JPA FORMATION AGREEMENT

UPPER VALLEY WASTE MANAGEMENT AGENCY

Joint Powers Formation Agreement

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UPPER VALLEY WASTE MANAGEMENT AGENCY
Joint Powers Formation Agreement

SECTION 1. DEFINITIONS

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

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

"AGREEMENT" means this joint exercise of powers agreement, as it may be amended from time to time.

"AGENCY" means the Upper Valley Waste Management Agency, a joint exercise of powers authority created by the MEMBERS pursuant to this AGREEMENT.

"BOARD" means the BOARD of DIRECTORS of the AGENCY.

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

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

"FRANCHISE" means an agreement for provision of SOLID WASTE HANDLING SERVICES.

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

"HOUSEHOLD HAZARDOUS WASTE ELEMENT" or "HHWE" means the element prepared pursuant to the ACT, which identifies a program for the safe collection, recycling, treatment and disposal of hazardous wastes which are generated by households within a jurisdiction and which should be separated from the SOLID WASTE stream.

"LANDFILL" means the Clover Flat Sanitary Landfill, including any accessory facilities related thereto.

"MANAGER" means the person, MEMBER agency or firm hired or contracted by the BOARD as the AGENCY's administrative officer to manage the affairs of the AGENCY and to effect the policies of the BOARD.

"MEMBER" means any of the governing bodies of the signatories to this AGREEMENT and "MEMBERS" means all of the governing bodies of the signatories to this AGREEMENT.

"NAPA COUNTY SOLID WASTE SERVICE ZONE THREE (3)" means that area defined in the May 22, 1973 Napa County Franchise Agreement No. 604 as Napa County Garbage Service Zone

3, being an area in the Northern portion of Napa County, California, more particularly described as follows:

Commencing at the point formed by the intersection of the Range Line separating R4W and R5W, M.D.B. & M. with the westerly extension of a line parallel to, and distant 200 feet at right angles southerly from the centerline of the County Road known as "Trubody Lane"; thence from said point of commencement, leaving said Range Line, northwesterly, to the northeast corner of Section 3, T6N, R 5 W, M.D.B & M.; thence westerly, along the northerly line of said Section 3, to the northwest corner of said Section 3; thence leaving said Section line, northwesterly to the southeast corner of said Section 29; T7N, R5W, M.D.B. & M.; thence northerly along the easterly line of said Section 29, to the northeast corner of said Section 29; thence leaving said Section Line, northwesterly, to the southeast corner of Section 18, T7N, R5W, M.D.B. & M.; thence northerly along the easterly line of said Section 18, to the point of intersection with the Carne Humana Rancho Grant Line, said Rancho as shown on a map on file in the office of the County Recorder, Napa, California, in Book D of Patents, Page 127, entitled "Plat-Carne Humana Rancho"; thence westerly along said Grant Line to corner number CH2 of said Rancho; thence, leaving said Grant Line, westerly, across said Section 18, to the southeast corner of Section 12, T7N, R6W, M.D.B. & M.; thence northerly along the easterly line of said Section 12, to the northeast corner of said Section 12; thence westerly along the northerly line of Sections 12 and 11, T7N, R6W, M.D.B. & M.; to the southeast corner of Section 3, T7N, R6W, M.D.B. & M.; thence northerly, along the easterly line of said Section 3, to the northeast corner of said Section 3; thence westerly, along the northerly line of said Section 3, to the southeast corner of Section 34, T8N, R6W, M.D.B. & M.; thence northerly, along the easterly line of Sections 34 and 27, T8N, R6W, M.D.B. & M., to the northeast corner of said Section 27;' thence westerly, along the northerly line of said Section 27; thence westerly, along the northerly line of said Section 27 to the southeast corner of Section 21, T8N, R6W, M.D.B. & M.; thence northerly along the easterly line of Section 21 and 16, T8N, R6W, M.D.B. & M. to the northeast corner of said Section 16; thence westerly, along the northerly line of said Section 16, to the southeast corner of Section 8, T8N, R6W, M.D.B. & M.; thence northerly, along the easterly line of said Section 8, to the point of intersection with said Carne Humana Rancho Grant Line; thence westerly, along said Grant Line, to corner number CH22, of said Rancho; thence leaving said Grant Line and continuing westerly, along the westerly extension of the last mentioned line, to the point of intersection with the easterly line of Section 12, T8N, R7W, M.D.B. & M.; thence northerly along the easterly line of said Section 12, to the northeast corner of said Section 12; thence westerly, along the northerly line of Sections 12, 11 and 10, T8N, R7W, M.D.B. & M., to the point of intersection with the boundary line separating Napa and Sonoma Counties; thence northwesterly, along said boundary line, to the point of intersection with the centerline of the State Highway, Route 103, Sign Route 128, known as "Healdsburg Highway"; thence leaving said boundary line, northeasterly, to corner number CH28 of said Carne Humana Rancho; thence southeasterly, along said Rancho Grant Line, to the point of intersection with the Center Line of the State Highway; Route 49, Sign Route 29, known as "Lake County Highway"; thence leaving said Grant Line, northerly, along the centerline of said highway, to the point of intersection with the southerly line of Section 14, T9N, R7W, M.D.B. & M.; thence easterly, along the southerly line of Sections 14 and 13, T9N, R7W, M.D.B. & M., to the southeast corner of said Section 13; thence southerly, along the westerly line of Sections 19 and 30, T9N, R6W, M.D.B. & M., to Corner number CH30 of said Carne Humana Rancho; thence southeasterly, along said Carne Humana Rancho Grant Line through corners CH31, CH32, and CH33 to the point of intersection with the westerly line of section 34, T9N, R6W, M.D.B. & M.; thence leaving said Grant Line, east, across said Section 34, to the easterly line of

said Section 34; thence southerly, along the easterly line of said Section 34; and along the easterly line of Section 3, T8N, R6W, M.D.B. & M., to the Southeast corner of said Section 3; thence Easterly, along the Southerly Line of Sections 2 and 1, T8N, R6W, M.D.B. & M., to the Southeast corner of said Section 1; thence Northerly, along the Easterly line of said Section 1 and the Easterly line of Section 36 and 25, T9N, R6W, M.D.B & M., to the Northeast corner of said Section 25; thence leaving said Section Line, Southeasterly to corner number LJ2 of the La Jota Rancho, said Rancho as shown on a map on file in the office of the County Recorder, Napa, California, in Book A of Patents, Page 6, entitled, "Plat of the Rancho De La Jota"; thence Southeasterly, Southwesterly and Northwesterly, along said La Jota Rancho Grant Line, through corners LJ1, LJ5 and LJ4, to the point of intersection with the Northerly Line of Section 17, T8N, R5W, M.D.B. & M.; thence leaving said Grant Line, Westerly along the Northerly Line of said Section 17, to the Northwest corner of said Section 17; thence Southerly, along the Westerly Line of Section 17 and 20, T8N, R5W, M.D.B. & M., to the Southwest corner of said Section 20; thence Easterly, along the Southerly Line of sections 20 and 21, T8N, R5W, M.D.B. & M., to the southeast corner of said Section 21; thence leaving said Section Line, Southeasterly, to the Southeast corner of Section 27, T8N, R5W, M.D.B. & M.; thence Southerly, along the Westerly Line of Section 35, T8N, R5W, M.D.B. & M., and the Westerly Line of Section 2, T7N, R5W, M.D.B. & M., to the point of intersection with the centerline of the State Highway, Route 102, Sign Route 128, known as "Rutherford - Winters Highway"; thence Southeasterly, along the Center Line of said Highway, to the point of intersection with the Westerly Line of Section 1, T7N, R5W, M.D.B. & M.; thence southerly, along the Westerly Line of said Section 1, to the Southwest corner of said Section 1; thence leaving said Section Line, Southeasterly, to the Northwest corner of Section 18, T7N, R4W, M.D.B. M.; thence Southerly, along the Westerly Line of said Section 18, to the Southwest corner of said Section 18; thence leaving said Section Line, Southeasterly, to the Northwest corner of Section 29, T7N, R4W, M.D.B. & M; thence continuing Southeasterly, to the Southeast corner of said Section 29; thence Southerly, along the Westerly line of Section 33, T7N, R4W, M.D.B. & M., to the Southwest corner of said Section 33, said Southwest corner also being on the Yajome Rancho Grant Line, said Rancho as shown on a map on file int he office of the County Recorder, Napa, California, in Book A of Patents, Page 72, entitled, "Plat of the Rancho Yajome"; thence Southerly and Easterly, along said Rancho Grant Line to the point of intersection with the Westerly Line of Section 3, T6N, R4W, M.D.B. & M.; thence Southerly, along the Westerly Line of said Section 3, to the Southwest corner of said Section 3; thence leaving said Section Line, Southwesterly, to a point on the Center Line of the County Road known as "Silverado Trail", said point being the point formed by the intersection of said Center Line with the Easterly extension of a Line parallel to, and distant 200 feet at right angles Southerly from the Center Line of the County Road known as 'Trubody Lane"; thence continuing Southwesterly, along said Line parallel to, and distant 200 feet at right angles Southerly from the center line of said "Trubody Lane" and its Easterly and Westerly extensions, to the point of commencement; excluding therefrom all area that is within the incorporated limits of the Cities of St. Helena and Calistoga, and areas which are subsequently annexed to said Cities, at such time as they are annexed.

"NAPA COUNTY SOLID WASTE SERVICE ZONE FOUR (4)" means the area defined in the June 30, 1998 Napa County Resolution No. 9884 defining the boundaries of franchise zone 4 in the unincorporated area of the County for the handling, collection, transportation and disposal of solid waste, being an area in the Northern portion of Napa County, California, more particularly described as follows:

Beginning at the intersection of the centerline of Pope Canyon Road with the Southwestern line of the Locoallomi Rancho and running thence Southwesterly about 1.2 miles to the Northeast corner of the La Jota Rancho, being Rancho corner LJ1, said Rancho as shown on a map on file in the office of the County Recorder, said Napa County, in Book A of Patents, Page 6, entitled "Plat of the Rancho De La Jota", said Rancho corner also being an angle point in the Northerly line of "Napa County Solid Waste Service Zone Three (3)" as defined in the May 22, 1973 Napa County Franchise Agreement No. 604 as Napa County Garbage Service Zone 3; thence Northwesterly along the Northeastern line of said Rancho, being Rancho corner LJ2; thence Northwesterly along the Northerly line of said Zone 3 about 1.9 miles to the most Northern corner of said Rancho, being Rancho corner LJ2; thence Northwesterly along the Northerly line of said Zone 3 about 1.4 miles to the Northeast corner of Section 25 Township 9 North, Range 6 West, Mount Diablo Base and Meridian; thence leaving said Northerly line of Zone 3 and running Northwesterly about 2.9 miles to the center of Section 11, Township 9 North Range 6 West MDB&M; thence Northerly about 3.3 miles to a point on the North line of Section 26 Township 10 North, Range 6 West, MDB&M, said point being 3000 feet Easterly from the Northeast corner thereof; thence continuing Northerly on the same course another 0.5 miles to the Napa County / Lake County line; thence Northeasterly along said County line about 1.8 miles to an angle point therein, said angle point being about 200 feet East of Butts Canyon Road; thence Northeasterly along said County line 1200 feet; thence Northeasterly about 3.6 miles to the intersection of the North line of Section 15 Township 10 North, Range 5 West, MDB&M, with the center of Putah Creek; thence Southeasterly along the center of Putah Creek about 3 miles to the intersection thereof with the North-South Center Section line of Section 24 Township 10 North, Range 5 West, MDB&M; thence Southerly about 3.3. miles to the center of Section 12, Township 9 North, Range 5 West MDB&M; these Westerly about 700 feet along the East-West Center Section line of said Section 12 to the intersection thereof with the centerline of said Pope Canyon Road; thence Southwesterly along said centerline about 3.9 miles to the point of beginning."

"NON-DISPOSAL FACILITY ELEMENT" or "NDFE" means the element which describe new facilities and the expansion of existing facilities, which will be needed to implement a jurisdiction's SRRE.

"SERVICE AREA" means those incorporated areas of Calistoga City, St. Helena City and Yountville Town, those unincorporated areas within NAPA COUNTY SOLID WASTE SERVICE ZONE THREE, NAPA COUNTY SOLID WASTE SERVICE ZONE FOUR, and the unserved, unincorporated areas adjacent to NAPA COUNTY SOLID WASTE SERVICE ZONES THREE and FOUR.

"SOLID WASTE" means the type of wastes commonly collected including putrescible and nonputrescible solid, semisolid and liquid wastes, including garbage, trash, refuse, paper rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. SOLID WASTE also includes source separated recyclable or compostable materials intended for collection as part of a FRANCHISE. SOLID WASTE does not include any wastes defined as "hazardous wastes" or "medical wastes" under federal or state laws or regulations.

"SOLID WASTE HANDLING SERVICE" or "SOLID WASTE HANDLING SERVICES" means those service or services provided, or facility owned, operated or used by a FRANCHISE for the collection, transportation, processing, storage, transfer or disposal of SOLID WASTE generated in the SERVICE AREA.

"SOURCE REDUCTION AND RECYCLING ELEMENT" or "SRRE" means the element prepared pursuant to the ACT, which includes a program for management of SOLID WASTE generated within a jurisdiction, consistent with the California Integrated Waste Management Board's waste management hierarchy.

SECTION 2. FORMATION

2.1 The MEMBERS, pursuant to the GOVERNMENT CODE, do hereby form, establish and create the Upper Valley Waste Management Agency, it being understood that the BOARD shall be entitled to change the AGENCY's name from time to time if it so chooses. The AGENCY shall constitute a public entity separate and distinct from the MEMBERS thereof.

SECTION 3. PURPOSE

3.1 General. The AGENCY is formed for the purpose of providing coordination of economical, regional waste management services, including but not limited to franchising of SOLID WASTE HANDLING SERVICES, providing uniform rate review and rate setting for those services, and meeting the requirements of the ACT. This shall not prohibit any of the MEMBER(S) from individually or jointly contracting for other SOLID WASTE HANDLING SERVICES for which the AGENCY has not entered into, and is not planning to enter into, a FRANCHISE to provide those SOLID WASTE HANDLING SERVICES uniformly in the SERVICE AREA, as long as the MEMBER has the AGENCY establish a rate for those SOLID WASTE HANDLING SERVICES. Any such individual contract by the MEMBERS for SOLID WASTE HANDLING SERVICES shall be for terms of three (3) years or less.

3.2 Regional Agency Pursuant to Section 40970 et al. of the ACT. The AGENCY shall act as a Regional Agency to implement the ACT within the SERVICE AREA, except those unserved, unincorporated areas adjacent to NAPA COUNTY SOLID WASTE SERVICE ZONE THREE. The AGENCY, and not the MEMBERS, is responsible for compliance with Article I (commencing with Section 41780) of Chapter 6 of the ACT.

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

SECTION 4. ORGANIZATION

4.1 Composition. The AGENCY shall be composed of the County of Napa, the City of Calistoga, the City of St. Helena and the Town of Yountville.

4.2 Name. The official name of the AGENCY shall be the "UPPER VALLEY WASTE MANAGEMENT AGENCY" whose address is 1195 Third Street, Room 101, Napa, California, 94559.

4.3 BOARD. The power of the AGENCY is vested in its BOARD. The composition and voting power of the members of the BOARD shall be as follows:

	DIRECTORS	Voting Power
City of Calistoga	1	1
City of St. Helena	1	1
Town of Yountville	1	1
County of Napa (each DIRECTOR shall have one vote)	2	2
		TOTAL OF: 5 votes

Each MEMBER shall appoint its representative(s) to the BOARD and at least one person as an alternate to serve in the case of absence or conflict on the part of the appointed DIRECTOR. One of the County DIRECTORS shall be a Supervisor representing County Supervisorial District 2 or 3. For the County, with two DIRECTORS, alternate(s) shall be specifically designated for each particular DIRECTOR. Each DIRECTOR and alternate shall be an elected official of the governing body of the MEMBER that he or she represents.

If a DIRECTOR or alternate ceases holding any such elected position, he or she shall then cease to serve as a DIRECTOR or alternate. Vacancies shall be filled by the appointing MEMBER within thirty (30) days of the occurrence thereof. The AGENCY and the BOARD shall be entitled to rely on a written notice from the City or Town Clerk (in the case of the Cities and the Town) and the Clerk of the Board of Supervisors (in the case of the County) as conclusive evidence of the appointment and removal of the DIRECTORS and/or alternates representing that MEMBER. All designations must be placed on file with the Clerk of the AGENCY to be effective. All DIRECTORS serve solely at the pleasure of the appointing MEMBERS.

4.4 Voting. Each DIRECTOR shall have one vote on all matters presented to the BOARD for a vote. The affirmative vote of a majority of the voting power of the AGENCY as a whole (three affirmative votes) shall be required to approve an act of the AGENCY.

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

4.6 Officers, Committees, Rules. The AGENCY may designate such officers, establish such committees, and adopt such rules as may be necessary or convenient to conduct its affairs.

4.7 Meetings. Regular meetings of the AGENCY shall be held at least three (3) times each FISCAL YEAR, at such times and places as may be established by the AGENCY by resolution. All meetings of the AGENCY, including regular, adjourned regular, and special meetings shall be called, noticed, held and conducted in accordance with the provisions of the Brown Act (Government Code Section 54950 et seq.).

4.8 Compensation. No compensation shall be received by any member of the AGENCY BOARD unless expressly provided by resolution of the AGENCY and with approval of a majority of the MEMBERS governing bodies.

4.9 Bylaws. The BOARD, from time to time, may adopt bylaws for the conduct of the AGENCY's affairs, provided that they are not inconsistent with this AGREEMENT.

SECTION 5. PERSONNEL AND ADMINISTRATION

5.1 Employees. The AGENCY may have its own employees or may contract with a MEMBER or firm for the furnishing of any necessary staff services associated with or required by the AGENCY.

5.2 MANAGER. Except and until the AGENCY exercises its option to obtain other employees or contractors, the MANAGER of the AGENCY shall be the Director of Environmental Management or his designee. The Director of Environmental Management shall contract with the AGENCY for services and shall serve until such time as the AGENCY exercises its option to obtain other employees or contractors. The MANAGER shall serve as the Purchasing Agent of the AGENCY.

5.3 Support Services. Except and until the AGENCY exercises it option under the GOVERNMENT CODE and Section 5.1 of the AGREEMENT, the County of Napa will provide support services to the AGENCY including all legal, financial, accounting, data processing, secretarial, purchasing and personnel services. The County Auditor-Controller and Treasurer-Tax Collector shall be the Auditor and Treasurer for the AGENCY pursuant to the GOVERNMENT CODE. Such services and their costs shall be included in the annual budget referred to in Section 7.1.

SECTION 6. POWERS

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

a. to enter into FRANCHISE(s) to provide for SOLID WASTE HANDLING SERVICES within the jurisdictions of the MEMBERS.

b. to establish rates, tolls, tipping fees, other fees, rentals and other charges in connection with FRANCHISE SOLID WASTE HANDLING SERVICES, as well as any and all services provided by the AGENCY, and to include in such rates and charges amounts necessary to carry out those purposes described in Section 3 of this AGREEMENT;

c. to provide for the implementation of the requirements of the ACT for the MEMBERS, as a Regional Agency pursuant to the ACT, including the following:
   i. review local ordinances and resolutions to ensure consistency with the ACT;
   ii. adopt, review, revise and recommend updates, including those necessary due to any additions or changes to state or federal law, of the SRRE, HHWE, and NDFE of the AGENCY to meet the requirements of the ACT;
   iii. monitor and implement the AGENCY SRRE, HHWE and NDFE and make findings as to nonconformance as required by the ACT;
   iv. each MEMBER shall be responsible to implement the AGENCY SRRE, HHWE and NDFE as stated in the AGENCY SRRE, HHWE and NDFE;

d. to assist with the development and implementation of the Countywide Integrated Waste Management Plan and other documents, and in that regard is empowered by the MEMBERS to:
   i. review, approve, recommend updates and adopt the Countywide Siting Element, and the Countywide Summary Element;
   ii. inform the MEMBERS of new or revised planning criteria adopted for use within each of the MEMBERS jurisdictions;
   iii. review the Countywide Hazardous Waste Management Plan; and
   iv. participate with any other regional waste management efforts, such as household hazardous waste collection and agricultural chemical collection events;

e. to sue and be sued;

f. to employ agents, employees and to contract for professional services;

g. to incur debts, liabilities and obligations;

h. to reimburse the MEMBER(S) for the costs of special services provided to the AGENCY;

i. to require that the MEMBERS direct all SOLID WASTE generated by MEMBERS to FRANCHISE SOLID WASTE facilities;

j. to make and enter into contracts, including contracts with any MEMBER, and to assume existing contracts made by any MEMBER;

k. to apply for and accept grants, advances and contributions;

l. to make plans and conduct studies; and

m. to coordinate efforts with established local, regional and state waste management agencies.

n. to provide annual reporting to each of the MEMBERS.

o. to review and make recommendations on pending SOLID WASTE and household hazardous waste legislation.

p. to represent the AGENCY on the Napa County and Cities Integrated Waste Management Local Task Force.

q. to assist with the development of local markets for recycled products and provide resources for information concerning product availability.

r. to conduct or contract for Household Hazardous Waste events and activities.

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

6.3 Possible Future Responsibilities and Duties. Upon future approval and agreement by all of the MEMBERS, the AGENCY may conduct other related waste management responsibilities and duties.

6.4 Individual MEMBER services. Upon approval of the AGENCY and the governing body of a MEMBER, the AGENCY may contract to provide services individually for that MEMBER, pursuant to Section 3.1 of this AGREEMENT.

6.5 Individual MEMBER Franchise Fees. Upon written request of any MEMBER, the AGENCY shall require the collection of a franchise fee by the collection franchisee from the ratepayers within the MEMBER's jurisdiction within one hundred and twenty (120) days upon the receipt of a written request by a MEMBER.

SECTION 7. FINANCE

7.1 Budget. A budget for the AGENCY shall be adopted by the BOARD for the ensuing FISCAL YEAR prior to June 30 of each year. The budget shall include sufficient detail to constitute an operating guideline. It shall also include the anticipated sources of funds, and the anticipated expenditures to be made for the operations of the AGENCY including, but not limited to, franchising of SOLID WASTE SERVICES, setting rates, and implementing the ACT. Approval of the budget by the BOARD shall constitute authority for the MANAGER to expend funds for the purposes outlined in the approved budget, subject to

the availability of funds on hand as determined by the Auditor-Controller; provided that this shall not be construed to limit the power of the BOARD to modify the budget in whatever manner it deems appropriate and instruct the MANAGER accordingly.

7.2 Landfill Surcharge. The MEMBERS agree that funds for carrying out the duties and responsibilities of this AGREEMENT shall come from a surcharge placed on fees collected at the LANDFILL. The MEMBERS understand that an allowance for this surcharge will be 'passed through' to the users of the SOLID WASTE SERVICES.

7.3 Rates The BOARD shall establish rates to be charged for FRANCHISE SOLID WASTE SERVICES in amounts sufficient to provide for their efficient operation, including administrative, processing, storage, transportation and disposal costs, and for all duties and responsibilities of the AGENCY.

7.4 No General Fund Obligation. No MEMBER shall be obligated to expend any of its general fund monies to support the operations of the AGENCY unless said expenditure is first approved by their respective governing body.

7.5 Competitive Purchases. The BOARD shall establish procedures and policies to ensure competitive prices for the purchase of goods and services to the extent necessary. Formal bidding shall not be necessary except to the extent required by law for general law counties.

7.6 Accountability. The AGENCY shall be strictly accountable to all MEMBERS for all receipts and disbursements. The AGENCY may not obligate itself beyond the monies due to it under this AGREEMENT plus any monies on hand or irrevocably pledged to its support from other sources.

7.7 Debts, Liabilities and Obligations. The debts, liabilities, and obligations of the AGENCY shall be solely the obligation of the AGENCY and not the debts, liabilities, and obligations of the MEMBERS or its officers or employees except as required by GOVERNMENT CODE, in which event the right to pro rata contribution provided by section 895.6 shall be modified to the extent that "pro rata" shall mean that proportion of the liability which is equivalent to the ratio of the tonnage of SOLID WASTE generated and regulated within the jurisdiction of a particular MEMBER to the total tonnage of SOLID WASTE generated and regulated within the combined jurisdictions of the MEMBERS during the calendar year in which the event giving rise to the liability occurred.

7.8 Audit. The AGENCY shall cause an annual audit to be prepared and filed to the extent required by GOVERNMENT CODE.

7.9 Regional Agency Planning Civil Penalties Any civil penalties which are imposed pursuant to the ACT will be apportioned by the AGENCY. The AGENCY shall review the civil penalty and determine one of the following concerning the payment of the penalty:

a. that the AGENCY shall pay the entirety of the penalty; or

b. that an individual MEMBER is responsible for the assessment of the civil penalty and that the penalty shall be therefore imposed upon that MEMBER for payment of the penalty; or

c. that multiple MEMBERS, but not all MEMBERS, are responsible for the assessment of the civil penalty and that the penalty shall be therefore allocated equally and imposed upon those responsible MEMBERS.

SECTION 8. WITHDRAWAL AND/OR TERMINATION

8.1 Withdrawal. A MEMBER may not withdraw from the AGENCY unless it has entered into an agreement with the AGENCY, at least ninety (90) days prior to the end of the fiscal year permitting a MEMBER to withdraw and specifying the terms and impact of its withdrawal, which approval shall not be unreasonably withheld. No withdrawal shall be effective unless and until the AGENCY and the MEMBER comply with any then-applicable requirements of law relating to changes in the composition of entities such as the AGENCY.

8.2 Franchise obligations upon withdrawal/termination. Upon withdrawal, those withdrawing MEMBER(S) or upon termination, all MEMBERS, shall succeed as franchisor(s) to existing AGENCY franchise(s) for that portion of the franchise operative within their respective jurisdictional boundaries for the remaining term of the franchise(s).

8.3 Continuance of AGENCY upon a Withdrawal. Upon withdrawal of any MEMBER, the remaining MEMBERS shall determine, by majority vote, whether the AGENCY shall continue in existence or be terminated.

8.4 Physical Asset Distribution upon Termination. In the event that the AGENCY is terminated, any physical assets remaining shall be sold and, after all liabilities, encumbrances and liens have been paid, the proceeds of the sale shall be allocated proportionately to the MEMBERS based on their estimated annual waste disposal, as determined by the most recent annual tonnages as submitted by the LANDFILL.

8.5 Funds of the AGENCY. All revenues shall become funds of the AGENCY. No revenues shall be returned to a withdrawing MEMBER unless the AGENCY as a whole dissolves, in which case, any remaining funds shall be distributed according to Section 8.6.

8.6 Assets. Subject to the then-applicable requirements of the GOVERNMENT CODE, upon dissolution of the AGENCY, the assets of the AGENCY remaining after payment of or adequate provision for all debts, liabilities and obligations, including franchise obligations, of the AGENCY shall be divided among the MEMBERS in accordance with an unanimous agreement among them or, in the absence of such an agreement, in proportion to the total tonnage of SOLID WASTE each MEMBER generated. Any assets that are not conveniently divisible shall be sold at a duly noticed public auction, in which case the net proceeds from the sale shall be divided among the MEMBERS in accordance with that agreement or, in the absence of such an agreement, those same proportions. In-kind contributions shall be returned to the donating MEMBER.

8.7 Effective Date of Dissolution. No dissolution shall be effective unless and until the AGENCY and MEMBERS comply with any then-applicable requirements of the GOVERNMENT CODE and the ACT relating to changes in the composition of entities such as the AGENCY.

8.8 Regional Agency Compliance Upon Dissolution Upon dissolution, each MEMBER shall be responsible for complying with the requirements of the ACT within their respective

jurisdictional boundaries in accordance with the programs set out in the AGENCY SRRE, HHWE, and NDFE.

SECTION 9. MISCELLANEOUS

9.1 Amendments. Amendments to this AGREEMENT shall be made only with the consent of all existing MEMBERS at the time of the amendment without regard to voting power; any such consent shall be in the form of duly authorized resolutions of the MEMBERS' respective governing bodies. Notwithstanding the foregoing, no amendment shall require any MEMBER to contribute any funds to the AGENCY or become directly or contingently liable for any debts, liabilities or obligations of the AGENCY without the consent of that MEMBER evidenced in a written instrument signed by a duly authorized representative of that MEMBER.

9.2 Term and Continuance. The AGENCY became effective September 29, 1992 and this AGREEMENT shall continue until rescinded, renegotiated according to Section 9.1, or terminated.

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

9.4 No Conflicts. Unless otherwise required by law, during the term of this AGREEMENT, no MEMBER shall exercise any power or undertake any act which conflicts with or is inconsistent with the powers or objectives of the AGENCY.

9.5 Effective Dates. The terms of this AMENDMENT became effective as of September 29, 1992. The terms of the First Amendment became effective on March 15, 1994. The current terms of the AGREEMENT (Second Amendment) shall become effective as of the date noted at the start of this AGREEMENT

9.6 Filings. The MANAGER shall file all required notices with the Secretary of State in accordance with GOVERNMENT CODE and any other applicable State and Federal laws, as such may be amended from time to time.

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

COUNTY OF NAPA:	Clerk of the Board of Supervisors 1195 Third Street, Room 310 Napa, CA 94559
CITY OF CALISTOGA:	Clerk of the Calistoga City Council 1232 Washington Street Calistoga, CA 94515
CITY OF ST. HELENA:	Clerk of the St. Helena City Council 1480 Main Street St. Helena, CA 94574
TOWN OF YOUNTVILLE:	Clerk of the Yountville Town Council 6550 Yount Street Yountville, CA 94599
AGENCY:	Upper Valley Waste Management Agency Environmental Management Director 1195 Third Street, Room 101 Napa, CA 94559

9.8 Successors and Assigns. This AGREEMENT shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the MEMBERS. However, no MEMBER shall assign any of its rights under this AGREEMENT except to a duly formed public entity organized and existing under the laws of the State of California and then only when approved in accordance with this AGREEMENT. No assignment shall be effective unless and until the AGENCY, the MEMBERS and the proposed assignee comply with all then-applicable requirements of the GOVERNMENT CODE and the ACT relating to changes in the composition of entities such as the AGENCY.

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

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

9.11 Law to Govern0. It is understood and agreed by the parties that the law of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this AGREEMENT and shall govern the interpretation of this AGREEMENT.

9.12 Entirety. The MEMBERS agree that this AGREEMENT represents the full and entire agreement between the MEMBERS hereto with respect to matters covered herein. This AGREEMENT supersedes any and all other communications, representations, proposals,

understandings or agreements, either written or oral, between the MEMBERS hereto with respect to such subject matter.

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