal and termination of the agreement relative to the termination date of the then current solid waste service agreement and also to establish provisions regarding the continuation of any debts, liabilities and obligations related to civil penalties in Section 12. Withdrawal and Termination of the JPA.
6. To reflect in Section 12. Amendment that future amendments will require the approval of all member jurisdictions consistent with the proposed amended JPA Agreement.

Alternatives

Do not adopt the proposed amended agreements. If you do not adopt and the four larger jurisdictions do adopt the amendments, Wheatland will still be a part of RWMA and subject to the provisions of the amendment agreements.

Fiscal Impact

Adoption of the proposed amended agreements will provide for development and implementation of programs on a regional basis which is assumed to be more cost effective than if done by each jurisdiction individually. The RWMA is primarily funded by surcharges on residential, commercial and debris box refuse collection services.

Attachments

1. Resolution 36-21

2. Proposed Regional Waste Management Authority Fourth Amended and Restated Joint Powers Agreement Effective November 1, 2021 [Track Changes Version]
3. Proposed Regional Waste Management Authority Amended Regional Agency Formation Agreement Effective November 1, 2021 [Track Changes Version]

RESOLUTION NO. 36-21

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHEATLAND
ADOPTING THE PROPOSED FOURTH AMENDED AND RESTATED REGIONAL
WASTE MANAGEMENT AUTHORITY JOINT POWERS AGREEMENT AND
AMENDED REGIONAL AGENCY FORMATION AGREEMENT AND
AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROPOSED AMENDED
AGREEMENTS**

WHEREAS, the County of Sutter, County of Yuba, City of Live Oak, City of Marysville, City of Wheatland and City of Yuba City entered into a Joint Powers Agreement on July 1, 1990, establishing the Bi-County Integrated Waste Management Authority to jointly address the provision of waste management services including the planning for future provision of said services on a regional basis rather than individually; and,

WHEREAS, the Joint Powers Agreement was amended July 1, 1994, to add the City of Gridley and to change the name of the agency to the Regional Waste Management Authority and the Joint Powers Agreement was amended again on July 1, 2001, to delete the City of Gridley as a party to the agreement; and,

WHEREAS, the County of Sutter, County of Yuba, City of Live Oak, City of Marysville, City of Wheatland and City of Yuba City also entered into a Regional Agency Formation Agreement on May 1, 1995, as amended July 1, 2001, specifically to form a Regional Agency for purposes of combining disposal and diversion quantities for determining compliance with the California Integrated Waste Management Act of 1989; to allow for the efficient operation of diversion programs on a region-wide basis; to develop regional planning documents; and, to assign responsibility for any civil penalties incurred pursuant to the California Integrated Waste Management Act of 1989 to the Regional Waste Management Authority; and,

WHEREAS, Senate Bill 1383 (Lara, 2016), Assembly Bill 1826 (Chesbro, 2014); and Assembly Bill 341 (Chesbro 2011) and the corresponding regulations developed by the California Department of Resources Recycling and Recovery (CalRecycle) established increased requirements for jurisdictions to implement extensive new waste management programs which would be more effectively coordinated, administered and/or implemented as regional programs rather than by individual jurisdictions; and,

WHEREAS, modifications to the Regional Waste Management Authority Joint Powers Agreement and corresponding modifications to the Regional Waste Management Authority Regional Agency Formation Agreement are necessary to provide for said more effective coordinated, administered and/or implemented regional programs.

NOW, THEREFORE, BE IT RESOLVED that the City Manager is authorized to execute the proposed FOURTH AMENDED AND RESTATED REGIONAL WASTE MANAGEMENT AUTHORITY JOINT POWERS AGREEMENT AND AMENDED REGIONAL AGENCY FORMATION AGREEMENT.

PASSED AND ADOPTED at a regular meeting of the Wheatland City Council of the City of Wheatland, State of California on the 12th day of October 2021 by the following vote:

AYES

NOES:

ABSENT:

ABSTAIN:

Rick West, Mayor

ATTEST:

Lisa J. Thomason, City Clerk

COUNSEL
APPROVED AS TO FORM:

REGIONAL WASTE MANAGEMENT AUTHORITY

FOURTH AMENDED AND RESTATED JOINT POWERS AGREEMENT

THIS AMENDED AND RESTATED JOINT POWERS AGREEMENT ("Agreement") of the REGIONAL WASTE MANAGEMENT AUTHORITY is made and entered into with an effective date of July-November 1, 2001-2021 by and between the COUNTY OF SUTTER and the COUNTY OF YUBA, political subdivisions of the State of California, and the CITY OF LIVE OAK, the CITY OF MARYSVILLE, the CITY OF WHEATLAND, and the CITY OF YUBA CITY, municipal corporations, referred to hereinafter as "Sutter County", "Yuba County", "Live Oak", "Marysville", "Wheatland", and "Yuba City", and which agencies are generally referred to herein as "Party(ies)" or "Member Agency(ies)".

RECITALS

WHEREAS, the foregoing Pparties to this Agreement have the common power to provide waste management services including the storage, collection, recycling and disposal of solid wastes within their respective jurisdictions; and,

WHEREAS, the Pparties to this Agreement desire to jointly address the provision of waste management services including the planning for the future provision of said services on a Bi-County-regional basis rather than individually; and,

WHEREAS, on July 1, 1990, a Joint Powers Agreement was entered into by the Pparties to this Agreement whereby the Bi-County Integrated Waste Management Authority was established as a separate legal entity to provide solid waste services to the Pparties; and,

WHEREAS, on July 1, 1994, said agreement was amended in whole to add the City of Gridley as a party to the agreement; make other minor related and unrelated changes to the

agreement; and, change the name of the agency created by this Agreement to the Regional Waste Management Authority; and,

~~WHEREAS, on July 1, 2001, said the parties to the original agreement wish to was again amended in whole said agreement to delete the City of Gridley as a party to the agreement; and,~~

~~WHEREAS, the parties also wish to make other related and unrelated amendments to the original agreement to further refine both the terms of the original agreement and the specific powers of the Regional Waste Management Authority created by said agreement to reflect the change in membership; and, to allow for future changes in municipal solid waste planning requirements; and,~~

~~WHEREAS, the Regional Waste Management Authority has been the responsible agency for the preparation and submission of regional planning documents and annual reports and coordination of waste diversion programs pursuant to Assembly Bill 939 (Sher, 1989) (California Integrated Waste Management Act of 1989) and the corresponding regulations in Title 14 of the California Code of Regulations, Division 7, Chapter 9; and,~~

~~WHEREAS, the Regional Waste Management Authority is the owner and operator of the Yuba-Sutter Household Hazardous Waste Facility which is located on property leased from the City of Yuba City and operated by a contract operator; and,~~

~~WHEREAS, the Regional Waste Management Authority by prior agreement reimburses the Yuba County Environmental Health Department on a quarterly basis for the cost (net of grant and fee revenues) for provision of the Local Enforcement Agency; and,~~

~~WHEREAS, Senate Bill 1383 (Lara, 2016) and the corresponding regulations developed by the California Department of Resources Recycling and Recovery (CalRecycle) in Title 14, Division 7, Chapter 12 of the California Code of Regulations (Senate Bill 1383 Regulations) to implement the goals in Senate Bill 1383 to reduce statewide landfill disposal of organic waste~~

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from the 2014 level by 50 percent by 2020 and by 75 percent by 2025 and includes requirements intended to meet the statewide goal that not less than 20 percent of edible food that is currently disposed of is recovered for human consumption by 2025; and,

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WHEREAS, the Senate Bill 1383 Regulations require jurisdictions to implement an organic waste diversion program that requires the adoption of enforceable ordinances or similar enforceable mechanisms consistent with the requirements of the Senate Bill 1383 Regulations; provision of organic waste collection services to businesses and residences; provision of an edible food recovery program; education and outreach; monitoring, recordkeeping and reporting; related enforcement activities; and procurement of recovered organic waste products and recycled content paper; and,

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WHEREAS, the Senate Bill 1383 Regulations require counties, in coordination with jurisdictions located with the county, to conduct infrastructure capacity planning specific to organic waste recycling capacity and edible food recovery capacity; and,

WHEREAS, Assembly Bill 1826 (Chesbro, 2014) (Recycling of Commercial Organic Waste (MORE)) was signed into law and established the requirement for jurisdictions to implement an organic waste recycling program to divert organic waste generated by multi-family housing, businesses and organizations, as specified; and,

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WHEREAS, Assembly Bill 341 (Chesbro, 2011) (Recycling of Commercial Solid Waste (MCR)) was signed into law and established requirements for jurisdictions to implement a commercial solid waste recycling program designed to divert commercial solid waste from landfilling; and,

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WHEREAS, CalRecycle developed regulations in Title 14, Division 7, Chapter 9.1 of the California Code of Regulations to implement the goals of the MCR law; and,

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WHEREAS, the Parties expressly designate the Regional Waste Management Authority as the responsible authority to coordinate, administer and/or implement compliance with and enforcement of Senate Bill 1383, as specified herein, on behalf of each Party hereto, with the exception of 1) implementation and enforcement requirements related to the CALGreen Code; 2) implementation and enforcement requirements related to the Model Water Efficient Landscape Ordinance provisions; 3) implementation of the Recycled Content Paper Procurement provisions; and, 4) implementation of the Procurement of Recovered Organic Waste Products requirements as specified herein; and,

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WHEREAS, the Parties also expressly designate and desire for the Regional Waste Management Authority to coordinate, administer, and/or implement compliance with Assembly Bill 1826 and Assembly Bill 341 on behalf of each Party hereto; and,

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WHEREAS, the Parties hereto would prefer to delegate more responsibility to the Regional Waste Management Authority through this Joint Powers Authority (JPA) Agreement to ensure compliance with Senate Bill 1383 pursuant to the statement in the Specific Purpose and Necessity of the Regulations for Senate Bill 1383 regarding Section 18981.2, Implementation Requirements of Jurisdictions, subsection (c) clarifying that "nothing in this section is intended to override the provisions of the Joint Exercise of Powers Act (Gov. Code Sections 6500 et seq.), state law governing districts (Gov. Code Sections 58000 et seq.) or be construed in any way that would alter the legal relationship (statutory, contractual or otherwise) between a city, county, or city and county and a JPA or special district. It is intended that the obligations in this chapter undertaken by a special district or a JPA will be the responsibility of the special district or JPA and those entities would be subject to any enforcement action." Subsequent CalRecycle staff guidance asserts that, "any prior guidance notwithstanding, CalRecycle is clarifying that, in the event of non-compliance issues, any enforcement action would be against individual jurisdictions rather than the JPA,

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Enforcement may include the imposition of penalties for non-compliance.” Additionally, state law contains no provisions for cities and counties to delegate full responsibility to a JPA for compliance with Assembly Bill 1826 and Assembly Bill 341.

WHEREAS, the Parties to the original Joint Powers Agreement now wish to also amend said agreement to grant the Regional Waste Management Authority the power and authority to

- 1) adopt and amend some or all ordinances regarding the Senate Bill 1383 regulatory compliance requirements by organic waste generators, haulers, commercial edible food generators and other subject entities;
- 2) provide model ordinances governing the collection of solid wastes for adoption consideration by each of the Member Agencies;
- 3) provide specific contract, rate structures and franchise agreement provisions and/or amendments for adoption consideration by each of the Member Agencies;
- 4) serve as Contract Administrator if so delegated pursuant to section 5.B.i. of this Agreement;
- 5) if all Parties hereto agree pursuant to sections 5.B.iii or 5.B.iv, adopt and amend all contracts, rate structures and franchise agreements for solid waste services to the extent allowed by law and as specified by this Agreement;
- 6) acquire, convey, construct, finance, refinance, regulate, manage, maintain and operate buildings, works and improvements for the provision of solid waste services;
- 7) acquire, hold, improve and convey real and personal property for the provision of solid waste services;
- 8) incur and discharge debts, liabilities and obligations;
- 9) issue securities, bonds, notes, warrants, other evidences of indebtedness and certificates of participation in Regional Waste Management Authority leases or contracts to finance costs and expenses incidental to the projects of the Regional Waste Management Authority;
- 10) issue revenue bonds, subject to the provisions and limitations of the laws of the State of California;
- 11) loan proceeds from the issuance of bonds or securities;
- 12) levy, fix, set and/or impose fees, assessments and charges to further the purposes of this Agreement to the

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~~extent permitted by law and by this Agreement; and, 13) apply for and execute appropriate grants or contracts of financial assistance from local, state and federal agencies.~~

WHEREAS, pursuant to the terms of the Regional Waste Management Authority Joint Powers Agreement, the Pparties hereto wish to amend and restate the agreement dated July 1, ~~1994-2001~~ in whole for the provision of the above waste management services.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, the Pparties hereto agree as follows:

1. PURPOSES OF AGREEMENT. This Agreement is made and entered into for the purposes of providing reliable, economical, integrated and environmentally sound waste management services to all of the residents, businesses and organizations of the region including the unincorporated areas of Sutter and Yuba Counties and the areas embraced within the corporate limits of Live Oak, Marysville, Wheatland and Yuba City. Such services to be provided by the REGIONAL WASTE MANAGEMENT AUTHORITY, herein after referred to as the "Authority." This amended and restated Joint Powers Agreement ~~supersedes replaces~~ that certain amended Joint Powers Agreement made and entered into effective July 1, ~~1994-2001~~. The Authority which was created by the July 1, 1990 Joint Powers Agreement shall be construed as having been in continual existence since its creation and no action previously exercised by said Authority shall be deemed to be modified, amended or otherwise affected by this Agreement except as expressly provided herein.

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2. MUTUAL BENEFIT. The Pparties hereby agree that this Agreement is made and entered into for the mutual benefit of all member entities and as such each Pparty agrees to grant to all other Pparties to this Agreement, and the residents, ~~and~~ businesses and organizations thereof, reasonable access to any existing or future waste facilities located within the collective boundaries of the ~~member-Member Agencies jurisdictions~~. No Pparty to this Agreement may

exact any tax, fee, surcharge or other payment from any one or more Pparties, or the residents, and businesses and organizations thereof, to this Aagreement that is not required of all Pparties or the residents, and businesses and organizations thereof.

3. AGENCY CREATED TO ADMINISTER AGREEMENT. The Authority has previously been designated, created, and established as the agency to administer and execute this Aagreement, the composition and constitution of which shall be as follows:

A. Board of Directors. The Authority shall be governed by a six (6) member Board of Directors consisting of the following regular voting membership: One Sutter County Supervisor; one Yuba County Supervisor; one Live Oak City Council person; one Marysville City Council person; one Wheatland City Council person; and, one Yuba City City Council person with each to be appointed by their respective boards and councils. Each of the Pparties to this Aagreement shall designate an alternate member who shall serve in the absence of the regular member.

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B. Terms of Appointment. All members of the Authority Board shall serve at the pleasure of their respective appointing bodies and vacancies will be filled by their respective member entities for which a vacancy occurs.

C. Officers. The Authority Board of Directors shall at their first meeting and annually thereafter during the first regular meeting of each calendar year select from its members a Chairperson and Vice-Chairperson. The Chairperson shall act as moderator for all Authority meetings, have no exclusive powers or authority other than the calling of special meetings, and may make and recognize shall have the privilege of making motions and seconds. The Vice-Chairperson shall assume the duties of the Chairperson in the absence of the Chairperson.

D. Quorum. Attendance of the regular or alternate representative from four of the ~~Member Agencies member-jurisdictions~~ shall constitute a quorum for the purpose of voting on any matters which come before the Authority for action.

E. Voting. All formal acts of the Authority shall be made by motion of one of the members, duly seconded, and subject to a vote of the members in attendance at a duly called meeting of the Board. Except as otherwise provided by law or this Agreement, ~~f~~Four affirmative votes are required for adoption or passage of any proper motion.

F. By-Laws. The Board shall cause to be prepared and shall subsequently adopt rules or by-laws to govern its activities. Said rules or by-laws shall provide for budget adoption procedures, contracting guidelines, the manner in which meetings may be called, the notice to be given therefore and such other matters as may be deemed appropriate by the Board.

G. Technical Advisory Committee. ~~A Technical Advisory Committee comprised of the City Manager or County Executive Officer of each of the Member Agencies shall serve on the Technical Advisory Committee to advise the Authority staff and Board.~~

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4. FUNDING. The Board of Directors is hereby authorized to fund, through whatever means and to the extent allowed by law and this Agreement, the necessary programs and activities to support the purposes of this Agreement with the restriction that no contribution shall be exacted directly from any Pparty to this Agreement without that Pparty's consent except as allowed by this Agreement. The primary funding source for the Authority shall be a solid-waste surcharge duly assessed ~~by each member jurisdiction~~ on all franchised residential, ~~and~~ commercial and drop box solid waste collection accounts. The surcharge value shall be set by the Authority Board of Directors and shall be implemented by the Member Agencies, as necessary and approved by the member jurisdictions. Other funding sources may include

revenues from fees and charges for the use of facilities owned or operated by the Authority; revenues from the sale of recyclable materials, land, leases, and other similar sources; grant and payment program funds received from local, state or federal agencies; and, funds from the sale of securities, bonds or certificates of participation issued by the Authority to the extent allowed by law and this Agreement.

5. POWERS OF THE AUTHORITY. The Authority shall be vested with the power and authority to:

A. Exercise the common powers and obligations of the Parties hereto to provide ~~waste management services except for the following which shall be the exclusive authority of the parties to this agreement unless specifically authorized by one or more jurisdictions either individually or collectively, and then only as to the authorizing jurisdiction: The adoption and amend of some or all ordinances governing compliance with the Senate Bill 1383 regulatory compliance requirements by organic waste generators, haulers, commercial edible food generators and other subject entities and to provide model ordinances governing the collection of solid wastes for adoption consideration by each of the Member Agencies, and the adoption of all contracts, rate structures, and franchise agreements with collection agencies.~~

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B. Exercise the common powers and obligations of the Parties hereto to provide solid waste management services including the adoption of all contracts, rate structures, and franchise agreements for solid waste services, including:

i. Accepting the delegation of Contract Administrator by written notice from the current Contract Administrator of each Member Agencies' collection service agreement to the contractor; and,

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ii. Provision of specific contract, rate structures and franchise agreement provisions and/or amendments for adoption consideration by each of the Member Agencies; and,

iii. If agreed to by the Member Agencies' solid waste collection service contractor, accepting the assignment of the current collection service agreements to the Authority by resolution of each of the member jurisdictions; and,

iv. Upon expiration of the existing solid waste collection service agreements for each Member Agency or replacement thereof, to procure and/or negotiate a master collection service agreement for services in all of the Member Agencies if all Parties hereto agree by resolution of each of the Member Agencies' governing bodies.

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C. Levy, fix, set and/or impose fees, assessments and charges to further the purposes of this Agreement to the extent permitted by law and this Agreement. Receive, process and recommend action by the member jurisdictions on all rate adjustment applications submitted by the franchised solid waste collection contractor pursuant to the adopted Rate Adjustment Guidelines dated July 11, 2000 as it may be amended from time to time.

D. Acquire, convey, construct, finance, refinance, regulate, manage, maintain and operate buildings, works and improvements for the provision of solid waste services.

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E. Acquire, hold, improve and convey real and personal property for the provision of solid waste services.

F. To incur and discharge debts, liabilities or obligations.

G. To issue securities, bonds, notes, warrants, other evidences of indebtedness and certificates of participation in Authority leases or contracts to finance costs and expenses incidental to the projects of the Authority.

H. Issue revenue bonds, subject to the provisions and limitations of the laws of the State of California.

I. Loan proceeds from the issuance of bonds or securities.

J. Apply for and execute appropriate grants or contracts of financial assistance from local, state and federal agencies either directly or on behalf of the Member Agencies.

C.K. Prepare, adopt and submit on behalf of the Parties hereto the Regional Integrated Waste Management Plan including the Source Reduction and Recycling, Non-Disposal Facility, Household Hazardous Waste and the Regional Siting Elements thereto and any additional elements or plans that may be required including any amendments or revisions thereto.

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D.L. Prepare, adopt and submit the necessary review and status reports for the Regional Plan and the elements thereto as required by the Department of Resources Recycling and Recovery Integrated Waste Management Board of the State of California or any successor or other State or Federal agency with jurisdiction.

M. Act as the delegate on behalf of each Party to this Agreement for compliance with certain provisions of Senate Bill 1383 (Public Resources Code sections 42652, 42654) and the corresponding regulations in Title 14 of the California Code of Regulations, Division 7, Chapter 12 to the extent allowed by law. These delegated responsibilities, include, but are not limited to:

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i. Coordinating, administering and/or implementing certain state mandated Senate Bill 1383 programs, including, but not limited to organic waste diversion and the

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related requirements for, education and outreach, monitoring, record keeping and reporting, and related enforcement. Such compliance shall also include conducting organic waste capacity planning, as required by law.

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ii. Coordinating with and assisting the Member Agencies with compliance with the CALGreen Code, Model Water Efficient Landscape Ordinance, recovered organic waste product procurement and recycled content paper procurement requirements of Senate Bill 1383 and compilation of associated jurisdiction reports and provision of those reports to the California Department of Resources Recycling and Recovery, as required by law. Coordination and assistance will include provision of summaries / descriptions of the regulatory requirements; model ordinances; model reporting tools; technical support; and, coordination amongst the Member Agencies and with service providers, as necessary, relative to these provisions of Senate Bill 1383.

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iii. Coordinating, administering, and/or implementing the edible food recovery requirements of Senate Bill 1383 regulations. Such duties shall include, but are not limited to: assessment of existing capacity for edible food recovery, establishing a food recovery program, inspection of commercial edible food generators for compliance, and education and outreach to all commercial edible food generators subject to Senate Bill 1383 and any other entities or Parties required by law.

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iv. Enforcing the provisions of the ordinance(s) required by Senate Bill 1383 as adopted and/or amended by the Authority by performing compliance monitoring through route reviews, inspections, determining the applicability of waivers, determining whether violations have occurred, and issuing Notices of Violations.

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~~These delegated responsibilities specifically do not include compliance with the CALGreen Code, Model Water Efficient Landscape Ordinance and recovered organic waste product procurement and recycled content paper procurement requirements of Senate Bill 1383 all of which remain the responsibility of each Member Agency.~~

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~~N. To coordinate and/or implement on behalf of each Party to this Agreement compliance activities pursuant to Assembly Bill 341 (Public Resources Code sections 42649 - 42649.7) and the corresponding regulations in Title 14 of the California Code of Regulations, Division 7, Chapter 9.1 and with Assembly Bill 1826 (Public Resources Code sections 42649.8 - 42649.87). Such activities shall be on behalf of each Party to this Agreement to the extent allowed by law and shall include, but is not limited to: i) coordinating with solid waste service providers to identify and monitor multi-family housing, businesses and organizations subject to these laws, provide education and outreach, notify non-compliant entities; and, ii) reporting the progress achieved in implementing the programs in the Annual Report required by Public Resources Code Section 41821, et seq.~~

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~~E.O. ___ Contract with one or more of the Pparties to this Aagreement for services as~~
it deems necessary to effectuate the purposes of this Aagreement. The Authority shall determine the schedule of charges to be made against the Authority for the services rendered by any Pparty providing such services under this Aagreement. The charges so determined shall be a proper charge against the Authority.

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~~F.P. ___ Except as prohibited in Paragraph A. of this section, sSolicit proposals, bids,~~
or contractual quotes from any source capable of providing services to the areas served by the Authority and to enter into contracts for such services as the Authority deems necessary to effectuate the purposes of this Aagreement. ~~Notwithstanding any~~

~~provision herein to the contrary, the Authority shall not have the power to enter into any contract or agreement or incur any financial obligation which shall be binding upon any party to this agreement after such party has withdrawn from the Authority or this agreement is terminated unless such authority was specifically approved by such party during such time as the party was a member of the Authority.~~

G.Q. Purchase, lease or rent, as appropriate, the necessary capital equipment, real property and facilities to provide the services furnished by the Authority.

H.R. Select and remove all officers, agents and employees of the Authority, prescribe such powers and duties for them as may not be inconsistent with law or with this Agreement, require from them security for faithful service, to fix the compensation for services rendered, and to adopt personnel rules and procedures.

S. COMPREHENSIVE LIABILITY INSURANCE. The Authority, being a separate public entity, may take out and maintain in full force and effect during the term of this Agreement, comprehensive liability insurance for the Authority against any and all liability in connection with the execution or administration of this Agreement. The Authority shall not be required to maintain separate policies which are found to be unnecessary because of limited exposure, or are found to duplicate coverage already in full force and effect. The cost of said insurance shall be a proper charge against any funds administered by the Authority pursuant to this Agreement.

~~I.T.~~ The Authority shall have those additional powers as set forth in Section 6508 of the Government Code.

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6. TREASURER AND AUDITOR. The Authority shall select a Finance Director to act as Treasurer for the Authority and be the depository and have custody of the money of the Authority from whatever source. Said Finance Director shall provide for the strict accountability

of all funds and report of all receipts and disbursements of the Authority per Section 6505 of the Government Code and have all of the duties, powers and authority set forth in Section 6505.5 of the Government Code. Said Finance Director shall have authority to draw warrants to pay demands against the Authority upon approval by said Authority. The reasonable charges for the services of the Finance Director shall be a proper charge against the Authority.

7. OBLIGATIONS OF AGENCY. Other than obligations that were considered and committed as specified in Section 4 above, the debts, liabilities and obligations of the Regional Waste Management Authority shall not be the debts, liabilities and obligations of the Parties to this Agreement, but instead shall be the sole responsibility of said Authority.

8. NOTICE OF CREATION OF SEPARATE AGENCY. As provided for in Section 6503.5 of the Government Code, the agency created by this Agreement shall, within thirty (30) days after the effective date thereof, or any amendment thereto, cause a notice of said agreement, or amendment thereto, to be prepared and filed with the Office of the Secretary of State of the State of California in full conformity with the provisions of law.

8.9. DUTIES AND RESPONSIBILITIES OF MEMBER AGENCIES. Member Agencies will be responsible for the issuance and/or adoption consideration of letters and resolutions of support for regional grant and payment program applications as may be requested by the Authority in support of the programs recommended for implementation in the adopted Source Reduction and Recycling Element and for continued support of the Household Hazardous Waste and associated programs as adopted in the Household Hazardous Waste Element.

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Member Agencies will also be responsible for adoption consideration of any ordinances or contract provisions necessary to further the purposes of this Agreement and to comply with state law. Such items may include, but are not limited to:

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i. Enforceable mandatory solid waste collection.

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ii. Expansion of the Program Areas in the unincorporated areas of Yuba and Sutter Counties.

iii. Mandatory recycling and organic materials collection programs.

iv. Monitoring and enforcement of the construction and demolition debris diversion requirements and provision of readily accessible areas that serve multi-family and non-residential developments as specified in the CALGreen Code which is part of the State Building Code (California Code of Regulations, Title 24, Part 11, as may be amended) and already adopted by each of the Member Agencies.

v. Monitoring and enforcement of the California Model Water Efficient Landscape Ordinance requirements of Senate Bill 1383.

vi. Procurement of recovered organic waste products and recycled content paper products as required by Senate Bill 1383.

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9.10. EFFECTIVE DATE/TERM OF AGREEMENT. The effective date/term of this amended Joint Powers Agreement shall commence on July-November 1, 2004/2021, and shall continue until amended or terminated pursuant to the terms contained herein.

10.11. AMENDMENT. This Agreement may be amended or modified at any time, in a manner consistent with and in furtherance of the purposes of this Agreement, with the written consent of each of the Member Agencies/at least each county and the city in each county which contains the majority of the population of the incorporated area of each county.

12. WITHDRAWAL OF MEMBER AND AGREEMENT TERMINATION. Any Party may withdraw from the Authority effective on the termination date of any solid waste service agreement by filing with the Authority a written notice to withdraw no less than one hundred eighty (180) days/two years prior to the termination date of the withdrawing Party's then current solid waste service agreement; provided, however, that there shall be no withdrawal from or termination of the agreement if a) same would conflict with or violate the terms or conditions

~~of any securities or revenue bonds issued by the Authority, and any related documentation; b) same would have any consequences relative to any processing and/or disposal capacity agreements entered into by the Authority; and, c) in any event until any and all revenue bond debt incurred by the Authority for the construction or acquisition of real and personal property has been fully amortized or such debt is refinanced by the Authority or other successor entity. Such withdrawal shall become effective on the termination date of the then solid waste service agreement. ~~close of the Authority's fiscal year.~~ If two or more of the withdrawing Pparties include either Sutter County, Yuba County, Marysville or Yuba City ~~and the effective date of the withdrawals are within one year and one day of each other,~~ this Aagreement will be considered to be terminated on the effective date of such withdrawal. If less than two of the ~~above-named Pparties named in the preceding sentence to this agreement~~ are among the withdrawing Pparties, then this Aagreement will continue in full force and effect. With the written concurrence of no less than four Pparties, this Aagreement may be terminated ~~at any time on the termination date of any solid waste service agreement provided that written notice is provided no less than two years prior to the termination date of the withdrawing Parties' then current solid waste service agreements. Following termination or withdrawal, withdrawing Parties shall remain responsible for their share of any debts, liabilities and obligations entered into by the Authority pursuant to this Agreement, including but not limited to, processing and/or disposal capacity agreements, acquired real and personal property, and operation of facilities.~~~~

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~~The Yuba-Sutter Household Hazardous Waste Facility is owned and operated by the Authority; is located on property leased from the City of Yuba City; and, is subject to an operating agreement with a contract operator. Withdrawal from or termination of this Agreement may result in the loss of use of that facility or special charges for continued use of that facility by~~

residents, businesses and organizations of the withdrawing Parties or all Parties in the case of termination of this Agreement.

The Authority reimburses the Yuba County Environmental Health Department for the cost (net of any grant and fee revenues) for the provision of the Local Enforcement Agency. Withdrawal from or termination of this Joint Powers Agreement will result in yet to be established requirements for the Parties hereto to continue funding their portion of these costs.

Similarly, withdrawal from or termination of this Joint Powers Agreement may result in the loss of use or special charges for continued use of any regional facility or program that may be developed in the future.

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13. REMOVAL OF A MEMBER. The Board of Directors may, by four fifths (4/5) vote of the Board members present, terminate a Member Agency's membership in the Authority for a material breach of this Agreement after six (6) months' notice to such Member Agency. A Member Agency so removed shall be responsible for capital expenditures and non-capital obligations of the Authority as set forth in Section 12 above.

14. CONTINGENCY PLAN FOR MEMBER AGENCIES. In the event that this Agreement is terminated or modified in such a way as to withdraw the Authority's power to fund and/or implement programs for one or more Member Agencies, the responsibility for program funding and/or implementation will revert to the affected Member Agencies.

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At the time of the first five-year revision required under the Integrated Waste Management Act of 1989 for the Regional Integrated Waste Management Plan including the Source Reduction and Recycling, Non-Disposal Facility, Household Hazardous Waste and the Regional Siting Elements thereto and any additional elements or plans that may be required including any amendments or revisions thereto following termination of this Agreement, these planning documents would be converted from regional planning documents to individual

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~~jurisdiction or joint planning documents in which individual data and programs would have to be identified for each participating jurisdiction.~~

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~~15.~~ DIVISION OF ASSETS UPON WITHDRAWAL OR TERMINATION. Upon the withdrawal of any Pparty from the Authority pursuant to the provisions of Section ~~124~~ of this Agreement and such withdrawal does not result in the termination of this Agreement, such Pparty shall be relieved of any further debts, liabilities and obligations of the Authority except as herein specifically provided and such Pparty shall have no further right, title or interest in or to any asset of the Authority. All of the right, title and interest which such withdrawing pParty previously had to the assets of the Authority shall remain the property of the Authority and shall increase proportionally the interest of each of the remaining Pparties. Upon termination of this Agreement pursuant to Section ~~124~~, all assets remaining after the payment of all debts, obligations and liabilities of the Authority shall be returned to the Pparties in proportion to the contributions made by the Pparties; provided, however, that if the Pparties have not made any contribution to the Authority, such remaining assets shall be distributed proportionately to the Pparties on the basis hereinafter set forth. Said proportionate shares shall be based on the ratio that the incorporated population of each city and the unincorporated population of each county bears to the total combined population of all of the member entities. The population for each entity, as described above, and the combined population of all member entities, shall be determined by the most recent and available projections prepared by the Population Research Unit of the State Department of Finance.

~~I. COMPREHENSIVE LIABILITY INSURANCE. The Authority, being a separate public entity, may take out and maintain in full force and effect during the term of this agreement, comprehensive liability insurance for the Authority against any and all liability in connection with the execution or administration of this agreement. The Authority shall not be required to~~

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~~maintain separate policies which are found to be unnecessary because of limited exposure, or are found to duplicate coverage already in full force and effect. The cost of said insurance shall be a proper charge against any funds administered by the Authority pursuant to this agreement.~~

16. LIMITATION OF POWERS. The manner in which the Authority may exercise its powers shall be subject to any statutory limitations applicable to the County of Yuba; provided that, if the County of Yuba shall cease to be a Member, then the Authority shall be restricted in the exercise of its power in the same manner as the County of Sutter.

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2.17. SAVINGS. If any provision of this Agreement is unenforceable, no other provisions shall be affected thereby and all other provisions shall be enforceable to the fullest extent permitted by law.

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IN WITNESS WHEREOF, the Parties have hereunto set their hands on the dates hereinafter indicated.

Attest:

County of Sutter

Clerk of the Board of Supervisors

County Administrator
~~Chairman Board of Supervisors~~

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Date

Date

Attest:

County of Yuba

Clerk of the Board of Supervisors

County Administrator
~~Chairman Board of Supervisors~~

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Date

Date

Attest:

City of Live Oak

City Clerk

Date

Attest:

~~City Manager~~Mayor

Date

City of Marysville

City Clerk

Date

Attest:

~~City Manager~~Mayor

Date

City of Wheatland

City Clerk

Date

Attest:

~~City Manager~~Mayor

Date

City of Yuba City

City Clerk

Date

~~City Manager~~Mayor

Date

1 REGIONAL WASTE MANAGEMENT AUTHORITY

2 AMENDED REGIONAL AGENCY FORMATION AGREEMENT

3
4 THIS AMENDED REGIONAL AGENCY FORMATION AGREEMENT
5 ("Agreement") is made and entered into with an effective date of July-November 1,
6 2001-2021, by and between the COUNTY OF SUTTER and the COUNTY OF YUBA,
7 political subdivisions of the State of California, and the CITY OF LIVE OAK, the CITY
8 OF MARYSVILLE, the CITY OF WHEATLAND, and the CITY OF YUBA CITY,
9 municipal corporations, referred to hereinafter as "Sutter County", "Yuba County", "Live
10 Oak", "Marysville", "Wheatland", and "Yuba City", and which agencies are generally
11 referred to herein as "Party(ies)" or "Member Agency(ies)".

12
13 RECITALS

14 WHEREAS, the foregoing Pparties to this Agreement have the common power to
15 provide waste management services including the storage, collection, recycling and
16 disposal of solid wastes within their respective jurisdictions; and,

17 ~~WHEREAS, on July 1, 1990, a Joint Powers Agreement was entered into by the~~
18 ~~parties to this agreement whereby the Bi-County Integrated Waste Management Authority~~
19 ~~was established as a separate legal entity to provide solid waste services to the parties; and,~~

20 ~~WHEREAS, on July 1, 1994, said Agreement was subsequently amended in whole~~
21 ~~to include the City of Gridley as a party to the Agreement; make other minor related and~~
22 ~~unrelated changes to the agreement; and, change the name of the entity created by this~~
23 ~~Agreement to the REGIONAL WASTE MANAGEMENT AUTHORITY; and,~~

24 ~~WHEREAS, said Agreement is simultaneously being amended effective July 1,~~
25 ~~2001 to delete the City of Gridley as requested by the City of Gridley and to make other~~
26 ~~related and unrelated amendments to the Agreement to further refine both the terms of the~~

1 original Agreement and the specific powers of the Regional Waste Management Authority;
2 and;

3 WHEREAS, the City of Gridley has provided a notice of withdrawal to the
4 Authority effective July 1, 2001 and the remaining parties now wish to amend the Regional
5 Agency Agreement in whole to reflect this change in membership and to make other related
6 and unrelated amendments to the original agreement to further refine both the terms of the
7 original agreement and the specific powers of the Regional Waste Management Authority;
8 and;

9 WHEREAS, the term "Authority" as used herein shall mean and refer to the
10 Regional Waste Management Authority established and created as a separate legal entity
11 by the Parties to this Agreement to provide solid waste services to said Parties pursuant to
12 the terms of that Joint Powers Agreement dated July 1, 1990, as amended July 1, 1994, and
13 July 1, 2001 and November 1, 2021, ~~by and between the parties to this amended Regional~~
14 ~~Agency Formation Agreement~~; and,

15 WHEREAS, California Public Resources Code (PRC) Sections 40970 *et.*
16 ~~seq. through 40975~~ allows cities and counties to form REGIONAL AGENCIES to
17 implement PRC Division 30, Part 2. Integrated Waste Management Plans, in order to
18 reduce the cost of reporting and tracking of disposal and diversion programs by individual
19 cities and counties and to increase the diversion of solid waste from disposal facilities; and,

20 WHEREAS, the Pparties hereto entered into an agreement on May 1, 1995 as
21 amended July 1, 2001 specifically to form a Regional Agency for purposes of combining
22 disposal and diversion quantities for determining compliance with the California Integrated
23 Waste Management Act of 1989; to allow for the efficient operation of diversion programs
24 on a region-wide basis; to develop the Regional Integrated Waste Management Plan
25 including the Source Reduction and Recycling, Household Hazardous Waste, Nondisposal
26 Facility, and Regional Siting Elements and any additional elements or plans that may be
27 required; and, for the Authority, and not Sutter and Yuba Counties to serve as the agency

1 responsible for compiling the disposal information from haulers and facility operators for
2 compliance with PRC Sections 41780 and 41821.5; and,

3
4 WHEREAS, California Assembly Bill 901 (Gordon, Chapter 746, Statutes of 2015)
5 amended PRC Section 41821.5 modifying the reporting requirements and eliminating the
6 requirement for counties to serve as the agency responsible for compiling the disposal
7 information from haulers and facility operators for determination of compliance with PRC
8 Section 41780; and,

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9 WHEREAS, the Pparties hereto wish to assign responsibility for any civil penalties
10 incurred pursuant to the California Integrated Waste Management Act of 1989 to the
11 Authority, serving as the Regional Agency; and,

12 WHEREAS, this Regional Agency Formation Agreement being separate from the
13 existing Joint Powers Agreement that established the Regional Waste Management
14 Authority does not supersede or otherwise effect the existing Joint Powers Agreement as
15 it may be amended from time to time that established the Regional Waste Management
16 Authority,

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17 NOW, THEREFORE, in consideration of the mutual promises and agreements
18 herein contained, the Pparties hereto agree as follows:

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19 1. PURPOSE OF AGREEMENT. This Agreement is made and entered into for
20 the purpose of forming a Regional Agency pursuant to California Public Resources Code
21 Sections 40970 et. seq. through 40975, including the unincorporated areas of Sutter and
22 Yuba Counties and the areas embraced within the corporate limits of Live Oak, Marysville,
23 Wheatland and Yuba City. The Regional Agency being established for purposes of
24 combining disposal and diversion quantities for determining compliance with the

1 California Integrated Waste Management Act of 1989; to allow for the efficient operation
2 of diversion programs on a region-wide basis; to prepare, adopt and submit on behalf of
3 the Pparties hereto the Regional Integrated Waste Management Plan including the Source
4 Reduction and Recycling, Household Hazardous Waste, Nondisposal Facility, and
5 Regional Siting Elements and any additional elements or plans that may be required
6 including any amendments or revisions thereto; and, to assign responsibility for any civil
7 penalties incurred pursuant to the California Integrated Waste Management Act of 1989 to
8 the Authority, serving as the Regional Agency, and for the Authority, and not Sutter and
9 Yuba Counties to serve as the agency responsible for compiling the disposal information
10 from haulers and facility operators for compliance with PRC Sections 41780 and 41821.5.

11 2. MUTUAL BENEFIT. The Pparties hereby agree that this Aagreement is made
12 and entered into for the mutual benefit of all Mmember Agenciesjurisdictions and as such
13 each Pparty agrees to grant to all other Pparties to this Aagreement, and the residents and
14 businesses thereof, reasonable access to any existing or future waste facilities located
15 within the collective boundaries of the Mmember jurisdictionsAgencies. No Pparty to this
16 Aagreement may exact any tax, fee, surcharge or other payment from any one or more
17 Pparties, or the residents and businesses thereof, to this Aagreement that is not required of
18 all Pparties or the residents and businesses thereof.

19 3. RELATIONSHIP TO THE REGIONAL WASTE MANAGEMENT
20 AUTHORITY. The existing Regional Waste Management Authority shall also serve as
21 the Regional Agency pursuant to this Aagreement. The agency previously established as
22 the Authority including provisions for the Board of Directors, terms of appointment,
23 officers, quorums, voting, and by-laws shall also govern the Regional Agency. The
24 administrative offices for the Authority are currently located at 2100 B Street, Marysville,
25 California, 95901.

1 4. RELATIONSHIP TO THE EXISTING JOINT POWERS AGREEMENT
2 THAT ESTABLISHED THE REGIONAL WASTE MANAGEMENT AUTHORITY.

3 This ~~A~~agreement is separate from the existing Joint Powers Agreement that established the
4 Regional Waste Management Authority and does not supersede or otherwise ~~effect~~ affect
5 the existing Joint Powers Agreement that established the Regional Waste Management
6 Authority. Provisions of the existing Joint Powers Agreement that established the Regional
7 Waste Management Authority may support the development and management of programs
8 implemented pursuant to this ~~A~~agreement.

9 5. PAYMENT OF CIVIL PENALTIES IMPOSED BY THE CALIFORNIA
10 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY ~~CIWMB~~. The
11 ~~P~~parties hereby agree that the responsibility for any civil penalties incurred pursuant to the
12 California Integrated Waste Management Act of 1989 shall be assigned to the Authority,
13 serving as the Regional Agency. The ~~P~~parties hereby authorize the Authority to allocate
14 responsibility to the ~~M~~member Agencies jurisdictions based on relative population of each
15 jurisdiction for the year in which the civil penalties are incurred and based on the Official
16 State Population Estimates for California Cities and Counties published annually by the
17 California Department of Finance, Demographic Research Unit. Each Member Agency
18 shall pay its proportionate share within thirty (30) days of receipt of an invoice from the
19 Authority.

20 6. DUTIES AND RESPONSIBILITIES OF THE AUTHORITY. ~~The Authority~~
21 ~~will be responsible for compiling the disposal information from haulers and facility~~
22 ~~operators for compliance with the disposal based reporting system required pursuant to~~
23 ~~PRC Sections 41780 and 41821.5. The Authority will be responsible for developing the~~
24 ~~monitoring and reporting system, for operating the system, and for quarterly reporting to~~
25 ~~the member jurisdictions regarding the status of the region relative to achieving the~~
26 ~~diversion goals, on a region wide basis.~~ The Authority will also be responsible for
27 preparation, adoption and submittal of the Regional Integrated Waste Management Plan

1 including the Source Reduction and Recycling, Household Hazardous Waste, Nondisposal
2 Facility, and Regional Siting Elements and any additional elements or plans that may be
3 required including any amendments or revisions thereto.

4 7. DUTIES AND RESPONSIBILITIES OF MEMBER
5 JURISDICTIONS AGENCIES. Unless the Member Agencies activate the provisions of
6 the Regional Waste Management Authority Joint Powers Agreement to grant the Regional
7 Waste Management Authority the power and authority to contract for solid waste services,
8 the MMember Agenciesjurisdictions will be responsible for funding and/or implementing
9 programs recommended for implementation in their jurisdiction as adopted in the Source
10 Reduction and Recycling Element as it may be modified or revised from time to time and
11 for continued support of the Yuba-Sutter Household Hazardous Waste fFacility and
12 associated programs as adopted in the Household Hazardous Waste Element.

13 8. CONTINGENCY PLAN FOR MEMBER JURISDICTIONS AGENCIES. In
14 the event that this Rregional Aagency Formation Aagreement is terminated, the individual
15 Member Agenciesjurisdictions will assume responsibility for any civil penalties incurred
16 by their jurisdiction. In the event that the Regional Waste Management Authority Joint
17 Powers Agreement is terminated, modified or implemented in such a way as to affect the
18 Authority's power to require the funding and/or implementation of programs for one or
19 more Member Agencies, the responsibility for program funding and/or implementation
20 will revert to the affected Member Agencies.

21 ~~Because member jurisdictions will retain responsibility for funding and/or implementing~~
22 ~~programs under this agreement, no changes in responsibility would be required should this~~
23 ~~agreement be terminated.~~

24 If this Aagreement is terminated, the Mmember Agenciesjurisdictions would
25 continue to cooperate regarding solid waste programs under the existing Joint Powers
26 Agreement that established the Regional Waste Management Authority unless it is also
27 withdrawn. The existing Joint Powers Agreement that established the Regional Waste

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1 Management Authority would allow the participating jurisdictions to prepare joint
2 Countywide Integration Waste Management Plans including the Source Reduction and
3 Recycling, Household Hazardous Waste, Nondisposal Facility, and Regional Siting
4 Elements and any additional elements or plans that may be required. At the time of the
5 first five-year revision required for these planning documents following termination of this
6 Agreement, these planning documents would be converted from regional planning
7 documents to joint planning documents in which individual data and programs would have
8 to be identified for each participating jurisdiction.

9 ~~If this agreement is terminated, Sutter and Yuba Counties will assume
10 responsibility for compiling the disposal information from haulers and facility operators
11 for compliance with the monitoring and reporting system required pursuant to PRC
12 Sections 41780 and 41821.5, unless a subsequent regional agency formation agreement is
13 approved specifically for this purpose. At this time, the monitoring and reporting system
14 would have to be modified to allow for collection of disposal and diversion data for each
15 individual jurisdiction instead of on a region-wide basis. Additionally, any data collected
16 for that calendar year and prior to termination of the regional agency agreement will have
17 to be disaggregated to each individual jurisdiction.~~

18 9. DESCRIPTION OF THE SOURCE REDUCTION, RECYCLING AND
19 COMPOSTING PROGRAMS TO BE IMPLEMENTED BY THE REGIONAL
20 AGENCY. The Regional Agency will be responsible for the local adoption process for
21 the Source Reduction and Recycling Element and any other planning elements. The
22 Member Agencies comprising the Regional Agency also have the primary
23 responsibility for funding and/or implementation of the source reduction, recycling and
24 composting programs identified in the *Source Reduction and Recycling Element* for the *Bi-*
25 *County Region (YUBA and SUTTER COUNTIES and the CITIES of LIVE OAK,*
26 *MARYSVILLE, WHEATLAND and YUBA CITY), Final Draft*, as prepared and submitted
27 June 1992, as it may be modified or revised from time to time. If the Member Agencies

1 activate the provisions of the Regional Waste Management Authority Joint Powers
2 Agreement to grant the Regional Waste Management Authority the power and authority to
3 contract for solid waste services, then the Regional Waste Management Authority will have
4 the primary responsibility for funding and/or implementation of the source reduction,
5 recycling and composting programs. No new programs will be directly implemented by the
6 Authority. The Authority will only provide a monitoring function for source reduction,
7 recycling, and composting programs funded and/or implemented by the member
8 jurisdictions.

9 10. APPROVAL OF AGREEMENT BY THE CALIFORNIA DEPARTMENT OF
10 RESOURCES RECYCLING AND RECOVERY INTEGRATED WASTE
11 MANAGEMENT BOARD. Pursuant to California Public Resources Code Section 40975,
12 any agreement forming a regional agency for purposes of complying with the waste
13 diversion requirements of the California Integrated Waste Management Act of 1989
14 (commencing with CA PRC Section 41780), is required to be submitted to the California
15 Department of Resources Recycling and Recovery Integrated Waste Management Board
16 for review and approval.

17 11. EFFECTIVE DATE/TERM OF AGREEMENT. The effective date/term of this
18 amended Agreement shall commence on July-November 1, 2004/2021, and shall continue
19 until amended or terminated pursuant to the terms contained herein.

20 12. AMENDMENT. This Agreement may be amended or modified at any time,
21 in a manner consistent with and in furtherance of the purposes of this Agreement; with
22 the written consent of each of the Member Agencies at least each county and the city in
23 each county which contains the majority of the population of the incorporated area of the
24 county.

25 13. WITHDRAWAL AND TERMINATION. Any Pparty may withdraw from this
26 Agreement effective on the termination date of any solid waste service agreement by filing
27 with the Authority a written notice to withdraw no less than two years prior to the

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Attest:

County of Yuba

Clerk of the Board of Supervisors

County Administrator
~~Chairman Board of Supervisors~~

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Date

Date

Attest:

City of Live Oak

City Clerk

City ManagerMayor

Date

Date

Attest:

City of Marysville

City Clerk

City ManagerMayor

Date

Date

Attest:

City of Wheatland

City Clerk

City ManagerMayor

Date

Date

Attest:

City of Yuba City

City Clerk

City ManagerMayor

Date

Date