



**MENDOCINO SOLID WASTE MANAGEMENT AUTHORITY (MSWMA)
Board of Commissioners Regular Meeting**

AGENDA

***Civic Center Chamber ♦ 300 Seminary Avenue ♦ Ukiah, CA 95482
Fort Bragg City Hall, Downstairs Conference Room ♦ 416 N. Franklin Street ♦ Fort Bragg, CA 95437***

To participate or view the virtual meeting, go to the following link: <https://us06web.zoom.us/j/85470132549>

Or you can call in using your telephone only:

- Call (toll free) 1-669-444-9171
- Enter the Access Code: 854 7013 2549
- To Raise Hand enter *9
- To Speak after being recognized: enter *6 to unmute yourself

Alternatively, you may view the meeting (without participating) by clicking on the name of the meeting at www.cityofukiah.com/meetings.

April 20, 2023 - 9:00 AM

1. CALL TO ORDER

2. AB 2449 NOTIFICATIONS AND CONSIDERATIONS

3. APPROVAL OF MINUTES

- 3.a. Approval of the Minutes for the March 23, 2023, Regular Meeting.
- 3.b. Approval of the Minutes for the March 30, 2023, Special Meeting.

4. GENERAL MANAGER AND FINANCIAL REPORTS

5. COMMISSIONER REPORTS AND ANNOUNCEMENTS

6. AUDIENCE COMMENTS ON NON-AGENDA ITEMS

The Mendocino Solid Waste Management Authority Board of Commissioners (Commissioners) welcomes input from the audience. In order for everyone to be heard, please limit your comments to three (3) minutes per person and not more than ten (10) minutes per subject. The Brown Act regulations do not allow action to be taken on audience comments on non-agenda items. If you wish to submit written comments, please provide information to MSWMA, located at 3200 Taylor Drive, Ukiah, California.

7. DISCUSSION AND ACTION ITEMS

- 7.a. Consideration and Possible Action to Approve and Authorize the Chairperson to Execute Three Agreements: (1) *Services Agreement with Ukiah Waste Solutions to Provide Household Hazardous Waste Services for MSWMA*; (2) *Agreement to Lease 3200 Taylor Drive to Ukiah*

Waste Solutions; and (3) Services Agreement with City of Ukiah to Provide General Manager and Related Administrative Services to MSWMA; that could Restructure the Operation of the Mendocino Solid Waste Management Authority (MSWMA), All with an Effective Date of April 1, 2023.

Recommended Action: Approve and authorize the Chairperson to execute three agreements: (1) Services Agreement with Ukiah Waste Solutions to Provide Household Hazardous Waste Services for MSWMA; (2) Agreement to Lease 3200 Taylor Drive to Ukiah Waste Solutions; and (3) Services Agreement with City of Ukiah to Provide General Manager and Related Administrative Services to MSWMA; all with an effective date of April 1, 2023. The commencement and operation of these three agreements is contingent upon the approval of agreement (3), Services Agreement with the City of Ukiah to Provide General Manager and Related Administrative Services to MSWMA, by the City Council of the City of Ukiah.

Attachments:

1. 7a Staff Report
2. Agreement #1 - DRAFT Service Agreement
3. Agreement #2 - DRAFT Lease Agreement
4. Agreement #3 - DRAFT Administrative Agreement
5. MSWMA 2019 JPA - FOR REFERENCE

7.b. Approval of Budget Amendments.

Recommended Action: a. Approve new Budget line item in the amount of \$19,083.25 to reimburse the City of Ukiah for costs to restate the MSWMA JPA agreement, and to develop and execute a plan for restructuring MSWMA. b. Approve new Budget line item in the amount of \$48,000 for City of Ukiah initial compensation under the terms and conditions of the Services Agreement with City of Ukiah to provide General Manager and related administrative services to MSWMA, as described in paragraph 4A, for the period March 1, 2023 to June 30, 2023.

Attachments:

1. Staff Report

7.c. Transfer of MSWMA Funds to New Custodian.

Recommended Action: Direct the Chairperson to take the steps necessary to immediately transfer all MSWMA funds on deposit at Savings Bank of Mendocino County, and any undeposited amounts, to the City in its role as Treasurer of MSWMA as described in section 2B of the Agreement, and close those accounts when the transfer has been accomplished.

Attachments:

1. Staff Report

7.d. Consideration and Possible Adoption of Resolution Adopting the Style of Action Minutes in Conjunction with Digital Audio or Digital Audio-Video Recordings to be the Official Recordation Used for the Mendocino Solid Waste Authority Board of Commissioners.

Recommended Action: Adopt the resolution establishing the Action Minute style in conjunction with digital audio or digital audio-video recordings for the official recordation used for the Mendocino Solid Waste Authority Board of Commissioners.

Attachments:

1. Proposed Resolution

8. SET NEXT MEETING DATE

8.a. Discussion and Consideration to Move the Regular Meeting Date/Time to the Second Thursdays of the Month, at 9:00 a.m. - Making the Next Meeting Date May 11, 2023 - , to be Held at the Ukiah Civic Chamber, and Virtually at the Fort Bragg City Hall.

Recommended Action: Approve moving the regular meeting date to the second Thursdays of the month, making the next meeting date May 11, 2023, at 9:00 a.m., to be held at the Ukiah Civic Chamber, and virtually at the Fort Bragg City Hall.

Attachments: None

9. CLOSED SESSION - MAY BE HELD AT ANY TIME DURING THE MEETING

Closed Session may be held at any time during the meeting. Any public reports of action taken in closed session will be made in accordance with Government Code section 54957.1

9.a. **Conference with Labor Negotiator (54957.6)**
Unrepresented Employees: (All Positions)

9.b. **Public Employee Discipline/Dismissal/Release**

10. ADJOURNMENT

Please be advised that the Mendocino Solid Waste Management Authority (MSWMA) needs to be notified 24 hours in advance of a meeting if any specific accommodations or interpreter services are needed in order for you to attend. MSWMA complies with ADA requirements and will attempt to reasonably accommodate individuals with disabilities upon request. Materials related to an item on this Agenda submitted to the MSWMA Commissioners after distribution of the agenda packet are available for public inspection at the front counter at the Ukiah Civic Center, 300 Seminary Avenue, Ukiah, CA 95482, during normal business hours, Monday through Friday, 8:00 am to 5:00 pm.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the bulletin board at the main entrance of the City of Ukiah City Hall, located at 300 Seminary Avenue, Ukiah, California, not less than 72 hours prior to the meeting set forth on this agenda.

Kristine Lawler, CMC
Dated: 4/14/23

MENDOCINO SOLID WASTE MANAGEMENT AUTHORITY (MSWMA)
Board of Commissioner MINUTES
Regular Meeting
CIVIC CENTER CHAMBER
300 Seminary Avenue, Ukiah, CA 95482
416 N. Franklin Street, Fort Bragg, CA 95482
Virtual Meeting Link: <https://us06web.zoom.us/j/85470132549>

March 23, 2023
10:00 a.m.

1. CALL TO ORDER

The Mendocino Solid Waste Management Authority Board of Commissioners met at a Regular Meeting on March 23, 2023, having been legally noticed on March 17, 2023. The meeting was held in person and virtually at the following link: <https://us06web.zoom.us/j/85470132549>. Kristine Lawler, Ukiah City Clerk, called the meeting to order at 10:03 a.m. Roll was taken with the following **Commissioners Present:** Douglas F. Crane, Dan Gjerde (*attending virtually from Fort Bragg location*), Jason Godeke (*attending virtually from Fort Bragg location*), Maureen Mulheren, and Madge Strong. **Staff Present:** Tim Eriksen, City of Ukiah Public Works Director/City Engineer; Emmett Jones, City of Ukiah Business Advisor; and Kristine Lawler, Ukiah City Clerk.

a. Introduction and Administer of Oath of Office to New Commissioners.

Presenter: Kristine Lawler, Ukiah City Clerk.

City Clerk, Kristine Lawler, administered the Oath of Office to Commissioners Douglas F. Crane and Jason Godeke.

b. Elect Chair and Vice Chair, and Establish a Regular Meeting Date, Time, and Location.

Presenter: Kristine Lawler, Ukiah City Clerk.

Motion/Second: Strong/Crane to nominate and appoint Commissioner Mulheren to serve as Chair. Motion **carried** by the following roll call votes: AYES: Crane, Gjerde, Godeke, Mulheren, and Strong. NOES: None. ABSENT: None. ABSTAIN: None.

CHAIR MULHEREN PRESIDING.

Motion/Second: Mulheren/Strong to nominate and appoint Commissioner Gjerde to serve as Vice Chair. Motion **carried** by the following roll call votes: AYES: Crane, Gjerde, Godeke, Strong, and Mulheren. NOES: None. ABSENT: None. ABSTAIN: None.

Motion/Second: Mulheren/Crane to hold meetings on the third Thursdays of the month, at 9:00 a.m., in the City of Ukiah Civic Chamber and virtually in the Fort Bragg City Hall. Motion **carried** by the following roll call votes: AYES: Crane, Strong, Godeke, Gjerde, and Mulheren. NOES: None. ABSENT: None. ABSTAIN: None.

2. AB 2449 NOTIFICATIONS AND CONSIDERATIONS

No notifications or considerations were presented.

3. APPROVAL OF MINUTES

a. Approval of the Minutes for the October 20, 2022, Regular Meeting.

Motion/Second: Strong/Mulheren to approve Minutes of October 20, 2022, a regular meeting, as submitted. Motion **carried** by the following roll call votes: AYES: Godeke, Strong, Gjerde, and Mulheren. NOES: None. ABSENT: None. ABSTAIN: Crane.

4. GENERAL MANAGER AND FINANCIAL REPORTS

a. Report on the Status of Restructuring.

No report was received.

b. February 28, 2023, Year-to-Date Financial Report

Presenters: Chair Mulheren.

Staff Comment: Sally Helm, Acting MSWMA Secretary.

Commissioner Consensus to direct Staff to submit a report showing budget actuals in comparison to a couple of previous years. (*Chair Mulheren will work with Ms. Helm.*)

Report was received.

5. COMMISSIONER REPORTS AND ANNOUNCEMENTS

No Commissioner reports were received.

6. AUDIENCE COMMENTS ON NON-AGENDA ITEMS

No public comments were received.

7. DISCUSSION AND ACTION ITEMS

a. Consideration and Possible Action to Approve and Authorize the Chairperson to Execute Three Agreements: (1) Services Agreement with Ukiah Waste Solutions to Provide Household Hazardous Waste Services for MSWMA; (2) Agreement to Lease 3200 Taylor Drive to Ukiah Waste Solutions; and (3) Services Agreement with City of Ukiah to Provide General Manager and Related Administrative Services to MSWMA; that could Restructure the Operation of the Mendocino Solid Waste Management Authority (MSWMA), All with an Effective Date of April 1, 2023.

Presenters: Tim Eriksen, Public Works Director/City Engineer and Emmett Jones, City of Ukiah Business Advisor.

Commissioner Godeke departed at 11:11 a.m.; and Commissioner Gjerde switched to a phone.

Public Comment: Jerry Ward, Solid Waste of Willits.

Motion/Second: Crane/Strong to continue this item to a Special Meeting to be held on March 30, 2023, at 9:00 a.m. Motion **carried** by the following roll call votes: AYES: Crane, Strong, Gjerde, Mulheren. NOES: None. ABSENT: Godeke. ABSTAIN: None.

Commissioner Directive to print out a hard copy and deliver to Commissioner Strong.

b. Approval of Budget Amendments.

Presenters: Tim Eriksen, Public Works Director/City Engineer.

Motion/Second: Crane/Strong to continue this item to a Special Meeting to be held on March 30, 2023, at 9:00 a.m. Motion **carried** by the following roll call votes: AYES: Crane, Strong, Gjerde, Mulheren. NOES: None. ABSENT: Godeke. ABSTAIN: None.

c. Transfer of MSWMA Funds to New Custodian.

Motion/Second: Crane/Strong to continue this item until there is more discussion on 7a [Special Meeting to be held on March 30, 2023, at 9:00 a.m.] Motion **carried** by the following roll call votes: AYES: Crane, Strong, Gjerde, Mulheren. NOES: None. ABSENT: Godeke. ABSTAIN: None.

d. City of Fort Bragg – County of Mendocino Jointly Owned Casper Transfer Station Surcharge Bank Account.

Presenters: Tim Eriksen, Public Works Director/City Engineer and Emmett Jones, City of Ukiah Business Advisor.

Staff Comment: Sally Helm, Acting MSWMA Secretary; Isaac Whippy, City of Fort Bragg, Finance Director.

Public Comment: Amber Fisette, Deputy Director of Transportation

Motion/Second: Strong/Gjerde to approve that the item has already been completed. Motion **carried** by the following roll call votes: AYES: Crane, Strong, Gjerde, and Mulheren, NOES: None. ABSENT: Godeke, None. ABSTAIN: None.

e. Consideration and Possible Action on Appointing a Coastal and an Inland Commissioner to an Advisory Executive Committee.

Presenters: Chair Mulheren and Tim Eriksen, Public Works Director/City Engineer.

Motion/Second: Strong/Crane to appoint Chair Mulheren (*inland representative*) and Vice Chair Gjerde (*coastal representative*) to an Advisory Executive Committee, a standing committee subject to Brown Act rules as Described in paragraph 2A(3) of the Services Agreement with City of Ukiah to provide General Manager and related administrative services to MSWMA. Motion **carried** by the following roll call votes: AYES: Crane, Strong, Gjerde, and Mulheren. NOES: None. ABSENT: Godeke. ABSTAIN: None.

f. Consideration and Possible Adoption of Resolution Adopting the Style of Action Minutes in Conjunction with Digital Audio or Digital Audio-Video Recordings to be the Official Recordation Used for the Mendocino Solid Waste Authority Board of Commissioners.

Motion/Second: Crane/Gjerde to continue this item to a Special Meeting to be held on March 30, 2023, at 9:00 a.m. Motion **carried** by the following roll call votes: AYES: Crane, Strong Gjerde, Mulheren. NOES: None. ABSENT: Godeke. ABSTAIN: None.

8. SET NEXT MEETING DATE

a. Set Date of Next Commission Meeting.

Next meeting has already been established as March 30, 2023, at 9:00 a.m.

THE MSWMA COMMISSIONERS ADJOURNED TO CLOSED SESSION AT 11:45 A.M.

9. CLOSED SESSION

a. Conference with Labor Negotiator (54957.6)

Unrepresented employees: (All Positions)

b. Public Employee Discipline/Dismissal/Release

No action was reported out.

10. ADJOURNMENT

There being no further business, the meeting adjourned at 12:10 p.m.

Maureen Mulheren, MSWMA Chair

ATTEST:

Kristine Lawler, City of Ukiah City Clerk

MENDOCINO SOLID WASTE MANAGEMENT AUTHORITY (MSWMA)
Board of Commissioner MINUTES
Special Meeting
CIVIC CENTER CHAMBER
300 Seminary Avenue, Ukiah, CA 95482
416 N. Franklin Street, Fort Bragg, CA 95482
Virtual Meeting Link: <https://us06web.zoom.us/j/85470132549>

March 30, 2023
9:00 a.m.

1. CALL TO ORDER

The Mendocino Solid Waste Management Authority Board of Commissioners met at a Special Meeting on March 30, 2023, having been legally noticed on March 24, 2023. The meeting was convened in person and virtually at the following link: <https://us06web.zoom.us/j/85470132549>. Chair Mulheren called the meeting to order at 9:01 a.m. Roll was taken with the following **Commissioners Present:** Dan Gjerde (*attending virtually from Fort Bragg location*), Jason Godeke (*attending virtually from Fort Bragg location*), Madge Strong, and Maureen Mulheren. **Commissioners Absent:** Douglas F. Crane. **Staff Present:** Tim Eriksen, City of Ukiah Public Works Director/City Engineer, Emmett Jones, City of Ukiah Business Advisor, and Kristine Lawler, Ukiah City Clerk.

CHAIR MULHEREN PRESIDING.

Due to lack of a quorum in one location, the Chair called for the adjournment of the Special Meeting of March 30, 2023, to the regularly scheduled meeting of April 20, 2023.

16. ADJOURNMENT

There being no further business, the meeting adjourned at 9:05 p.m.

Kristine Lawler, Ukiah City Clerk



STAFF REPORT

SUBJECT: Consideration and Possible Action to Approve and Authorize the Chairperson to Execute Three Agreements: (1) *Services Agreement with Ukiah Waste Solutions to Provide Household Hazardous Waste Services for MSWMA*; (2) *Agreement to Lease 3200 Taylor Drive to Ukiah Waste Solutions*; and (3) *Services Agreement with City of Ukiah to Provide General Manager and Related Administrative Services to MSWMA*; that could Restructure the Operation of the Mendocino Solid Waste Management Authority (MSWMA), All with an Effective Date of April 1, 2023.

ATTACHMENTS:

- Services Agreement with Ukiah Waste Solutions to Provide Household Hazardous Waste Services for MSWMA; (2) Agreement to Lease 3200 Taylor Drive to Ukiah Waste Solutions; and (3) Services Agreement with City of Ukiah to Provide General Manager and Related Administrative Services to MSWMA
- MSWMA Joint Powers Authority Agreement dated November 19, 2019 for reference.

Summary:

Change the Authority's operating structure by approving the following three agreements: (1) Services Agreement with Ukiah Waste Solutions to Provide Household Hazardous Waste Services for MSWMA; (2) Agreement to Lease 3200 Taylor Drive to Ukiah Waste Solutions; and (3) Services Agreement with City of Ukiah to Provide General Manager and Related Administrative Services to MSWMA; all with an effective date of April 1, 2023.

Background: The Mendocino Solid Waste Management Authority made up of Mendocino County and the Cities of Fort Bragg, Ukiah and Willits has a long history of providing professional Household Hazardous Waste collection and disposal and other services to the communities of the County and Cities. In order to function, the organizational structure of the Authority has depended upon a General Manager who could oversee and direct the various functions needed to fulfill the mission of the Authority. In recent years, the Authority has not been able to attract and retain a General manager who performed this oversight role effectively. This has led to a

RECOMMENDED ACTION: Approve and authorize the Chairperson to execute three agreements: (1) Services Agreement with Ukiah Waste Solutions to Provide Household Hazardous Waste Services for MSWMA; (2) Agreement to Lease 3200 Taylor Drive to Ukiah Waste Solutions; and (3) Services Agreement with City of Ukiah to Provide General Manager and Related Administrative Services to MSWMA; all with an effective date of April 1, 2023. The commencement and operation of these three agreements is contingent upon the approval of agreement (3), Services Agreement with City of Ukiah to Provide General Manager and Related Administrative Services to MSWMA, by the City Council of the City of Ukiah.

diminution of the services provided. In November 2019, the Authority considered an alternative operating structure and after discussion chose to make further attempts to strengthen the existing general manager model. In 2019, the Commission also refined the Authority's mission statement by approving a revised and restated Joint Power Authority Agreement (Agreement). In the period that followed, the Member agencies made cash contributions to the Authority in an effort to support the operations functions. In 2022, the Commission, after careful consideration and discussion, recognizing that the general manager model was not working, invited the submission of a plan that would restructure the Authority's operating model. The Commission wanted the new model to be financially viable, efficient and bring back the Authority's service to an acceptable level in keeping with its mission outlined in the November 2019 JPA Agreement revision and available recourses. That proposed restructuring is described in the three attached agreement that are presented as part of this agenda item. A copy of the November 2019 JPA Agreement is also attached for reference.

Discussion: The attached three agreements provide for an operating structure that will restore a level of service, as determined annually in the budget adoption process, for the collection and disposal of Household Hazardous Waste and other services described in the current JPA Agreement. These services will primarily be funded annually by the per ton fee collected at the gate of all transfer stations in the County and Cities, and currently available Cal Recycle and other grants. The three agreements provide for: 1. boots on the ground HHW services provided by the Contractor at a level determined by the annual budget, at costs detailed in an annually approved rate sheet and other services at agreed upon rates, 2. the beneficial use of the MSWMA Facility by the Contractor to provide HHW services through a \$1 per year lease agreement, and a condition that the Contractor, at its own cost, will operated a California Certified Buy Back Center at the Facility for the Term of the lease, and 3. administrative services provided by the City of Ukiah based upon an annually budgeted compensation amount that includes general, financial, accounting, Commission meeting, and grant management services.

**SERVICE AGREEMENT
BETWEEN
MENDOCINO SOLID WASTE MANAGEMENT AUTHORITY
AND
UKIAH WASTE SOLUTIONS, INC.**

This Service Agreement (this “**Agreement**”) is made and entered in Ukiah, California on [REDACTED], 2023 (“**Effective Date**”) by and between the Mendocino Solid Waste Management Authority (“**MSWMA**”) and Ukiah Waste Solutions, Inc. (“**Contractor**”). MSWMA and Contractor may be referred to hereafter as “**Party**” and collectively as “**Parties**.”

RECITALS:

1. MSWMA is a joint powers agency currently organized and operating under an Amended and Restated Joint Powers Agreement among the Cities of Fort Bragg, Ukiah, Willits and the County of Mendocino, dated November 19, 2019 (the “**JPA**”). Under the JPA, MSWMA was formed for various purposes, including: (A) making reasonable efforts to increase recycling and diversion of materials in order to reduce landfill deposits and achieve the waste diversion goals of a Reduction and Recycling Plan; (B) providing for the proper handling, reuse or disposal of household hazardous wastes; (C) providing educational outreach to encourage recycling, diversion and proper disposal of solid and household hazardous waste; (D) providing for the cleanup of sites where solid waste has been illegally disposed; and (E) removing graffiti.

2. Ukiah Waste Solutions, Inc. is a California corporation in good standing serving and Mendocino County which is licensed and experienced in the collection, processing, temporary storage and proper disposal of Household Hazardous Waste, the collection and processing of solid waste, including recyclables and the curbside collection of solid waste and recyclable solid waste.

3. Among other purposes, the JPA authorizes MSWMA to make reasonable efforts to provide for the proper handling, reuse or disposal of HHW and the cleanup of Clean-up Sites.

4. MSWMA operates a household hazardous waste drop-off center at 3200 Taylor Drive, Ukiah, CA 95482 (the “**MSWMA Site**”) which property it owns in fee and which is not subject to any encumbrances, and has operated a Hazmobile to collect household hazardous waste in Other County Areas.

5. MSWMA has determined that it will be more efficient and cost effective to contract with a solid waste contractor, such as Contractor, which has local facilities and equipment and familiarity with the County, to operate and maintain the household hazardous waste functions at the MSWMA Site, collect, transport and properly dispose of household hazardous waste from Other County Areas and clean-up Clean-Up Sites.

6. The extent of HHW collection services at the MSWMA Site and in Other County Areas and of the removal of illegally disposed solid waste from Clean-Up Sites shall be determined periodically by MSWMA based on its funding and annual budget.

AGREEMENT:

Based on the foregoing recitals which are incorporated into this Agreement, the terms and conditions stated hereafter and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **DEFINITIONS.** The following capitalized terms shall have the meaning specified in this Section 1:

A. **“Clean-up Sites”** shall mean locations in the County where Solid Waste has been deposited illegally which are reasonably accessible from public roads.

B. **“Commencement Date”** shall mean the date when Contractor is required to begin providing services under this Agreement as specified in Section 2 below.

C. **“County”** shall mean Mendocino County.

D. **“Facility”** shall mean household hazardous waste disposal facility at the MSWMA Site.

E. **“Hazmobile”** shall mean the truck used by Contractor to collect HHW from Other County Areas at HHW Collection Events.

F. **“HHW Collection Events”** shall mean announced opportunities for members of the public in Other County Areas to dispose of HHW scheduled at varying locations at various dates and times as established from time to time by MSWMA

G. **“Household Hazardous Waste”** or **“HHW”** shall mean leftover household products that can catch fire, react, or explode under certain circumstances, or that are corrosive or toxic, including products, such as paints, cleaners, oils, batteries, pesticides and other products specified by MSWMA as accepted at the Facility.

H. **“Lease”** shall mean the lease between MSWMA and Contractor for the MSWMA Site, dated [REDACTED], 2023.

I. **“MSWMA”** shall mean the Mendocino Solid Waste Management Authority, as further described in Recital 1 above.

J. **“MSWMA Site”** shall mean the real property located at 3200 Taylor Drive, Ukiah, CA as depicted and described in the Lease.

K. **“Other County Areas”** shall mean incorporated and unincorporated portions of Mendocino County outside the Ukiah Valley, including the South and North coastal areas and inland areas south, north and northeast of the Ukiah Valley.

L. **“Plan”** shall mean the plan for accepting household hazardous waste at Transfer Station Sites as further described in Section 2.B.(2) below.

M. **“Household Public”** shall mean members of a household who are not a commercial business.

N. **“Solid Waste”** shall mean all putrescible and non-putrescible refuse, and rubbish as defined in Public Resources Code Section 40191 and other materials as specified by MSWMA, including tires, vehicle parts, construction debris, shopping carts and similar items but excluding Hazardous Waste and Household Hazardous Waste.

O. **“Transfer Station Sites”** shall mean fully permitted solid waste transfer stations in the County specified in the Plan.

2. **SERVICES.** Commencing on _____, 2023 (the **“Commencement Date”**), Contractor shall provide the following services:

A. **Household Hazardless Waste Acceptance, Processing at Facility and Disposal.** Pursuant to the Lease, Contractor shall operate and maintain the Facility for use of the general public.

(1) Operations. Operations pertaining to the type and amount of household hazardous waste members of the public can bring to the Facility and other requirements related thereto are contained in **Attachment 1**, attached hereto, which MSWMA may revise each fiscal year based on its funding and its annual budget and the fees and rates established as provided in Sections 4 and 5 or otherwise as mutually agreed by MSWMA and Contractor. Any revised version of **Attachment 1** must be signed and dated by duly authorized representatives of the Parties and attached to this Agreement.

(2) Schedule. The days and hours when the Facility is open to the public and accepting household hazardous waste shall be set by MSWMA on or prior to the Commencement Date and each year thereafter during the term of this Agreement by written notice to Contractor given no later than March 31. MSWMA may provide notice to Contractor to modify the schedule during the fiscal year taking into account MSWMA’s available funding, any budget amendments adopted by the Commission and the ongoing charges from Contractor under Sections 4 and 5.

B. **Collecting Hazardous Waste from Other County Areas.** Contractor shall collect, transport to the Facility for processing and dispose of household hazardous waste from Other County Areas.

(1) Use of Hazmobile or Other Suitable Equipment. Contractor shall use the Hazmobile or other suitable equipment approved by MSWMA to collect household hazardous waste from Other County Areas.

a. Rules. **Attachment 1** contains the operations pertaining to the type and amount of household hazardous waste Contractor shall collect from mobile locations and other requirements related thereto, attached hereto, which MSWMA may revise each fiscal year based on its funding and its annual budget and the rates established as provided in Sections 4 and 5. Any revised version of **Attachment 1** must be signed and dated by duly authorized representatives of the Parties and attached to this Agreement.

b. Schedule and Location. The days or dates, hours and locations when and where Contractor will conduct HHW Collection Events shall be set by MSWMA on or prior to the Commencement Date and each year thereafter during the term of this Agreement by written notice to Contractor given no later than March 31. MSWMA may provide notice to Contractor to modify the schedule during the fiscal year taking into account MSWMA's available funding, any budget amendments adopted by the Commission and the ongoing charges from Contractor under Sections 4 and 5.

(2) Use of Transfer Stations for Collection of Household Hazardous Waste from Other County Area. As an alternative to using mobile equipment and conducting HHW Collection Events, Contractor may submit the Plan for accepting household hazardous waste at Transfer Station Sites. The Plan may provide for Contractor subcontracting with transfer station owners/operators to accept and store HHW for Contractor to collect and transport to the Facility for processing.

a. The Plan shall describe in detail the schedule for accepting HHW at Transfer Station Sites, the method for receiving and storing HHW, the locations within the site for all functions associated with implementing the Plan, the measures the subcontractor is required to take to safely accept and store HHW, and shall include a draft subcontract between Contractor and the transfer station owners/operators that includes indemnification and insurance requirements and the proposed charges by the subcontractor and Contractor for their performance under the Plan.

b. Contractor may submit a proposed Plan to MSWMA covering one or more fiscal years by no later than March 31 for implementation in the next fiscal year, commencing July 1. Contractor shall specify the deadline for Plan approval, taking into account the time required by the subcontractor to prepare the Transfer Station Site to comply with applicable Plan requirements. MSWMA staff and Commission shall consider and respond to the Plan in good faith.

C. **Removing Solid Waste from Clean-Up Sites.** As directed by MSWMA, Contractor shall remove and properly dispose of Solid Waste from Clean-up Sites specified by MSWMA.

(1) Contractor shall provide all labor, trucks, bins, boxes and equipment required to perform this service and to properly dispose of the removed material. To the extent practical, as determined in the reasonable exercise of Contractor's discretion, Contractor shall, in accordance with all legal requirements, recycle recyclable materials removed from the site.

(2) MSWMA may specify one or more Clean-up sites by written notice to Contractor. Within fifteen (15) days of such notice, Contractor shall inspect the site and provide written notice to MSWMA of the estimated cost to remove the Solid Waste from the site. Upon receipt and approval of the estimated cost, MSWMA shall provide written notice to Contractor to proceed with the clean-up. Contractor shall provide the clean-up service within thirty (30) days of notice to proceed from MSWMA, weather permitting.

D. **Phone Response to the Public.** Through a telephone answering and response services, Contractor shall provide information to the general public about Contractor's acceptance

of hazardous waste at the Facility and in Other County Areas and about reporting to Contractor illegal dump sites.

E. **Other Services Consistent with the Purposes of MSWMA Subject to Further Agreement between Contractor and MSWMA.** On terms and conditions, including fees Contractor charges therefor, MSWMA and Contractor may enter a written addendum to this Agreement under which Contractor provides additional services within the purposes of MSWMA as set forth in the JPA.

3. **TERM.** The term of this Agreement shall run concurrently with the City of Ukiah Curbside Collection Franchise agreement, including extensions and renewals, subject to earlier termination under Section 8.

4. **FEES.** MSWMA shall pay Contractor for services under this Agreement as follows:

A. Initial fees for services under Sections 2.A., 2.B. and 2.C. and the annual adjustment of those fees are set forth in Attachment 2 to this Agreement.

B. Contractor shall submit invoices by the fifteenth (15th) day of every month for services provided during the preceding month, showing the services provided and the charges for each such service, including the accounting required by Section 5.B. MSWMA shall pay all undisputed invoices for the services provided by Contractor under Sections 2.A., 2.B. and 2.C. within thirty (30) days of receipt of the invoice.

5. **RATES.**

A. MSWMA shall set rates charged, if any, separately to members of the Household Public who dispose of HHW at the Facility and to members of the Household Public who dispose of HHW in Other County Areas. Payments required by members of the Household and Commercial Public, if any, shall be collected by Contractor when the service is provided. The rates may not exceed the fees paid by MSWMA under Section 4 for the service provided to the member of the Household and Commercial Public.

B. By no later than the fifteenth (15th) day of each [month][other?] when services are provided under Sections 2.A. and 2.B., Contractor shall submit to MSWMA an accounting showing the fees for such services provided in the previous month, the fees collected from members of the Public for those services provided under Section 2.A. and the difference between the fees charged to MSWMA and the fees paid by members of the Public. MSWMA shall pay Contractor the amount, if any, by which the fees payable by MSWMA exceed the fees, if any, collected from members of the Public.

C. Contractor shall keep records in compliance with Section 6.D. that include records and receipts of the services provided to members of the Public under Sections 2.A. and 2.B. and all fees paid by MSWMA for services and all amounts paid for such services by members of the Public. MSWMA shall have the right to copies of such records, with a 24-hour notice to Contractor which can be provided as Excel Spreadsheet or PDF attachments to an email or by link to an online document service or accounting system.

D. If in an audit or other review of the records provided by Contractor to MSWMA under Section 6.C., MSWMA determines that it has been overcharged, it shall provide the results of the audit or review to Contractor who shall have thirty (30) days from the receipt of the audit or review to explain or otherwise dispute its conclusions. If the Parties have failed to resolve any such dispute within thirty (30) days from MSWMA's receipt of Contractor's position, the dispute shall be subject to binding dispute resolution as provided in Section 8.

6. **PERFORMANCE REQUIREMENTS.**

A. Permits and Licenses. Contractor shall obtain and maintain throughout the term of this Agreement all permits, licenses and approvals required for Contractor to perform the work and services described herein, including, but not limited to a Permit by Rule (PBR) as required by 22 California Code of Regulations (CCR) §676450.25(a)(3) for a Permanent Household Hazardous Waste Collection Facility. MSWMA shall reasonably cooperate with Contractor in connection with obtaining or renewing such permits, licenses and approvals.

B. Compliance with the Permanent Household Hazardous Waste Collection Facility Operations and Contingency Plan. Contractor shall comply with the Permanent Household Hazardous Waste Collection Facility Operations and Contingency Plan also contained in **Attachment 1**.

C. Inspections by MSWMA. MSWMA officials or their designee shall at all times have access on 24 hours' prior written notice to inspect Contractor's work during operations and the Facilities for purposes of ascertaining full knowledge respecting the conduct of Contractor's operations.

D. Records and Reports. Contractor shall keep and maintain accurate books and records in accordance with the most recently adopted Accounting Standards Codification of generally accepted accounting principles by the Financial Accounting Standards Board clearly showing its revenues and expenses in connection with the operations provided for in this Agreement only. Contractor shall maintain records accounting by category for the quantity of HHW collected at the Facility and from Other County Areas, tonnage of Solid Waste removed from Clean-up Sites and disposed at a landfill and recycled on a monthly, quarterly and annual basis.

7. **INDEMNIFICATION AND INSURANCE.**

A. Indemnification. Contractor shall indemnify and hold harmless MSWMA, the Commission and MSWMA's officers, agents, representatives and employees (the "**Indemnified Parties**") from any and all actions, claims or damages brought for or on account of injuries to or death of any person or damage to property of all kinds (collectively ("**Damages**") to the extent resulting from or arising out of (i) the negligence or willful misconduct of Contractor, its officers, agents or employees, or (ii) any breach of this Agreement Contractor, its officers, agents or employees; provided, however, that Contractor shall have no obligation to indemnify, defend or hold harmless any Indemnified to the extent any such Damages resulted from or arose out of the negligence or willful misconduct of an Indemnified Party. The duty of Contractor to indemnify

and hold harmless shall include the duty to defend as set forth in California Civil Code Section 2778.

B. Workers' Compensation Insurance. Contractor shall have in effect during the term of this Agreement, workers' compensation and employer liability insurance providing full statutory coverage.

C. Liability Insurance. Contractor shall take out and maintain during the term of this Agreement comprehensive or commercial liability insurance as follows:

(1) General liability, including comprehensive form, premises operations, products/completed operations, hazard, contractual insurance, broad form property damage, independent contractors and personal liability, with limits for bodily and property damage combined of \$500,000 each occurrence and \$500,000 aggregate.

(2) Automobile liability, including comprehensive form, owned, hired and non-owned, with a limit of \$1,000,000 for bodily injury and property damage combined.

(3) Excess liability, umbrella form with the same scope of coverage and exclusions as the underlying policies, with a limit for bodily injury and property damage combined of \$5,000,000 each occurrence and \$5,000,000 aggregate.

(4) Pollution and remediation liability with limits in an amount of not less than two million dollars (\$2,000,000) per occurrence and four million dollars (\$4,000,000) annual aggregate insuring against loss, the cost of remediation and legal defense as a result of pollution conditions arising out of Contractor's performance under this Agreement.

(5) Insurance certificates and policy endorsements evidencing the required coverage shall be filed with MSWMA and shall be subject to approval by MSWMA's designated attorney. MSWMA, its Commission, officers, agents, employees and service providers shall be named as additional insureds on any such policies of insurance which shall also contain a provision that the insurance afforded thereby shall be primary. No such policy shall be cancelled or modified except upon thirty (30) days' prior written notice to MSWMA. Insurance is to be placed with admitted California insurers with an A.M. Best's rating of no less than A- for financial strength, AA for long-term credit rating and AMB-1 for short-term credit rating.

8. **REMEDIES UPON DEFAULT.**

A. Default. Contractor shall be deemed in default in the event Contractor defaults in the performance of any of the duties to be performed by it under the terms of this Agreement and fails to cure the default as further provided in this Section 8.A. MSWMA shall give Contractor written notice as provided in Section 16 setting forth the default. Contractor shall correct such default within thirty (30) days after receipt of such notice (within seven (7) days if MSWMA determines that the public health or safety is at risk) unless the default cannot, by its nature, be cured within said period, in which case the cure period shall be extended for such additional time as is reasonably necessary to effect a cure, provided that Contractor shall commence efforts to effect a cure as soon as practicable and shall diligently pursue the cure to completion.

B. Material default. In the event Contractor's default described in Section 8.A. is of a material provision of this Agreement and is not cured as set forth in Section 8.A. or if Contractor has committed Multiple Breaches (defined to mean three (3) or more defaults of material provisions of this Agreement within an eighteen (18) month period, whether cured or not) ("**Material Default**"), MSWMA shall have the following remedies:

(1) Liquidated Damages. The Parties acknowledge that MSWMA may incur damages as a result of a Material Default, and that such Material Default may not warrant termination of this Agreement. The Parties agree that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by MSWMA as a result of a Material Default. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the fact that: (i) substantial damage results to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) that exclusive services might be available at substantially lower costs than alternative services and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for such breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches. Liquidated damages shall be MSWMA's exclusive damages remedy for any individual Material Default which does not result in termination of this Agreement by MSWMA. The amount of liquidated damages is \$500.00 for each day the Material Default continues after Contractor fails to cure until it is either cured or MSWMA terminates this Agreement.

(2) Termination. Without further notice and without suit or other proceedings, MSWMA may cancel and annul the rights and privileges of this Agreement upon a Material Default. In the event of termination of this Agreement for Material Default, MSWMA shall have the right forthwith to contract with another company to perform work under this Agreement. MSWMA shall also have access to Contractor's records for the purpose of billing during the period MSWMA is providing the services described in this Agreement and shall retain all fees collected for such services.

C. Performance Bond or Guarantee. Contractor shall post a \$300,000 performance bond or financial instrument reasonably acceptable to MSWMA as security for Contractor's faithful performance of each and every term, covenant and condition of this Agreement to be performed by Contractor. In the alternative, Waste Connections US, Inc., a Delaware corporation, may provide an irrevocable guarantee of Contractor's performance hereunder.

D. Other Remedies. Upon termination of this Agreement based on a Material Default, MSWMA shall have all other remedies in law or equity for such Material Default.

9. **DISPUTE RESOLUTION.** If a dispute arises between MSWMA and Contractor regarding fees or any other term or provision of this Agreement, the Parties agree to meet and confer in good faith to resolve the dispute. Either Party may request to meet and confer by written notice to the other Party. Alternatively, the Parties may agree to participate in non-binding

mediation. If the dispute is not resolved within thirty (30) days after the written request to meet and confer has been given or after the Parties have agreed to non-binding mediation, the matter, other than an action seeking specific performance or other equitable relief, damages of Twenty Five Thousand Dollars (\$25,000) or less, or indemnification or insurance coverage pursuant to Section 7, shall be submitted to non-binding arbitration in accordance with Title 9 of the California Code of Civil Procedure, commencing with Section 1280, before a single neutral arbitrator (“**Arbitrator**”) in Mendocino County. The Arbitrator shall be an attorney with at least ten (10) years’ experience or a retired judge (or a person having comparable qualifications) and shall be mutually agreed upon by the Parties. If the Parties are unable to agree on an Arbitrator, the Arbitrator shall be appointed by the superior court in accordance with Cal. Code Civ. Proc. §1281.6. The fees and expenses of the Arbitrator shall be borne equally by the Parties.

In the event such non-binding arbitration does not resolve the matter and in any other dispute that results in any court action, the Parties waive any right to a jury trial and agree that any such action shall be filed in the federal or state courts in or for Mendocino County, each Party hereby consents to the jurisdiction of and venue in such courts, the matter shall be governed by the internal laws of the State of California (irrespective of choice of law principles), and the prevailing Party shall be entitled to recover its reasonable attorneys’ fees, costs and disbursements incurred in such action from the non-prevailing Party.

10. **INSOLVENCY.** If Contractor shall at any time during the term of this Agreement or any extension thereof, become insolvent, or if proceedings in bankruptcy shall be instituted by or against Contractor, or if Contractor shall be adjudged bankrupt or insolvent by any Court, or if a receiver or trustee in bankruptcy or a receiver of any property by Contractor shall be appointed in any suit or proceeding brought by or against Contractor, or if Contractor shall make an assignment for the benefit of creditors, then and in each and every such case, and provided that such proceedings, adjudication, appointment or assignment, as the case may be, continue in effect for ninety (90) days without being vacated, removed or withdrawn, this Agreement shall immediately cease and come to an end, and the rights and privileges granted shall immediately be cancelled and annulled without notice or action required on behalf of MSWMA.

11. **FORCE MAJEURE.** Notwithstanding any other provision herein, no default, delay or failure to perform on the part of either Party shall be considered a breach hereunder if such default, delay or failure to perform is due to causes beyond such Party’s control, including, but not limited to, riots, civil disturbances, actions or inactions of governmental authorities, epidemic or pandemic (or any restrictions imposed by governmental authorities in response thereto), war, embargoes, severe weather, fire, earthquake, flood, acts of God, defaults by the other Party or defaults by carriers. In the event of any such default, delay or failure to perform, any dates or times by which the affected Party otherwise is scheduled to perform shall be extended for a period of time equal in duration to the additional time required because of the excused default, delay or failure to perform.

12. **ASSIGNMENT.**

A. Contractor shall not directly or indirectly, voluntarily or involuntarily assign, mortgage, pledge or encumber any interest in all or a part of this Agreement without the prior written consent of MSWMA, which consent shall not be unreasonably withheld, conditioned or

delayed. The MSWMA Council shall have the right to determine in its reasonable discretion whether to approve, conditionally approve or deny any request by Contractor for approval under this Section, provided, however, that any such approval shall not be unreasonably withheld, conditioned or delayed. Any action requiring MSWMA Council approval under this Section that occurs without such approval shall give MSWMA the right to terminate this Agreement without prior notice to Contractor or its successors or assigns. For purposes of this Section, any transaction involving the transfer, sale or exchange of stock which results in a change in majority control of Contractor from its owners as of the date hereof (excluding transfers between such owners and their affiliates and transfers by any such owners to revocable living trusts for the benefit of their families) shall be an assignment subject to MSWMA review and approval.

B. Any written agreement between Contractor and an Authorized Facility for the disposal of Solid Waste generated in MSWMA entered into after the date of this Agreement shall provide that: (1) MSWMA is a third party beneficiary with the same right as a Party to enforce such agreement; (2) any assignment of such agreement shall require MSWMA approval; (3) in the event such agreement is terminated during its term or any extended term by Contractor or by the Authorized Facility operator based on an uncured default by Contractor under such agreement, such agreement may be assumed by MSWMA without change, including as to disposal rates and terms; and (4) if terminated based on an uncured default by Contractor, any payments due but unpaid under such agreement on the date of termination shall continue to be an obligation of Contractor and the obligation to make any such payments shall not be assumed by MSWMA upon its assumption of such agreement.

13. **WAIVER.** The waiver by either Party of any breach or violation of any term or condition of this Agreement or of any provision of law by the other Party must be in writing signed by the Party to be charged and shall not be deemed to be a waiver of the term, condition or provision of law, or of any subsequent breach or violation of the same or any other term, condition or provision of law. The acceptance by MSWMA of any franchise fee or other fee or other monies which may become due hereunder to MSWMA shall not be deemed to be a waiver of any preceding breach or violation by Contractor.

14. **ADMINISTRATION.** The administration and enforcement of this Agreement shall be the responsibility of a designated representative of MSWMA which can be a member of MSWMA or any of their designated employees, contractor or officials. Nothing contained in this Agreement shall prohibit MSWMA from seeking approval from its Commission for any decision MSWMA or its authorized agent is authorized to make under the terms of this Agreement.

15. **INDEPENDENT CONTRACTOR.** Contractor is an independent contractor and is solely responsible for its acts or omissions. Contractor (including its agents, servants, and employees) are not MSWMA's agent, employee, or representative for any purpose.

It is the express intention of the Parties hereto that Contractor is an independent contractor and not an employee, joint venturer, or partner of MSWMA for any purpose whatsoever. MSWMA shall have no right to, and shall not control the manner or prescribe the method of accomplishing those services contracted to and performed by Contractor under this Agreement, and the general public and all governmental agencies regulating such activity shall be so informed.

Those provisions of this Agreement that reserve ultimate authority in MSWMA have been inserted solely to achieve compliance with federal and state laws, rules, regulations, and interpretations thereof. No such provisions and no other provisions of this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Contractor and MSWMA.

Contractor shall pay all estimated and actual federal and state income and self-employment taxes that are due the state and federal government and shall furnish and pay worker's compensation insurance, unemployment insurance and any other benefits required by law for himself and his employees, if any. Contractor agrees to indemnify and hold MSWMA and its officers, agents and employees harmless from and against any claims or demands by federal, state or local government agencies for any such taxes or benefits due but not paid by Contractor, including the legal costs associated with defending against any audit, claim, demand or law suit.

16. **NOTICES.** Whenever a notice or document is required or permitted to be served or given hereunder, it shall be deemed given or served when received if delivered by email (with acknowledgment of receipt), certified U.S. Mail, overnight courier (such as UPS or Federal Express), or 48 hours after deposit in the U.S. Mail with first class postage affixed. Any such document or notice shall be addressed as follows:

MSWMA:

Mendocino Solid Waste Management Authority
Attn: [REDACTED]
3200 Taylor Drive
Ukiah, California 95482
Email: [REDACTED]

CONTRACTOR:

Ukiah Waste Solutions, Inc.
Attn: Bruce McCracken, District Manager
3515 Taylor Drive
Ukiah, California 95482
Email: bruce.mccracken@wasteconnections.com

or to such other person or address as may be specified from time to time in writing by either Party in accordance with this Section.

17. **AMENDMENTS.** This Agreement may be amended from time to time only by written agreement between the Parties signed by an authorized representative of each Party. Either Party may at any time request that the service or other provisions in this Agreement be modified by delivering written notice of its requested modifications to the other Party. Within thirty (30) days after receipt of any such request, the Parties shall meet and negotiate in good faith on adopting such requested modifications, including, without limitation, any change to the Rates necessitated by such modifications, provided that nothing herein shall obligate either Party to agree on any such requested modifications.

18. **SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon, and shall inure to the benefit of, the permitted successors and assigns of the Parties.

19. **INTEGRATION; SEVERABILITY.** This Agreement, including the Exhibits hereto, constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements between the Parties, whether written or oral, relating to such subject matter. If a court finds any provision of this Agreement invalid or unenforceable as applied to any circumstance, the remainder of this Agreement and the application of such provision to other persons or circumstances shall remain in effect. The Parties further agree to replace such void or unenforceable provision with a valid and enforceable provision which will achieve, to the extent possible, the economic, business and other purposes of the void or unenforceable provision.

***[Remainder of page intentionally left blank;
Signature page follows.]***

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

MENDOCINO SOLID WASTE MANAGEMENT AUTHORITY

By: _____
Name: _____
Title: _____

UKIAH WASTE SOLUTIONS, INC.

By: _____
Name: _____
Title: _____

ATTACHMENT 1

OPERATIONS

Household Hazardous Waste. Commencing on a start date in 2023 as determined by MSWMA, Contractor shall provide for collection, storage and disposal of Household Hazardous Waste in accordance with its Household Hazardous Waste Operations Plan. Notwithstanding said Operations Plan, Contractor shall provide for the collection, storage and disposal of Household Hazardous Waste ("HHW") from and after such start date, as follows:

(a) Collection.

(i) Contractor shall provide Hazardous Waste Collection at 3200 Taylor Dr, Ukiah, CA 95482. It is anticipated that there will also be offerings of mobile events within the northern and western regions of Mendocino County. Each drop-off event shall be fully compliant with state and federal regulations that govern such events, and shall be available to the owners or occupants of all single-unit residential properties in the County without charge. Additionally, said drop-off events shall be available to the owners, tenants or operators of all commercial properties located in the County for a fee negotiated in good faith by the parties hereto, which fee may be amended from time to time pursuant to mutual written agreement of Contractor and MSWMA executed by the General Manager, to reflect the agreed upon compensation relative to Attachment 2.

Proof of County residence may be required. In its discretion, Contractor may also offer Household Hazardous Waste collection service at residential and commercial properties in the County at such fees as are established by mutual good-faith negotiations between the parties hereto.

(ii) The Company agrees to receive Household Hazardous Waste at the Recycling Facility, at a fee to be negotiated in good-faith by the parties hereto, at hours other than indicated above, if (a) requested by the MSWMA to accommodate unusual quantities of Hazardous Waste resulting from an emergency or from programs of any Mendocino County-based local governmental entity designed to promote clean-up of an area in the Territory; (b) the Recycling Facility is able, in the reasonable judgment of the Contractor, to receive such additional quantities of Household Hazardous Waste without adversely affecting the Company's operation or maintenance of the Recycling Facility; and (c) MSWMA will provide the Company with reasonably adequate advance notice of such delivery of Household Hazardous Waste to enable the Contractor to respond to any such request. Written confirmation shall be provided within ten days of such event.

Contractor, with the consent of the MSWMA (which shall not be unreasonably withheld) may change the list of Household Hazardous Waste materials that are acceptable for disposal at the Recycling Facility. Contractor shall be under no obligation to accept or receive Household Hazardous Waste that is not identified as acceptable for disposal at the Recycling Facility.

(iii) Subject to compliance with licensing and permit requirements, nothing herein shall preclude Contractor, in its sole discretion, from electing to provide HHW collection services to any of its customers in the Territory on an "as-requested" basis. Contractor may charge said customers for collection of HHW collection services at rates to be negotiated in good faith between Contractor and MSWMA, which rates may be amended from time to time pursuant to mutual written consent of Contractor and MSWMA executed by the General Manager.

(b) Storage. Contractor shall provide for storage of Household Hazardous Waste collected, whether collected by Contractor or County, at any properly licensed and permitted HHW storage facility including the Recycling Facility, which HHW storage facility shall be maintained in compliance with all applicable federal, state and local statutes, laws, regulations and ordinances, as currently in existence or as may be enacted or modified during the Term of this Agreement.

(c) Disposal. For all Household Hazardous Waste stored at the Recycling Facility, the Contractor shall provide for the removal, shipment, transportation and delivery of said Household Hazardous Waste to Licensed Hazardous Waste Recycling Treatment or Disposal Facilities ("TSDFs"). Wherever possible, such HHW shall be recycled or, if not possible, treated or incinerated. If recycling, treatment and incineration all are not available alternatives, then, and only then, may Contractor arrange for the landfilling of Household

Hazardous Waste at a landfill willing and permitted to accept same. MSWMA hereby agrees that all Household Hazardous Waste manifests for such removal, transportation and disposal shall bear the name of MSWMA as Generator of the waste, and shall be signed by Contractor's authorized representative of MSWMA.

Contractor shall remove, ship, transport and deliver such Household Hazardous Waste in a reasonable and cost-effective manner consistent with the other provisions of this Section. Contractor shall determine the TSDFs to be used for recycling, treatment, incineration, or disposal of such Household Hazardous Wastes, and Contractor shall use such TSDFs for such purposes unless otherwise directed by MSWMA or unless uncontrollable circumstances require use of an alternative TSDF. Notwithstanding any of the foregoing, Contractor shall obtain the prior written approval of MSWMA before landfilling any Household Hazardous Waste.

(d) Compliance with Laws. Throughout the duration of this Agreement, Contractor shall comply with, and pay, any fine, penalty or other charge with respect to the Contractor's failure to adhere to all requirements of any applicable environmental laws and regulations or other applicable laws, ordinances, codes, regulations and rules, and any permits issued thereunder, which are necessary for the collection, storage and disposal of Household Hazardous Waste, unless such fine, penalty or other charge is imposed by reason of the negligent acts or omissions of MSWMA or other third parties beyond Contractor's control.

(e) Compensation: MSWMA shall compensate Contractor based upon the agreed upon rates in Attachment 2. Contractor shall invoice MSWMA quarterly for services and shall be itemized to the satisfaction of MSWMA's General Manager who shall pay said invoices within 30 days of receipt. Additionally, to the extent eligible State or Federal funds are provided to MSWMA for such purposes, MSWMA will provide for additional collection events, improvement to the HHW collection facilities, the purchase of personal protective equipment and/or Hazardous Waste Operations and Emergency Response Standards (HAZWOPPER) training. Pursuant to mutual written consent of Contractor and MSWMA executed by the General Manager.

(f) Safety of Persons and Property. Contractor warrants that it understands the known hazards that are present to persons, property, and the environment in the transportation, storage, and treatment/disposal of the wastes received at HHW facilities. Throughout the term of this Agreement, the Contractor agrees that it will: (a) take all reasonable precautions to prevent damage, injury or loss, by reason of or related to the operation and maintenance of the Recycling Facility, to any property on the Recycling Facility site or adjacent thereto, including equipment, structures and utilities, which are dedicated to the collection, storage and disposal of HHW; (b) establish and maintain safety procedures for the Recycling Facility for the protection of employees of the Contractor and all other Persons, invitees and permittees at the Recycling Facility in connection with the operation and maintenance thereof at a level consistent with applicable law and with good industry standards and practices for HHW collection facilities; (c) comply with all applicable laws, ordinances, rules, regulations and lawful orders of any governmental agency relating to the safety of persons or property at the Recycling Facility or their protection at the Recycling Facility from damage, injury or loss; and (d) designate a qualified and responsible member of its organization at the Recycling Facility whose duties shall include safety and the prevention of fires and accidents at the Recycling Facility and to coordinate such activities as shall be necessary with federal, state, local, and municipal officials.

(g) Personnel. All of the Contractor's personnel assigned to the Recycling Facility shall be appropriately trained in accordance with all applicable rules, regulations and law so that the Recycling Facility will be operated and maintained in accordance with all applicable federal, state and local laws and regulations.

(h) Violation Notification. Contractor shall notify MSWMA within five (5) working days if any of the following occurs between now and termination of this Agreement:

(i) Contractor or its affiliates are served with a notice of violation of any laws, regulations, or permits which relate in any material respect to the HHW services proposed hereunder; or

(ii) Proceedings are commenced against Contractor, its affiliates, its waste management facilities or other handlers that could lead to revocation of permits or licenses that relate to the HHW services envisioned herein.

(i) Licenses, Permits, Etc. Contractor represents and warrants to MSWMA that it, its affiliates and any subcontractors engaged by Contractor to perform HHW work relative to this Agreement, shall have at the time of the effective date of this Agreement and at all times during the term of this Agreement, all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required for Contractor to provide the HHW collection, storage and disposal services envisioned herein. In the event that its mobile HHW facilities and any other facilities necessary to provide the HHW services delineated herein, should lose its permitted status during the term of this Agreement, Contractor shall promptly notify MSWMA of such loss. Contractor will ensure that all Permit By Rule (PBR) conditions to operate the HHW mobile events and other relevant facilities are met. The Contractor will complete the PBR forms and submit to MSWMA for necessary signatures. MSWMA is responsible for submittal and obtaining approval of the PBR.

DRAFT

ATTACHMENT 2

CITY OF UKIAH INVOICE

HOUSEHOLD HAZARDOUS WASTE COLLECTION

Bill To: City of Ukiah Public Works
300 Seminary Avenue
Ukiah, CA 95482

Car Count

Sat
Sun

Event Date

Location:

City of Ukiah

0

Material	Unit	Disposal Cost	Quantity	Subtotal
PAINT - Oil Based	Gallon	\$0.000		\$0.00
Latex	Gallon	\$0.000		\$0.00
Flammables - Bulk Solv.	Gallon	\$3.300		\$0.00
Solids/Grease	Gallon	\$4.600		\$0.00
Liquids loose pack	Gallon	\$3.460		\$0.00
POISONS - Solid	Gallon	\$4.780		\$0.00
POISONS - Flammable Liquids	Gallon	\$7.260		\$0.00
CORROSIVES - Acids & Bases	Gallon	\$4.450		\$0.00
OXIDIZERS - Solids & Liquid	Gallon	\$6.750		\$0.00
GASES - Aerosol Cans	Drum	\$235.000		\$0.00
Aerosol Meter Box	Each	\$710.000		\$0.00
5- Gallon Propane bottle	Each	\$0.000		\$0.00
1-Gallon Propane	Each	\$2.000		\$0.00
1 Pound Propane Meter Box	Each	\$980.000		\$0.00
MISC - Non-RCRA Solids	Gallon	\$6.260		\$0.00
Non-RCRA Liquids	Gallon	\$4.770		\$0.00
Motor Oil	Gallon	\$0.000		\$0.00
Oil Filters	Gallon	\$0.000		\$0.00
PCB Ballasts	Pound	\$0.650		\$0.00
Fluorescent Tubes	Foot	\$0.150		\$0.00
HID Bulbs	Each	\$1.200		\$0.00
Compact Fluorescent Lamps	Each	\$0.600		\$0.00
Bent light tubes	Each	\$1.600		\$0.00
Crushed Tubes	Pound	\$2.100		\$0.00
Lead Chips/Contaminated Soil/Absorbent	Gallon	\$4.780		\$0.00
Mercury	Gallon	\$42.180		\$0.00
Household Batteries	Pound	\$1.000		\$0.00
Cell Battery NICAD / Lithium Recycle	Pound	\$0.300		\$0.00
Antifreeze	Gallon	\$0.000		\$0.00
Drum Disposal	Each	\$0.000		\$0.00
Fire Extinguishers	Each	\$2.000		\$0.00
Asbestos Loose	Gallon	\$6.400		\$0.00
Sharps	Cu Ft.	\$3.92		\$0.00
Flares	Gallon	\$33.540		\$0.00
			Disposal	\$0.00
HHW Supplies	20X100 POLY FILM	\$110.00		\$0.00
	DUCT TAPE	\$6.00		\$0.00
			Supplies	\$0.00
Labor				
HHW Tech 1 Labor Fee	Hour	\$35.25		\$0.00
HHW Tech 2 Labor Fee	Hour	\$35.25		\$0.00
HHW Manager Labor Fee	Hour	\$52.10		\$0.00
HHW Support Labor Fee	Hour	\$44.75		\$0.00
				\$0.00
Vehicle Expense				

HHW Travel Mileage	Mile	\$0.90		\$0.00
HHW Packaging Supplies -	Meter Box	\$36.00		\$0.00
	E-Manifest	\$28.00		\$0.00
	Steel Drums 8-DM-OT-55 GAL	\$40.00		\$0.00
				\$0.00
Equipment	Roll-off Truck	\$100.00		\$0.00
	Loader	\$200.00		\$0.00
	Skid Steer	\$200.00		\$0.00
	Trailer	\$100.00		\$0.00
				\$0.00
Freon Removal		\$10.00		\$0.00
Facility Overhead & Profit				\$0.00
Total				\$0.00

Remit To:
Ukiah Waste Solutions, Inc.
P.O. Box 60
Ukiah, CA 95482

LEASE

THIS LEASE is made on [REDACTED], 2023 (the “**Effective Date**”), by and between the Mendocino Solid Waste Management Authority (“**Lessor**”), a joint powers agency under the California Joint Exercise of Powers Act (“**Lessor**”) and Ukiah Waste Solutions, Inc., a California corporation in good standing (“**Lessee**”), with reference to the following:

A. Lessor and Lessee have entered a Services Agreement, dated [REDACTED], 2023 (the “**Agreement**”), a true and correct copy of which is attached hereto as **Exhibit 1**, pursuant to which Lessor has agreed to provide various services previously provided by Lessor, in part, on certain improved real property situated in the City of Ukiah, County of Mendocino, State of California, commonly known as 3200 Taylor Drive, as more particularly depicted and described in the attached **Exhibit 2** (the “**Premises**”).

B. The services to be provided under the Agreement include operation on the Premises of an HHW drop-off center as described therein. In addition, Lessee has agreed to operate a California Redemption and general Buy-back Center on the Premises in compliance with applicable state statutes and regulations, including emergency regulations at 14 California Code of Regulations (CCR) 2750 et seq.

C. Lessor agrees to lease the Premises to the Lessee for the purpose of performing under the Agreement and to operate the buy-back center.

D. Lessor has the authority under the JPA to lease property it owns to further its purposes

E. Capitalized terms used herein have the meaning stated in the Agreement, unless otherwise expressly stated herein.

NOW, THEREFORE, in consideration of the above-recitals and the mutual covenants described below, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Lessor and Lessee agree as follows:

1. Lease. Lessor hereby leases the Premises to Lessee on the terms and conditions as stated in this Lease. The Premises includes all buildings and other improvements thereon and any equipment, fixtures, trade fixtures or other items of personal property located on the Premises on the Effective Date. An inventory of such items shall be prepared by Lessor and approved by Lessee as of the Effective Date.

2. Term. The term hereof shall be the same as the term of the Agreement.

3. Rent. The annual rent for the premises shall be One Dollar (\$1.00). Such rent shall be paid to Lessor on the Commencement Date and on the same date each year thereafter. Lessee may prepay rent for all or any portion of the remaining term of this Lease. Rent shall be paid to Lessor and delivered to Finance Department, City of Ukiah, 300 Seminary Ave., Ukiah, California 95482, or to such other place as may be designated by Lessor from time to time.

4. Condition of Leased Premises.

(a) Environmental Indemnification. Lessee shall be responsible for the costs of remediation and removal of any Hazardous Materials released on the Premises during the term of this agreement, to the extent caused by the acts, omissions, negligence or willful misconduct of Lessee or Lessee's invitees; provided, however, Lessee shall not be responsible for such costs to the extent resulting from or arising out of the negligence or willful misconduct of Lessor or any other third party. Lessee agrees to assume the defense of, indemnify, and hold Lessor harmless from any and all claims, costs, and expenses related to environmental liabilities to the extent resulting directly from Lessee's acts, omissions, negligence or willful misconduct of Lessee in its operations on the Premises or its invitees; provided, however, Lessee shall have no obligations to defend, indemnify or hold Lessor harmless to the extent such claims, costs, or expenses result from or arise out of the negligence or willful misconduct of Lessor or any other third party. Notwithstanding anything to the contrary in this agreement, Lessor and Lessee acknowledge and agree that Lessee's responsibilities and liability with respect to the presence of any Hazardous Materials disposed of or otherwise placed on or beneath the Premises, or incorporated or migrating into or beneath the Premises, shall be limited to those responsibilities and liabilities arising directly from conditions caused by Lessee's acts, omissions, negligence or willful misconduct during the term of this agreement or its invitees, and in no event shall Lessee be responsible or liable for the action or inaction of Lessor, other Lessees or third parties with respect to such conditions. Lessor shall be responsible for the costs of remediation and removal of any Hazardous Materials released on the Premises prior to, during or after the term of this agreement, to the extent caused by the negligence or willful misconduct of Lessor. Lessor agrees to assume the defense of, indemnify, and hold Lessee harmless from any and all claims, costs, and expenses related to environmental liabilities to the extent resulting directly from Lessor's negligence or willful misconduct. The rights and obligations of this Section 4(a) shall survive the termination of this agreement.

(b) For purposes of this Agreement, "Hazardous Materials" means any and all substances, chemicals, wastes, sewage or other materials that are now or hereafter regulated, controlled or prohibited by any Environmental Laws, including any (i) substance defined as a "hazardous substance", "extremely hazardous substance", "hazardous material", "hazardous chemical", "hazardous waste", "toxic substance" or "air pollutant" by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. Section 1251, et seq.; the Clean Air Act, 42 U.S.C. Section 7401, et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Section 11001, et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; or the Occupational Safety and Health Standards, 25 C.F.R. 1910-1000 et seq., or regulations promulgated thereunder, all as amended to date and as amended hereafter, (ii) hazardous substance, hazardous waste, toxic substance, toxic waste or hazardous material, waste, chemical or compound described in any other environmental laws, and (iii) asbestos, polychlorinated biphenyls, urea formaldehyde insulation, flammable or explosive or radioactive materials, gasoline, oil, motor oil, waste oil, petroleum (including crude oil or any component thereof), petroleum-based products, paints, solvents, lead, cyanide, DDT, printing inks, acids, pesticides, ammonium compounds, and other regulated chemical products, but expressly excluding nonhazardous oilfield waste and naturally occurring radioactive materials and materials

expressly excluded from the definition of “hazardous materials” under such applicable laws as may be amended from time to time.

5. Use. The Premises are to be used exclusively to provide the services under the Agreement as it now reads or may be amended in the future and to operate a buy-back facility in compliance with applicable state laws and regulations and in accordance with the attached **Exhibit 3** which includes a list of recyclable items to be accepted at the buy-back center. Lessee shall comply with the maintenance and operation requirements, including, but not limited to, required fencing, methods of securing Hazardous Materials and security systems as set forth in the attached **Exhibit 4**.

6. Uses Prohibited. Lessee shall not use any portion of the Premises for purposes other than those specified hereinabove, and no use shall be made or permitted to be made upon the Premises, nor acts done, which will increase the existing rate of insurance upon the property, or cause cancellation of insurance policies covering said property.

7. Assignment and Subletting. Lessee shall not assign this Lease or sublet any portion of the Premises without the prior written consent of Lessor, which shall be in Lessor’s sole and absolute discretion to give or deny. Any such assignment or subletting without such consent shall be void and, at the option of the Lessor, may terminate this Lease. “**Assignment**,” as used herein, includes any change in the ownership or control of Lessee or any sale of substantially all of its assets.

8. Ordinances and Statutes. Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, occasioned by or affecting the continuing use thereof by Lessee.

9. Maintenance, Repairs, Alterations. Lessee acknowledges that except for any existing subsurface Hazardous Waste contamination which the Parties acknowledge are unknown to Lessee, the Premises are in good order and repair. Lessee shall, at its own expense and at all times, maintain the Premises (including all improvements) in good order and repair, keep the Premises clean and in good and safe condition, do no damage to the Premises, and shall surrender the Premises, at termination or expiration of this Lease, in as good condition as received, normal wear and tear excepted. Lessee’s obligation includes any reconstruction or replacement of the Improvements necessary to maintain the Premises in good condition for the uses allowed under this Lease.

No improvement or alteration of the Premises shall be made by Lessee without the prior written consent of Lessor. Prior to the commencement of any substantial repair, improvement or alteration to which Lessor shall so consent, Lessee shall give Lessor at least two (2) days advance written notice in order that Lessor may post appropriate notices to avoid any liability for liens.

10. Entry and Inspection. Lessee shall permit Lessor or Lessor’s agents to enter upon the Premises without prior notice during hours when the Premises are open to the public and at other reasonable times upon reasonable notice for the purpose of inspecting the same, and will permit Lessor to place upon the Premises any usual “To Let” or “For Lease” signs, and permit

persons desiring to Lease the same to inspect the Premises thereafter, within six (6) months prior to expiration of this Lease.

11. Quiet Enjoyment. Lessor covenants that Lessee shall and may, at all times during the Term, peaceably and quietly have, hold, occupy, and enjoy the Premises.

12. Indemnification of Lessor. Lessee shall indemnify and defend Lessor against, reimburse Lessor for, and hold Lessor harmless from any and all losses, costs, liabilities, suits, actions, damages, injuries, or expenses (including reasonable legal fees and costs of expert witnesses) to the extent caused by, resulting from, connected with, or related to any claim of damages, whether or not suit has been filed: (i) occurring as a result of Lessee's acts, omissions, or negligence, or the acts, omissions, or negligence of Lessee's agents, contractors, subcontractors, employees or invitees, in connection with this agreement; (ii) occurring as a result of Lessee's breach of this agreement or any of its representations or warranties contained herein; and (iii) otherwise in connection with Lessee's use of the Premises; except to the extent resulting from Lessor's acts, omissions, or negligence, or the acts, omissions, or negligence of Lessor's agents, contractors, subcontractors, or employees.

13. Insurance. Lessee, at its expense, shall maintain public liability insurance, including bodily injury and property damage, in accordance with the terms of Section 7.C. of the Agreement.

14. Utilities. Lessee shall be responsible for the payment of all utilities, including water, gas, electricity, heat and other services delivered to the Premises during the term hereof.

15. Abandonment of Premises. Lessee shall not vacate or abandon the Premises at any time during the term hereof, and if Lessee shall abandon or vacate the Premises, or be dispossessed by process of law, or otherwise, any personal property belonging to Lessee left upon the Premises shall be deemed to be abandoned, at the option of Lessor.

16. Condemnation. If any part of the Premises shall be taken or condemned for public use, and a part thereof remains which is susceptible of occupation hereunder, this Lease shall, as to the part taken, terminate as of the date the condemnor acquires possession, and thereafter Lessee shall be required to pay such proportion of the rent for the remaining term as the value of the Premises remaining bears to the total value of the Premises at the date of condemnation; provided, however, that Lessee may at its option, terminate this Lease as of the date the condemnor acquires possession. In the event that the Premises are condemned in whole, or that such portion is condemned that the remainder is not susceptible for use hereunder, this Lease shall terminate upon the date upon which the condemnor acquires possession. All sums which may be payable on account of any condemnation shall belong to the Lessor, and Lessee shall not be entitled to any part thereof; provided, however, that Lessee shall be entitled to retain any amount awarded to Lessee for its trade fixtures or moving expenses.

17. Trade Fixtures. Any and all fixed improvements made to the Premises during the term hereof shall belong to Lessor, except trade fixtures of the Lessee. Lessee may, upon termination hereof, remove all its trade fixtures, subject to Lessor's rights under Section 8 of the

Agreement, but shall repair or pay for all repairs necessary for damages to the Premises occasioned by such removal.

18. Destruction of Premises. In the event of a whole or partial destruction of the Premises during the term hereof from any cause, Lessor shall forthwith repair the same provided that the insurance proceeds are sufficient for such purpose and provided that such repairs can be made within one hundred twenty (120) days under existing governmental laws and regulations, but such partial destruction shall not terminate this Lease, except that Lessee shall be entitled to a proportionate reduction of rent while such repairs are being made, based upon the extent to which the making of such repairs shall interfere with the business of Lessee on the Premises. If such repairs cannot be made with the available insurance proceeds or within said one hundred twenty (120) days, Lessor or Lessee, at its option, may make the same within a reasonable time, this Lease continuing in effect with the rent proportionately abated as aforesaid, and in the event that Lessor shall not elect to make such repairs which cannot be made with the available insurance proceeds or within one hundred twenty (120) days, this Lease may be terminated at the option of either party.

19. Insolvency. In the event a receiver is appointed to take over the business of Lessee, or in the event Lessee makes a general assignment for the benefit of creditors or Lessee takes or suffers any action under any insolvency or bankruptcy act, the same shall constitute breach of this Lease by Lessee.

20. Remedies of Lessor on Default. In the event of any breach of this Lease by Lessee, Lessor may, at its option, terminate the Lease and recover from Lessee any amount necessary to compensate Lessor for all detriment proximately caused by Lessee's failure to perform its obligations under the Lease or which in the ordinary course of things would be likely to result therefrom. Nothing contained herein shall be deemed to limit any other rights or remedies which Lessor may have.

21. Attorney's Fees. In case suit should be brought for recovery of the Premises, or for any sum due hereunder, or because of any act which may arise out of the possession of the Premises, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including reasonable attorney's fees.

22. Waiver. No failure of Lessor to enforce any term hereof shall be deemed to be a waiver of such term.

23. Notices. Whenever a notice or document is required or permitted to be served or given hereunder, it shall be deemed given or served when received if delivered by email (with acknowledgment of receipt), certified U.S. Mail, overnight courier (such as UPS or Federal Express), or 48 hours after deposit in the U.S. Mail with first class postage affixed. Any such document or notice shall be addressed as follows:

TO LESSOR

Mendocino Solid Waste Management Authority
Attention:
3200 Taylor Drive

Ukiah, California 95482

Email: [REDACTED]

TO LESSEE

Ukiah Waste Solutions, Inc.
Attention: Bruce McCracken, District Manager
3515 Taylor Drive
Ukiah, California 95482
Email: bruce.mccracken@wasteconnections.com

or to such other person or address as may be specified from time to time in writing by either party in accordance with this Section.

24. Time. Time is of the essence of this Lease.

25. Heirs, Assigns, Successors. This Lease is binding upon and shall inure to the benefit of the respective heirs, assigns and successors in interest to each of the parties.

26. Property Taxes. Lessee shall pay all Property Taxes on the Premises, including any improvements thereon. For purposes of this Lease, "**Property Taxes**" shall mean: (a) all real estate taxes and other assessments on the Premises and/or any improvements, including assessments for special improvement districts and building improvement districts, taxes and assessments levied in substitution or supplementation in whole or in part of any such taxes and assessments; (b) all personal property taxes for property that is owned by Lessor and used in connection with the operation, maintenance and repair of the Premises and/or improvements; (c) all governmental charges attributable to the Premises (such as business license taxes and fees); and (d) all costs and fees incurred in connection with seeking reductions in any tax liabilities described in (a) or (b) above, including, without limitation, any costs incurred by Lessor for compliance, review and appeal of Property Tax liabilities. The parties shall use commercially reasonable efforts to maintain or decrease the assessed value of the Premises upon conveyance of the Premises to Lessor.

27. Estoppel Certificate.

(a) Lessee shall at any time upon not less than ten (10) days' prior written notice from Lessor execute, acknowledge and deliver to Lessor a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect), the amount of any security deposit, and the date to which the rent and other charges are paid in advance, if any, and (ii) acknowledging that there are not, to Lessee's knowledge, any uncured defaults on the part of Lessor hereunder, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer to the Premises.

(b) At Lessor's option, Lessee's failure to deliver such statement within such time shall be a material breach of this Lease or shall be conclusive upon Lessee (i) that this Lease is in full force and effect, without modification except as may be represented by Lessor, (ii) that there are no uncured defaults in Lessor's performance, and (iii) that not more than one month's

rent has been paid in advance or such failure may be considered by Lessor as a default by Lessee under this Lease.

(c) If Lessor desires to finance, refinance or sell the Premises, or any part thereof, Lessee hereby agrees to deliver to any lender or purchaser designated by Lessor such financial statements of Lessee as may be reasonably required by such lender or purchaser. Such statements shall include the past three years' financial statements of Lessee. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

28. Entire Agreement. The foregoing (including, where applicable, the Agreement) constitutes the entire agreement between the parties with respect to the Premises and may be modified only by a writing signed by both parties. Capitalized terms used, but not defined, herein shall have the respective meanings given them in the Agreement.

29. Governing Law; Forum. This Lease shall be construed in accordance with the internal laws of the State of California (irrespective of choice of law principles). Any dispute hereunder shall be resolved in the state courts in Mendocino County and state appellate courts. The parties waive any right to a jury trial.

***[Remainder of page intentionally left blank;
Signature page follows.]***

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first above written.

MENDOCINO SOLID WASTE MANAGEMENT AUTHORITY (LESSOR)

By: _____
Name: _____
Title: _____

UKIAH WASTE SOLUTIONS, INC. (LESSEE)

By: _____
Name: _____
Title: _____

DRAFT

RECORDING REQUESTED BY
 Redwood Empire Title Company of Mendocino
 County
 MAIL TAX STATEMENTS
 AND WHEN RECORDED MAIL TO:
 MENDOCINO SOLID WASTE
 MANAGEMENT AUTHORITY
 P.O. BOX 123
 UKIAH, CA 95482
 ORDER NO.: 1300058-ROS

2009-04042

Recorded at the request of:
 MENDO LAKE CREDIT UNION
 03/25/2009 10:44 AM
 Fee: \$14.00 Pgs: 1 of 3

OFFICIAL RECORDS
 Susan M. Ranochak - Clerk-Recorder
 Mendocino County, CA



SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

THE UNDERSIGNED GRANTOR(s) DECLARE(s)

x unincorporated area

☐ THE city of

Documentary Transfer Tax is \$242. County

☐ computed on full value of interest or property conveyed, or

x full value less value of liens or encumbrances remaining at the time of sale

Parcel No. 184-140-11

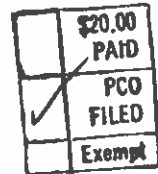
FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged.

Philip and Eloise Gannon Family, LLC and Catherine T. Golden, an unmarried woman
 hereby GRANT(s) to

Mendocino Solid Waste Management Authority

the following real property in the Unincorporated Area, county of Mendocino, State of California:

See Exhibit A attached hereto and made a part hereof.

Dated: February 19, 2009**SELLERS:**

Philip and Eloise Gannon Family, LLC

Thomas M. Gannon, Member

Maureen Riedy, Member

Catherine T. Golden.

STATE OF CALIFORNIA
 COUNTY OF Marin

} ss:

On March 6, 2009 before meDiane L. Julien, a Notary Public, personally appeared

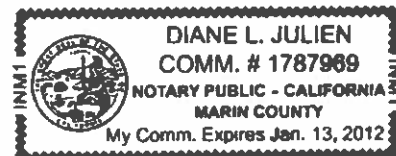
Thomas M. Gannon, Maureen Riedy
 who proved to me on the basis of satisfactory evidence to be the
 person(s) whose name(s) ~~is~~ are subscribed to the within instrument and
 acknowledged to me that ~~he~~ ~~she~~ they executed the same in ~~his~~ ~~her~~ ~~their~~
 authorized capacity(ies) and that by ~~his~~ ~~her~~ ~~their~~ signature(s) on the
 instrument the person(s), or the entity upon behalf of which the person(s)
 acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of
 California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Diane L. Julien

FOR NOTARY SEAL OR STAMP



Gradepl

STATE OF CALIFORNIA
COUNTY OF MENDOCINO

} SS:

On March 20, 2009

before me,

FOR NOTARY SEAL OR STAMP

R. Burlesci

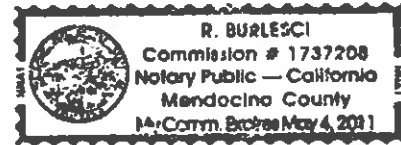
a Notary Public, personally appeared Catherine T. Golden
who proved to me on the basis of satisfactory evidence to be the
person(s) whose name(s) is are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies) and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon behalf
of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State
of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

R. Burlesci
R. Burlesci



STATE OF CALIFORNIA
COUNTY OF

} SS:

On _____ before me.

FOR NOTARY SEAL OR STAMP

a Notary Public, personally appeared _____
who proved to me on the basis of satisfactory evidence to be the
person(s) whose name(s) is are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies) and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of
California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Notaryak

Exhibit A

The land referred to herein is described as follows:

All that certain real property situate, lying and being in the unincorporated area, County of Mendocino, State of California, more particularly described as follows:

All that portion of the following land lying Easterly of the courses numbered (12), (13), (14) and (15); Northerly of the course numbered (16); and Westerly of the course numbered (17) in the Final Order of Condemnation recorded December 26, 1962 in Book 614, Page 288, Mendocino County Records:

Commencing at "H2", which is the Southwest corner of Lot 69 of Healey's Survey and Map of Yokayo Rancho, and which is marked by a half inch iron bolt; thence North 81°12' East, 30.6 feet to the East line of the State Highway and the point of beginning of this description; thence on the exterior boundaries of the land to be described as follows: North 20°38' West, on the East line of the State Highway 747 feet to an iron pipe, from which a white oak tree 40 inches in diameter, marked "FSVNB TGGE" bears South 38°11' East, 133.5 feet; thence North 76°52' East, 332.60 feet; thence North 59°50' East, 56.1 feet; thence North 81°37' East, 981.4 feet to the West line of the Northwestern Pacific Railway Company's right of way; thence South 21°39' East, along the West line of said right of way, 789.8 feet to the South line of said Lot 69; thence South 81°12' West, along the South line of said Lot 69, a distance of 1386.5 feet to the point of beginning, being a portion of Lot 69 of Healey's Map and Survey of Yokayo Rancho.

APN: 184-140-11

EXHIBIT 3

Ukiah Waste Solutions is to accept the following items but is not limited to:

Aerosol sprays
Antifreeze
Asbestos
Auto batteries
Automatic transmission fluid
Ballasts
Bases
Batteries (auto, solar, household)
Brake fluid
Cleaners and disinfectants
Drum Disposal (empty only, 15-gal maximum size)
Engine cleaners
Fertilizers
Fire extinguishers
Flammable liquids & solids
Flares
Fluorescent bulbs
Fuels (such as butane, diesel, gasoline, kerosene and lamp oil)
Fungicides
Glues
Insecticides
Bulbs
Medication
Mercury
Non- RCA Liquids/Solids
Nail polish & remover
Oil & filters
Oxidizers
Paint
Paint thinners
Perfumes
Pesticides
Photo chemicals
Pool chemicals
Power-steering fluid
Propane (5 gallon-cylinders and smaller)
Road Flares
Rodenticides
Sharps/needles
Shoe Polish
Sludge, Soil, Misc.
Smoke Detectors
Solvents
Treated Wood (nails/screws removed)

Toiletries
Weed killers
Wood finishes

EXHIBIT 4

Lessee agrees to maintain the property as described in Exhibit 3 in a manner keeping with industry standards regarding the storage, handling and securing Household Hazardous Waste (HHW). These standards may include but are not limited to; fencing, locked gates and doors, security lighting, alarms, proper containers, labels and handling procedures.

**SERVICE AGREEMENT
BETWEEN
MENDOCINO SOLID WASTE MANAGEMENT AUTHORITY
AND
CITY OF UKIAH**

This Agreement is made and entered in Ukiah, California on _____, 2023 (“Effective Date”) by and between the Mendocino Solid Waste Management Authority (“MSWMA”) and City of Ukiah (“City”). MSWMA and City may be referred to hereafter individually as “Party” and collectively as “Parties.”

RECITALS:

1. MSWMA is a joint powers agency currently organized and operating under an Amended and Restated Joint Powers Agreement among the Cities of Fort Bragg, Ukiah, Willits and the County of Mendocino, dated November 19, 2019 (“JPA”). Under the JPA MSWMA was formed for various purposes, including: (1) making reasonable efforts to increase recycling and diversion of materials in order to reduce landfill deposits and achieve the waste diversion goals of a Reduction and Recycling Plan; (2) providing for the proper handling, reuse or disposal of household hazardous wastes; (3) providing educational outreach to encourage recycling, diversion and proper disposal of solid and household hazardous waste; (4) providing for the cleanup of sites where solid waste has been illegally disposed; and (5) removing graffiti.

2. City is a California general law municipal corporation in Mendocino County, California and a signatory of the JPA.

3. MSWMA entered or will enter a Lease and an HHW Services Agreement with an independent contractor to operate MSWMA’s HHW program.

4. Pursuant to Section 7(a) of the JPA, the MSWMA Board of Directors has determined to contract with the City to perform the services of MSWMA’s General Manager, including the General Manager performing as the MSWMA Treasurer pursuant to Section 6 of the JPA, and to provide other clerical and accounting services.

AGREEMENT:

Based on the foregoing recitals which are incorporated into this Agreement, the terms and conditions stated hereafter and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS: The following capitalized terms shall have the meaning specified in this Section 1:

- a. **“Commission”** shall mean the five-member governing body of MSWMA established under Section 2 of the JPA.
- b. **“Commencement Date”** shall mean the date when City is required to begin providing services under this Agreement as specified in Section 2 below.
- c. **“County”** shall mean Mendocino County.
- d. **“Facility”** shall mean household hazardous waste disposal facility at the MSWMA Site.
- e. **“Fiscal year”** means July 1 to June 30.
- f. **“Haulers’ Advisory Committee”** shall mean a group composed of at least one representative from each company holding an exclusive curbside collection franchise contract in the incorporated and unincorporated territory of the County and a representative of the County Department of Transportation.
- g. **“Household Hazardous Waste or “HHW”** shall mean leftover household products that can catch fire, react, or explode under certain circumstances, or that are corrosive or toxic, including products, such as paints, cleaners, oils, batteries, pesticides and other products specified by MSWMA as accepted at the Facility.
- h. **“HHW Services Agreement”** means the Agreement, an unexecuted draft of which is attached hereto as Attachment 1.
- i. **“Lease”** shall mean the lease between MSWMA and Ukiah Waste Solutions for the MSWMA Site, substantially in the form of the attached Attachment 2.
- j. **“MSWMA”** has the meaning provided in Recital 1, above.
- k. **“MSWMA Site”** shall mean the real property located at 3200 Taylor Drive, Ukiah, CA as depicted and described in the Lease.

2. **GENERAL MANAGER AND TREASURER SERVICES:** Commencing on _____, 2023, using its own employees and/or independent contractors City shall perform the duties of the General Manager and Treasurer of MSWMA in accordance with Sections 6 and 7 of the JPA. In keeping with sections 5, 7, 13 and 15 of the JPA, the Commission will appoint the City of Ukiah Director of Public Works as General Manager. The holder of that position will remain the General Manager until the Commission, with the agreement of the City's City Manager, makes a different appointment. In keeping with the provisions of section 6 of the JPA, the Commission will appoint the Finance Director of the City of Ukiah as Treasurer. The Treasurer shall perform appropriate accounting, reporting, audit management, and other regular and customary financial services functions necessary for the prudent financial management of MSWMA. The holder of that position will remain the Treasurer until the Commission, with the mutual agreement of the City's City Manager, makes a different appointment.

A. In its capacity as General Manager, the City shall:

- (1) act as MSWMA's representative in managing the HHW Services Agreement and the Lease to determine if the services required by those agreements are being performed in compliance with their terms;
- (2) prior to the commencement of each Fiscal Year, present a preliminary budget to the Commission for consideration and by no later than June 15, submit a final budget for Commission approval. The Parties may agree to alter this schedule;
- (3) call meetings of and consult with a standing committee formed by the Commission pursuant to Section 4(b) of the JPA, to provide guidance and clarify issues in an advisory role between Commission meetings. The Commission may elect to create and appoint as members of such committee one Commissioner who represents an area that includes the coastal area and one Commissioner who represents an area that includes an inland area of Mendocino County.
- (4) call and chair meetings of the Haulers Advisory Committee as and when determined necessary by the General Manager;
- (5) Maintain the MSWMA (Mendo Recycle) website;

- (6) Understanding that each member of MSWMA has sole responsibility to comply with California law including, but not limited to, SB 1383, when requested by the Commission, advise and assist MSWMA members to comply with California statutes and regulations governing waste reduction and recycling; provided, however, that the following services will be provided by non-City entities:
- i. The County of Mendocino, Department of Transportation, possessing all the necessary resources, has committed to provide all required updates of the MSWMA Source Reduction and Recycling Element (Plan).
 - ii. The County of Mendocino, Department of Transportation, possessing all the necessary resources, has committed to provide all required updates of the MSWMA Household Hazardous Waste Element (Plan).
- (7) perform the duties of Secretary to the Commission responsible for (1) the preparation of meeting notices and agendas in compliance with the Brown Act, (2) minutes of meetings and other documents requiring Commission approval and (3) act as the custodian of Commission records created after the Effective Date and secure documents existing prior to the Effective Date that can be reasonably located at the Facility. Preparation of minutes is contingent on the Commission adopting a Resolution Providing for Action Minutes, substantially in the form of the attached Attachment 3;
- (8) oversee the application for and administration of all routinely available CalRecycle Grants and other grants that will advance the MSWMA's purposes as stated in Section 1 of the JPA.
- (9) Within thirty (30) days of the Commencement Date in consultation with Contractor, City shall oversee the preparation of an inventory of all personal property, including equipment and vehicles owned by MSWMA and located at the Facility which shall be acknowledged in writing by City and Contractor to be complete. Within said thirty (30) days, the inventory shall be delivered to the Clerk of the Commission for presentation to the Commission at a regular or special meeting. The Commission shall review the inventory and the recommendations of the City and the Contractor and determine which items on the

inventory the Contractor is authorized to use in providing services under the services agreement between MSWMA and the Contractor and which items shall be declared surplus property and disposed of at the Direction of the General Manager.

B. In its capacity as Treasurer, the City shall perform the duties of the Treasurer as set forth in Section 6 of the JPA. The Treasurer shall perform appropriate accounting, reporting, audit management, and other regular and customary financial services functions necessary for the prudent financial management of MSWMA. In the performance of those services, the City shall:

- (1) maintain appropriate accounting procedures and practices, in accordance with City of Ukiah Policy Resolution No. 39, Establishing Financial Management Policies for the City of Ukiah, Generally Accepted Accounting Principles (GAAP) and the policies of the Government Accounting Standards Board (“GASB”), including, but not limited to, budgeting, accounting, and treasury management (receipts, deposits, investments, and disbursements);
- (2) maintain records for all MSWMA transactions and accounts, which may include MSWMA fiduciary accounts established as part of the City’s financial management system, and separately account for all funds received, disbursed or invested by the City in its capacity as Treasurer;
- (3) provide regular budgetary and financial reports to MSWMA and upon request of the Commission;
- (4) be the custodian of all MSWMA funds and perform custodial functions, including the deposit of MSWMA funds in and disbursement of such funds from bank accounts maintained by the City and invest surplus funds until needed in accordance with City Policy Resolution No. 39, crediting MSWMA with the return on those investments, whether positive or negative;
- (5) each Fiscal Year engage the same independent certified public accountant who audits the financial statements of the City, to perform an audit and report directly to the Commission on the financial statements of MSWMA.

C. **City is a service provider.** MSWMA shall be responsible for and for understanding the financial and other activities and information performed or related to the services provided by the City under this Agreement. The City is not performing these services as the MSWMA's agent but as a service provider and MSWMA agrees that the City does not assume a fiduciary duty to MSWMA in the performance of these financial and general services.

3. **OTHER SERVICES.** When mutually agreed by the Parties as documented in the minutes of the Commission, City will provide Other Services to MSWMA including, but not limited to, legal and other professional services.

4. **COMPENSATION FOR SERVICES PROVIDED UNDER THIS AGREEMENT.**

A. Annual Compensation: The annual MSWMA budget proposed by the City and approved by the Commission shall include compensation to the City for the services provided under Section 2 of this Agreement.

Within thirty (30) days after the end of each quarter of the Fiscal Year, MSWMA will remit twenty-five (25%) percent of the annual budgeted Compensation to the City and any additional amount needed if the budgeted amount is amended.

B. Payment for Other Services: Unless a different rate is stipulated at the time Other Services are requested by the MSWMA, the City will charge MSWMA for staff services according to the City's Charge Out Rate Schedule which is updated annually, or at the same rate that it pays for such services to outside third parties. The City will bill for these services on a quarterly basis and payment for the services provided in that quarter is due no later than thirty (30) days after presentation of the invoice to MSWMA. The City will also be eligible for any dedicated administration reimbursements from awarded grants that are allowable expenses in the administration of activity delivery for the corresponding grant.

5. **TERM.** This Agreement shall commence on the Effective Date and remain in effect until terminated by either the Commission or the City. Termination shall occur not sooner than ninety (90) days after either Party gives written notice of termination. A different termination date may be established by agreement of the Parties. Upon termination of the Agreement by either Party, the City shall cooperate in the transition to another means of performing the services provided by

City under this Agreement. Upon the termination of this Agreement the City shall have no authority, responsibility or liability for MSWMA's continued operations.

6. NOTICES. Whenever notice or other communication is permitted or required by this agreement, it shall be deemed given when personally delivered or when received, if delivered by overnight courier or email, if receipt is acknowledged in writing, or 48 hours after it is deposited in the United States mail with proper first-class postage affixed thereto and addressed as follows:

To City: City of Ukiah
 Attention: Sage Sangiacomo, City Manager
 300 Seminary Ave.
 Ukiah, CA 95482
 Email:
 Attention: City Manager

To MSWMA: Mendocino Solid Waste Management Authority
 Attention: Chairperson of the Board
 3200 Taylor Dr, Ukiah, CA
 Ukiah, CA 95482
 Email:
 Attention: Commission Chair

A Party may change the address and email address to which notices shall be sent by giving notice of the change as provided herein.

7. SEVERABILITY. Should any part, term, portion, or provision of this Agreement or the application thereof of any person or circumstances, be in conflict with any State or Federal law, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms, portions or provisions, or the application thereof to other persons or circumstances, shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to continue to constitute the Agreement that the parties intended to enter into in the first instance.

8. HOLD HARMLESS AND INDEMNITY. MSWMA agrees to defend, indemnify, and save the City harmless from and against any and all claims, liability, damages or costs arising out of the decisions or directives of the Commission. The City agrees to indemnify and defend MSWMA from and against

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any claims, liability, damages or costs caused by the grossly negligent acts, errors, omissions or willful misconduct of its officers or employees in performing pursuant to this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by the City's officers, employees, or agents.

Each Party hereby agrees to defend itself from any claim, action or proceeding by third parties arising out of the acts or omissions of its officers or employees. In such cases, each Party agrees to retain its own legal counsel, bear its own defense costs, and waive its right to seek reimbursement of such costs.

Notwithstanding the above, where a trial verdict or arbitration award allocates or determines the comparative fault of the Parties, the Parties may seek reimbursement and/or reallocation of defense costs, settlement payments, judgments and awards, consistent with said comparative fault.

As required by Section 9 herein, the Parties are responsible to provide workers compensation insurance for injuries sustained in the normal course and scope of their respective employees' performance of services. The Parties waive any right of subrogation against each other for any and all losses sustained by the Parties, subject to such workers compensation coverage.

For purposes of this section, the terms "employee" or "employees" shall refer to and include employees, officers, agents, representatives, subcontractors or volunteers.

Notwithstanding the foregoing, no employee, officer, agent, representative, subcontractor or volunteer of any Party shall be considered an "employee" of the other Party for purposes of indemnification.

9. **INSURANCE** Each Party shall be responsible for maintaining a program of insurance that shall cover each Party's indemnification obligations. Without in any way affecting the indemnity herein provided and in addition thereto, each Party shall secure and maintain throughout the Agreement the following types of insurance, including coverage through a pooled risk joint powers agency with limits as shown.

A. Workers' Compensation:

If the Party has employees, a program of Workers' Compensation Insurance or a state-approved self-insurance program in an amount and form to meet all

applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons providing services on behalf of each Party and all risks to such persons under this Agreement.

B. Comprehensive General and Automobile Liability Insurance:

This coverage is to include contractual coverage and automobile liability coverage for owned, hired, and non-owned vehicles. The policy or self-insurance shall have combined single limits for bodily injury and property damage of not less than two million dollars (\$2,000,000.00).

C. Additional Named Insured:

All policies, and/or memoranda of coverage, except Workers' Compensation, shall contain additional endorsements naming each Party and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of each Party's performance hereunder.

D. Policies Primary and non-Contributory:

All policies required above are to be the primary and non-contributory with any insurance or self-insurance carried or administered by each Party.

10. INDEPENDENT CONTRACTOR.

It is the express intention of the Parties that City is an independent contractor and not an employee, joint venturer, or partner of MSWMA for any purpose whatsoever. MSWMA shall have no right to and shall not control the manner or prescribe the method of accomplishing those services contracted to and performed by City under this Agreement, and the general public and all governmental agencies regulating such activity shall be so informed.

Those provisions of this Agreement that reserve ultimate authority in MSWMA have been inserted solely to achieve compliance with federal and state laws, rules, regulations, and interpretations thereof. No such provisions and no other provisions of this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between City and MSWMA.

City shall pay all estimated and actual federal and state taxes that are due the state and federal government and shall furnish and pay worker's compensation insurance, unemployment insurance and any other benefits required by law for its

employees. City agrees to indemnify and hold MSWMA and its officers, agents and employees harmless from and against any claims or demands by federal, state or local government agencies for any such taxes or benefits due but not paid by City, including the legal costs associated with defending against any audit, claim, demand or lawsuit.

11. **MEDIATION.** Should any dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within 30 days of a request, unless they mutually agree to a longer period. The mediator shall be agreed to by the Parties; in the absence of an agreement, the Parties shall each submit one name from mediators listed by an agreed-upon service or the Parties themselves. The mediator shall be selected by a mutually agreed random selection process. The cost of mediation shall be borne equally by the Parties. No Party shall be deemed the prevailing party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good-faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall not last more than 60 days, unless the 60-day period is extended in writing by the Parties. If a dispute is not resolved by mediation, a Party may pursue litigation in California state courts in compliance with all applicable state laws.

12. **ASSIGNMENT/DELEGATION.** Neither party hereto shall assign, sublet, or transfer any interest in this Agreement or any duty hereunder without written consent of the other, and no assignment shall be of any force or effect whatsoever unless and until the other party shall have so consented.

13. **NO THIRD-PARTY BENEFICIARIES.** This Agreement is only for the benefit of the Parties as local governmental entities and shall not be construed as or deemed to operate as an agreement for the benefit of any third party or parties, and no third party or parties shall have any standing or right to interpret, enforce or state any cause of action arising under or pertaining to this Agreement, or obtain any right to benefits or position of any kind under the terms of this Agreement.

14. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

15. **ENTIRE AGREEMENT.** This document is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement. This Agreement may be transmitted electronically and executed in

counterparts, each such executed electronic copy of which shall constitute an original admissible for any purpose and in any judicial or administrative proceeding as evidence of the agreement between the Parties. .

16. AMENDMENTS. This Agreement may be amended from time to time only by written agreement between the parties signed by an authorized representative of each party. Either party may at any time request that the service or other provisions in this Agreement be modified by delivering written notice of its requested modifications to the other party. Within thirty (30) days after receipt of any such request, the parties shall meet and negotiate in good faith on adopting such requested modifications, including, without limitation, any change to the Rates necessitated by such modifications, provided that nothing herein shall obligate either party to agree on any such requested modifications.

17. WAIVER. Failure of any Party to insist upon strict performance of any of the terms, conditions or covenants in this Agreement will not be deemed a waiver of any right or remedy that Party may have and will not be deemed a waiver of any right or remedy for a subsequent breach or default of the terms, conditions or covenants contained in this Agreement, nor will it constitute a precedent for interpretation of this Agreement.

18. SEVERABILITY. If any term, provision, covenant or condition of this Agreement is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this Agreement shall not be affected thereby, and each term, provision, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

MENDOCINO SOLID WASTE MANAGEMENT AUTHORITY

By: _____
Chairperson, Board of Commissioners

CITY OF UKIAH

Mari Rodin, Mayor

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ATTEST:

Kristine Lawler, City Clerk

DRAFT

AMENDED AND RESTATED JOINT POWERS AGREEMENT AMONG THE CITIES OF FORT BRAGG, UKIAH, WILLITS AND THE COUNTY OF MENDOCINO CREATING THE MENDOCINO SOLID WASTE MANAGEMENT AUTHORITY

THIS AGREEMENT is made and entered into on November 19th, 2019 among the signatories to this Agreement, which are local governments in Mendocino County, acting through their respective legislative bodies ("PARTIES" and individually a "PARTY") and amends and restates the Joint Powers Agreement between the PARTIES, entered on October 19, 1990, including any amendments thereof prior to the adoption of this Agreement.

WITNESSETH:

WHEREAS, each of the PARTIES to this Agreement is a "public agency" as defined in Government Code Section 6500; and

WHEREAS, pursuant to Title 1, Division 7, Chapter 5, of the Government Code, commonly known as the Joint Exercise of Powers Act, two or more public agencies may, by Agreement, jointly exercise any power common to the contracting PARTIES; and

WHEREAS, each of the PARTIES hereto has the power, in addition to other powers which are common to each of them, to adopt develop and implement programs and activities to increase recycling and other measures to divert solid waste from being disposed in landfills, to provide for the proper handling, reuse and disposal of household hazardous waste, to provide for the clean-up of sites where solid waste has been illegally deposited and to prevent and remove graffiti from public or private property; and

WHEREAS, the California Integrated Waste Management Act (the "Act"), as codified in Division 30 of the Cal. Public Resources Code ("PRC"), as periodically amended, requires each of the PARTIES to prepare a source reduction and recycling element and a household hazardous waste element in compliance with Division 30, Part 2, Chapters 2, 3 and 3.5 of the PRC; and

WHEREAS, the PARTIES find that it would be to their mutual advantage and benefit to work together and share costs to: (1) prepare and implement a source reduction and recycling element and a household hazardous waste element that meets the requirements of the Act; and

WHEREAS, it is the desire of the PARTIES to use any power that they have in common which is reasonably necessary and appropriate to aid in the accomplishment of these goals; and

WHEREAS, the PARTIES desire, by means of this Agreement, to establish a separate agency and procedure to accomplish these goals; and

WHEREAS, it is the intent of the PARTIES that other public agencies within the County that exercise the same common powers of this joint powers agency shared by the PARTIES may at a later date join the agency established by this Agreement as nonvoting public agency members by paying a pro-rata share of the organizational, developmental and other costs or expenditures of the agency, as determined by the agency board created herein; and as provided for by contract between this joint powers agency and said participating nonvoting public agency member;

NOW, THEREFORE, based upon the mutual promises contained herein, the PARTIES hereby agree as follows :

1. Purpose. The purpose of this Agreement is to establish an agency to be known as the MENDOCINO SOLID WASTE MANAGEMENT AUTHORITY ("MSWMA") for the purpose of: (1) preparing and implementing an MSWMA Source Reduction and Recycling Element ("Reduction and Recycling Plan") in compliance with Division 30, Part 2, Chapters 2 and 3 of the PRC and an MSWMA Household Hazardous Waste Element ("Household Hazardous Waste Plan") in compliance with Division 30, Part 2, Chapter 3.5 of the PRC; (2) making reasonable efforts to increase recycling and diversion of materials in order to reduce landfill deposits and achieve the waste diversion goals of the Reduction and Recycling Plan ; (3) providing for the proper handling, reuse or disposal of household hazardous wastes; (4) providing educational outreach to encourage recycling, diversion and proper disposal of solid and household hazardous waste; (5) providing for the cleanup of sites where solid waste has been illegally disposed; (6) removing graffiti; and (7) seeking to obtain funding for MSWMA's activities described in this Section 1.

2. Establishment of the Agency/Composition of the Commission. There is hereby established pursuant to the Joint Exercise Powers Act an agency which shall be a public entity separate from the PARTIES to this Agreement. The name of the agency shall be the MENDOCINO SOLID WASTE MANAGEMENT AUTHORITY and shall hereinafter be referred to as MSWMA, and may use a fictitious name approved by the commission. The governing body of MSWMA shall be a five (5) member commission (the "Commission") composed of one elected member of the legislative body of each of the signatory cities of Ukiah, Willits and Fort Bragg and two elected members of the Board of Supervisors of signatory County of Mendocino, one representative from a coastal supervisorial district and one representative from an inland supervisorial district. No PARTY'S representative to the Commission shall be qualified to serve on the commission and the PARTY shall cease to have a representative on the Commission if that PARTY terminates its participation in this Agreement. The Commission shall be the administering agency of this Joint Powers Agreement, and, as such, shall be vested with the powers set forth in this Agreement, and shall execute and administer this Agreement in accordance with the purposes and functions provided herein.

3. Nonvoting Public Agency Members. Public agencies which jointly exercise any power common to MSWMA, other than the PARTIES hereto (the cities of Ukiah, Willits, and Fort Bragg and the County of Mendocino) may be granted the status of a nonvoting public agency member of MSWMA by the Commission. A nonvoting member is not a PARTY under this Agreement.

4. Organization of the Commission. The Commissioners shall:

- (a) Elect a chairperson and a vice-chairperson and such other officers as the Commission shall find appropriate, to serve the Commission at its pleasure or for such term as may be provided by Commission rule or bylaw.
- (b) Establish such committees and prescribe their duties and authority as the Commission finds appropriate or as provided in bylaws adopted by the Commission.
- (c) Take appropriate measures to meet the financial requirements of MSWMA, by assessments and other contributions as hereafter provided for, and make other provisions as they shall find appropriate for the work of the Commission.

5. Executive Officers. The Chairperson of MSWMA shall preside at all meetings of the Commission and perform such other duties as the Commission shall instruct. The Vice Chairperson shall serve as Chairperson when the Chairperson is unavailable or unable to perform the duties of Chairperson and perform such other duties as are the usual and customary duties of a Vice Chairperson. The General Manager shall perform the duties of Secretary to the Commission who shall be responsible for the preparation of minutes and other documents requiring Commission approval and acting as the custodian of records for the Commission. The Commission by rule or bylaw may create other officers as it seems necessary or appropriate and prescribe additional duties for all Commission officers.

6. Treasurer. The Treasurer of this Agency shall be the General Manager. If the General Manager fails or refuses to perform the duties of Treasurer, the Commission may appoint one of its officers or hire an employee to replace or fill the position. The Treasurer of the Agency shall cause an independent audit of the Agency's finances to be made by a certified public accountant, or public accountant, in compliance with Section 6505 of the Government Code., who shall report directly to and file the audit report with the Commission. The Treasurer of the Agency shall be the depositor and have custody of all the money of the Agency from whatever source. The Treasurer shall draw warrants to pay demands against the Agency when the demands have been approved by the Commission or by the General Manager or the Assistant General Manager pursuant to any delegation of authority adopted by the Commission. The Treasurer shall comply strictly with the provisions of the statutes relating to its duties found in Chapter 5, Division 7, Title 1 of the Government Code, beginning with Section 6500. The Treasurer shall file an official bond in the amount determined from time to time by the Commission

7. General Manager:

- (a) The Commission may appoint a General Manager, and may appoint one or more Assistant General Managers, to serve at the pleasure of the Commission. Alternatively, the Commission

may independently contract for the services of a General Manager which shall not be considered an employee of the Authority or have any rights or benefits otherwise provided to MSWMA employees. The contractor's employees shall perform the duties of General Manager and shall be regarded as the employees of the contractor and not of the Authority. The services shall be provided pursuant to a written contract between the contractor and the Agency. The contract shall specify any additional staff responsibilities to be provided by the contractor and shall require the contractor to indemnify and defend the Authority for and against any claim, liability or expense resulting from a determination that the contractor or its employees are employees of the Authority.

(b) The General Manager shall have charge of, handle, or have access to any property of this Agency, and shall furnish bond in an amount to be fixed by the Commission. "Property of this Authority" as used in this paragraph does not include property of a PARTY used for Agency purposes, unless that Agency member specifically authorizes such use.

(c) The General Manager shall report to the Commission and exercise operational control of Authority tasks and activities as outlined in Commission policy, or in the case of an independent contractor, tasks and activities as governed by the General Manager agreement between the Authority and the contractor.

8. Meetings. The Commission shall provide for regular meetings and special meetings in accordance with the Ralph M. Brown Act, Chapter 9, Part 1, Division 2, Title 5, of the Government Code beginning with Section 54950, or in accordance with such other regulations as the legislature may hereafter provide. Each PARTY to this Agreement shall authorize and designate its representative or representatives to vote for it at all meetings of the Commission. In addition, each PARTY to this Agreement shall designate one or more alternates, who shall have the power to vote in the place and stead of the designated representative, or representatives, in his/her absence. Each PARTY shall file with the Authority a certified copy of the minutes of the meeting or resolution reflecting the appointment of such representative or alternate(s) provided each alternate is an elected member of the legislative body of each PARTY and so long as the County of Mendocino maintains the coastal and inland representation described herein.

Each PARTY to this Agreement, so long as this Agreement has not in any way been terminated as to such PARTY, shall have one vote, except for the County of Mendocino which shall have two votes . Except as otherwise provided in this Agreement, the affirmative vote of a majority of a quorum of the Commission shall be necessary for it to take action, except that none of the terms and conditions set forth in this Agreement, nor any of the procedures expressly provided for herein, may be altered, changed, or amended by such a vote, or by any means, except by written amendment to this Agreement executed by all PARTIES hereto.

9. Powers and Functions. MSWMA shall have any and all powers authorized by law to all of the PARTIES hereto, and separately to the Agency herein created, relating to (a) preparing and implementing the MSWMA Reduction and Recycling Plan and Hazardous Waste Plans which meet the requirement of the Act; (b) making reasonable efforts to increase recycling and diversion of materials in order to reduce landfill deposits and achieve the diversion rates specified by the plan; (c) providing for the proper handling, reuse or disposal of household hazardous wastes; (d) providing educational outreach to encourage recycling, diversion and proper disposal of solid waste; (e) providing for the cleanup of the illegal dumping of solid waste in the PARTIES' jurisdictions; (f) removing of graffiti; and (g) identifying and obtaining funding to accomplish such tasks. All powers common to the PARTIES are specified as powers of MSWMA.

MSWMA is hereby authorized to do all acts necessary for the exercise of such powers, including, but not limited to, any or all of the following: to make and enter into contracts; to employ agents and employees; to acquire, construct, provide for maintenance and operation of, or maintain and operate, any buildings, works or improvements; to acquire, hold or dispose of property wherever located; to incur debts, liabilities or obligations ; to receive gifts, contributions and donations of property, funds, services and other forms of assistance from persons, firms, corporation and any governmental entity; and to sue and be sued in its own name; and generally to do any and all things necessary or convenient to perform its functions or achieve its purposes as set forth in this Agreement.

Without limiting the foregoing generality, MSWMA may:

- (a) acquire and dispose of all kinds of property and utilize the power of eminent domain, except that the power of eminent domain may not be exercised within the territorial limits of any PARTY without the consent of said PARTY;
 - (b) issue or cause to be issued bonded and other indebtedness, and pledge any property or revenue as security to the extent permitted by law under Article 2, Chapter 5, Division 7, Title 1 (commencing with Section 6540) of the Government Code or otherwise including, but not limited to, bonds or other evidences of indebtedness of a nonprofit corporation issued on behalf of MSWMA or any of its PARTIES;
 - (c) obtain in its own name all necessary permits and licenses, opinions and rulings;
 - (d) whenever necessary to facilitate the exercise of its powers, form and administer nonprofit corporations to do any part of what MSWMA could do, or to perform any proper corporate function, and enter into agreements with such a corporation.
 - (e) request a member to direct a franchise holder or contractor operating a transfer station in the member's jurisdiction to collect and remit to MSWMA a per ton surcharge adopted by MSWMA to fund specific functions of MSWMA as identified in Section 9. Any increase in the MSWMA Transfer Station per ton Surcharge shall require the approval of all the Members' elected bodies. Any decrease in such surcharge may be approved by a majority vote of the Commission.
10. Exercise of Powers. The manner in which the MSWMA, the administering agency, shall exercise its powers and perform its duties is and shall be subject to the restrictions upon the manner in which a general law city which is a PARTY hereof could exercise such powers and perform such duties; and shall not be subject to any restriction applicable to the manner in which any other public agency could exercise such powers or perform such duties, whether such agency is a PARTY to this Agreement or not.
11. Debts. None of the debts, liabilities or obligations of MSWMA shall be the debts, liabilities or obligations of any of the PARTIES of MSWMA unless assumed in a particular case by resolution of the governing body of the PARTY to be charged.

12. Membership. This Agreement shall become effective on the date of its execution as hereinabove stated; provided, that if any "public agency" of the County, as such term is defined in Section 6500 of the Government Code of the State of California, desires to participate, as a nonvoting member, it may do so by separate agreement with MSWMA at that time and payment to MSWMA of a pro-rata share of organization, planning and other costs and charges as determined by the Commission to be appropriate. The Agreement between the PARTIES shall remain in effect as to any PARTY, unless and until it is terminated as to such PARTY by notice in writing to all other PARTIES given by the withdrawing PARTY at least one hundred twenty (120) days in advance of the effective date of such termination; provided that such termination by and as to any PARTY shall not terminate this Agreement as to the remaining PARTIES or the existence of the MSWMA, or the Commission, herein created.

Any PARTY so terminating its participation in this Agreement shall be obligated to pay its pro-rata share of all encumbrances and indebtedness of the MSWMA (based on the number of MSWMA PARTIES and the total indebtedness of MSWMA) as of the date of service of the PARTY's notice of termination on MSWMA. The withdrawal of the PARTY from MSWMA and the termination of this Agreement as to such PARTY shall not become effective until the PARTY has paid the amounts to MSWMA specified herein. The withdrawing member shall have no obligation to pay any share of an indebtedness of MSWMA or a nonprofit corporation created by MSWMA which is secured by contracts with member PARTIES or by nonvoting public agency members. The obligation to pay such an indebtedness shall be the sole responsibility of the parties to the contract and shall be paid as provided in the contract.

The termination of participation by nonvoting public agency members shall be determined by the terms of the contract between MSWMA and the nonvoting public agency defining the relationship of MSWMA and the nonvoting public agency.

13. Staff. The staff of the Commission may be hired as full-time or part-time employees of MSWMA or the Commission may independently contract for the provision of such professional services as it requires. Staff may also be appointed to serve the Commission from the existing staff of the PARTIES to be paid by the Commission or at the expense of the employer agency. MSWMA

staff other than employees of an independent contractor providing General Manager services pursuant to Section 7 and employees of a PARTY performing services for MSWMA, shall be hired, promoted, disciplined or terminated and shall have such rights of employment as the Commission shall determine subject to any applicable provisions of federal or state law.

14. Term. This Agreement shall remain in effect until terminated by a majority vote of the PARTIES.

15. Budget Process/Funding. The Commission shall approve the MSWMA's budget for each fiscal year, in the following manner:

- (a) The General Manager shall once each year, during the months of February and March, prepare and submit to the Commission and each PARTY for review a proposed budget for the MSWMA, including the proposed contribution, if any, from each PARTY. Each PARTY's share of the total proposed contribution by the PARTIES shall be based on its population as a ratio of the total population of all the PARTIES as established and certified by the State Department of Finance. Required contributions from each PARTY and the amount thereof must be approved by a 4/5 vote of the full Commission. If no contribution by the PARTIES is required, the budget can be approved by a 3/5 vote of the full Commission. In no event shall the total contribution of the PARTIES exceed One Hundred Thousand Dollars (\$100,000) without the approval of each PARTY.
- (b) By no later than May 30 of each year, the Commission shall adopt a final budget for the fiscal year and promptly provide a copy of the adopted budget to each PARTY, including a notice as to whether a financial contribution from the PARTY is required to fund the budget and the amount thereof.
- (c) Each PARTY's contribution shall be due and payable in accordance with a schedule established by the General Manager and approved by the Commission.
- (d) In addition to the annual audits required by Government Code Section 6505, special audits may be called for and paid for by the Commission at any time.

16. Additional Funding. Upon the request or approval of MSWMA, any PARTY hereto may make payments, advances or contributions to MSWMA from its treasury for any and all purposes set forth herein, and upon request or approval of MSWMA, may contribute personnel, equipment or property, in lieu of other contributions or advances, to assist in the accomplishment of one or more of such purposes. All such payments, advances or contributions, whether in cash or in kind, shall be made to and may be disbursed or used by the agency herein created. Except as in this Agreement otherwise provided, there shall be no repayment or return to any PARTY of all or any part of any payments, advances, or contributions in cash or in kind.

17. Repayment or Return of Contributions. Repayment or return to any contributing PARTY of all or part of any payment, advances or contributions in cash or in kind may be authorized by the Commission from revenues produced from the operation of the agency or from the proceeds of the issuance of bonds or other evidences of indebtedness by the agency. Repayment or return of contributions shall be made on a pro-rata basis at the time specified by the Commission in conformity with Government Code Section 6512.1.

18. Accountability. MSWMA shall be held strictly accountable for all funds and shall make an annual report to all PARTIES to this Agreement of all receipts and disbursements, all in accordance with Section 6505 of the Government Code and other applicable statutes , utilizing sound account practices .

19. Dissolution. Upon dissolution of the MSWMA as a legal entity, all debts of and advances of MSWMA shall be paid, and then the property of MSWMA, whether real or personal, shall be divided among and distributed to all of the PARTIES who at any time during the existence of MSWMA were PARTIES to this Agreement in proportion to the costs borne by each such PARTY to the MSWMA during its legal existence by non-reimbursed contributions made pursuant this Agreement.

20. Insurance. The Commission of MSWMA is authorized to and shall procure general comprehensive liability and other insurance by such means and in such amounts as it deems advisable to protect the MSWMA and each of the PARTIES hereto, charging the cost thereof to the operating costs of the MSWMA.

21. Immunity. All of the privileges and immunities from liabilities , exemptions from laws, ordinances and rules, all pension, relief, disability, worker's compensation, and other benefits which apply to the activity of officers, agents or employees of any such public agency when performing their respective functions within the territorial limits of their respective public agencies, shall apply to them to the same degree and extent while engaged in the performance of any of their functions or duties extraterritorially under the provision of Article 1 of Chapter 5, division 7 of Title 1 of the Government Code of the State of California and as provided by law.

22. Breach. In the event that any PARTY to this Agreement should at any time claim that another PARTY has in any way breached or is breaching this Agreement, the complaining PARTY shall file with the governing body of the other PARTY, and with the Commission, a written claim of said breach, describing the alleged breach and otherwise giving full information respecting the same. The Commission shall thereupon, at a reasonable time and place, specified by it, give all PARTIES full opportunity to be heard on the matter, and shall, upon conclusion of said hearing, give the legislative or governing bodies of all PARTIES a full report of its findings and recommendations . Said report, findings and recommendations shall be deemed advisory only, shall not in any way bind any of the PARTIES hereto, and shall not be deemed to establish any facts, either presumptively or finally. Upon receipt of said report and recommendation s, if any PARTY should be dissatisfied with or disagree with the same, the legislative or governing bodies of the PARTIES in disagreement shall jointly meet with each other at a reasonable time and place to be determined by them, for the purpose of resolving their differences. No action for breach of this Agreement, and no action for any legal relief because of any such breach or alleged breach of this Agreement, shall be filed or commenced, and nothing shall be done by any PARTY to rescind or terminate this Agreement, except as provided in this Agreement, unless and until such PARTY has first given to the other PARTIES a reasonable time, after the conclusion of said joint meeting of the legislative or governing bodies that have met to resolve their differences, within which to cure any breach or alleged breach.

23. Severability. It is hereby declared to be the intention of the signatories to this Agreement that the paragraphs, sentences, clauses and phrases of this Agreement are severable, and if any phrase, clause, sentence, or paragraph of this Agreement shall be declared unconstitutional or invalid for any

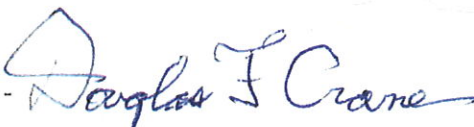
reason by a valid judgment or decree of a Court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining paragraphs, clauses, phrases, and sentences of this Agreement.

24. Notices. All notices required or given pursuant to this Agreement shall be deemed properly served when deposited, postage prepaid, in the United States mail, addressed to each PARTY at the address indicated on this Agreement adjacent to the signature line of each PARTY.

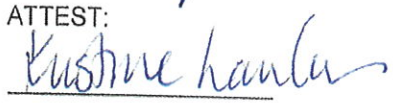
25. Duplicate Originals. This Agreement can be executed in one or more duplicate originals, each bearing the original signatures of the parties, and when so executed each duplicate original shall be deemed an original of the Agreement admissible in court as evidence of the terms of the Agreement.

IN WITNESS WHEREOF the PARTIES hereto pursuant to resolutions adopted by their governing bodies have executed this Agreement on the date first above written.

CITY OF UKIAH

By: 

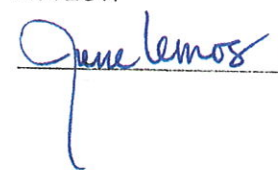
ATTEST:



CITY OF FORT BRAGG

By: 

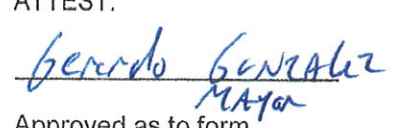
ATTEST:

 1.10.2020

CITY OF WILLITS

By: 

ATTEST:

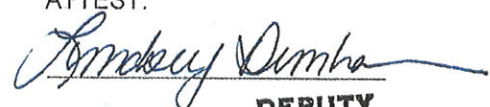

Mayor

Approved as to form

COUNTY OF MENDOCINO

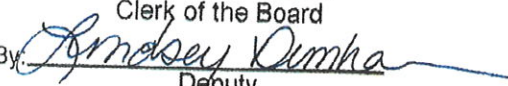
By: 

ATTEST:


DEPUTY

I hereby certify that according to the provisions of Government Code sections 25103, delivery of this document has been made.

CARMEL J ANGELO
Clerk of the Board

By: 

Deputy

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

DEPARTMENT FISCAL REVIEW: Transportation

Howard N. Dashiell 11/12/19
HOWARD N. DASHIELL, Director DATE

Budgeted: ☐ Yes ☒ No N/A

Budget Unit: N/A

Line Item: N/A

Grant: ☐ Yes ☒ No N/A

Grant No.: _____

COUNTY OF MENDOCINO

By: Carre Brown
CARRE BROWN, Chair NOV 21 2019
BOARD OF SUPERVISORS

ATTEST:

CARMEL J. ANGELO, Clerk of said Board

By: Andsey Dimhan
Deputy NOV 21 2019

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

CARMEL J. ANGELO, Clerk of said Board

By: Andsey Dimhan
Deputy NOV 21 2019

INSURANCE REVIEW:

By: Carmel J. Angelo
Risk Management

EXECUTIVE OFFICE/FISCAL REVIEW:

APPROVAL RECOMMENDED

By: Jonelle Rau
Deputy CEO

CONTRACTOR/COMPANY NAME:

By: _____

NAME AND ADDRESS OF CONTRACTOR:

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

COUNTY COUNSEL REVIEW:

APPROVED AS TO FORM:

CHRISTIAN M. CURTIS,
Acting County Counsel

By: Christian M. Curtis
Deputy

Signatory Authority: \$0-25,000 Department; \$25,001-50,000 Purchasing Agent; \$50,001+ Board of Supervisors

Exception to Bid Process Required/Completed ☐ _____

Mendocino County Business License: Valid ☐ _____

Exempt Pursuant to MCC Section: _____



STAFF REPORT

SUBJECT: Approve of two (2) FY2023 Budget Amendments

ATTACHMENTS:

Summary:

Approve two (2) amendments to the MSWMA FY 2023 annual budget: 1. Amend the annual budget to reimburse the City of Ukiah for direct out of pocket costs of \$19,083.25 expended in the period 2019 to 2023 to benefit all Members of MSWMA for the development and implementation of the MSWMA Revised and Restated Joint Powers Authority Agreement (Agreement) and the development of an MSWMA operational restructuring plan embodied in the three agreements that implement that plan. 2. Amend the annual budget to provide \$48,000 compensation for FY 2023 to the City of Ukiah under the Agreement with City of Ukiah to Provide General Manager and Related Administrative Services.

Background: Starting in mid 2019, in the absence of a functioning general manager position at the Authority, the City of Ukiah stepped forward as requested to develop and present to the Commission a MSWMA Revised and Restated Joint Powers Authority Agreement (Agreement) that would refine the Authority's mission statement. The Agreement and other operational choices prepared and presented by the City, were the basis for the Commission to consider operational alternatives. The Authority adopted the Agreement on November 19, 2019 but chose to stay with the general manager operational model. In 2022, after it became apparent that the general manager operational model was not functioning effectively, the City of Ukiah was again asked to consider and develop an alternative operating model to be presented to the Commission for consideration. The \$19,0783.25 budget amendment request for the for the period 2019 through the present includes only the City's out of pocket direct expenses for the City Attorney who drafted the Agreement, and the three agreements presented in agenda item 7a that define the new operating structure along with the business advisor costs for time devoted directly for the recommendations of the development, drafting, coordination and implementation of the restructure plan. All related costs during this period that benefit all Members for City of Ukiah Public Works, City Manager, Grant Specialist, Finance, and City Clerk have been all been funded by the City of Ukiah alone, and no reimbursement is requested for those costs from MSWMA.

2. The Agreement with City of Ukiah to Provide General Manager and Related Administrative Services to MSWMA requires the Commission to approve a compensation amount to the City annually through the budget process. \$48,000 is proposed as a budget amendment for that compensation amount to the City of Ukiah for FY2023.

Discussion:

RECOMMENDED ACTION: **a.** Approve new Budget line item in the amount of \$19,083.25 to reimburse the City of Ukiah for costs to restate the MSWMA JPA agreement, and for developing and drafting a plan for restructuring MSWMA. **b.** Approve new Budget line item in the amount of \$48,000 for City of Ukiah initial compensation under the terms and conditions of the Services Agreement with City of Ukiah to provide General Manager and Related Administrative Services to MSWMA, as described in paragraph 4A, for the period March 1, 2023 to June 30, 2023.

1. In the absence of a functioning MSWMA General Manager position, both in 2019 and currently, the City of Ukiah has developed and presented the Agreement for approval in order to refine MSWMA mission, considered alternatives for the operation of MSWMA, developed and negotiated for an agreement structure that would allow for the continued existence of MSWMA and its services and presented that restructuring plan on this agenda. The City asks for a budget amendment that would allow for a reimbursement for some of the City's direct out of pocket costs that has been expended to benefit all Members of MSWMA.
2. The Agreement with City of Ukiah to Provide General Manager and Related Administrative Services to MSWMA calls for the Commission to budget annually for the compensation to the City of Ukiah for services provided under that agreement. The request budget amount for those services for FY 2023 is \$48,000.

MEETING DATE: April 20, 2023

STAFF REPORT

SUBJECT: SUBJECT: Contingent on the prior approval of the Service Agreement between MSWMA and the City of Ukiah (City), direct the transfer of all MSWMA funds to the City in its role as Treasurer

ATTACHMENTS: None

Summary: Contingent of the Commission's approval of the MSWMA/City of Ukiah (City) Service Agreement (Agreement), Commission will direct the Chairperson to take the steps necessary to immediately transfer all MSWMA cash balances on deposit with Savings Bank of Mendocino, and any undeposited amounts, including the balances in the Checking and Money Market Savings Accounts to the City and then close the accounts.

Background: If, in an earlier action on this agenda, the Commission has approved the Agreement, then as described in section 2B of that Agreement, the City will assume the role of MSWMA Treasurer. In order to accomplish that change, all funds of MSWMA must be transferred to the City. The Chair can direct the Commissioner who currently has signing power over the two Savings Bank accounts to co-operate with the City to determine the balances on hand in those accounts and to take the steps necessary to transfer those funds and any undeposited amounts to the City in its role as Treasurer.

Discussion: The City will hold such current and future MSWMA funds under the terms and conditions described in section 2B of the Agreement.

Recommended Action:

Direct the Chairperson to take the steps necessary to immediately transfer all MSWMA funds on deposit at Savings Bank of Mendocino County, and any undeposited amounts, to the City in its role as Treasurer of MSWMA as described in section 2B of the Agreement, and close those accounts when the transfer has been accomplished.

RECOMMENDED ACTION:

Direct the Chairperson to take the steps necessary to immediately transfer all MSWMA funds on deposit at Savings Bank of Mendocino County, and any undeposited amounts, to the City in its role as Treasurer of MSWMA as described in section 2B of the Agreement, and close those accounts when the transfer has been accomplished.



AGENDA SUMMARY REPORT

SUBJECT: Consideration and Possible Adoption of Resolution Adopting the Style of Action Minutes in Conjunction with Digital Audio or Digital Audio-Video Recordings to be the Official Recordation Used for the Mendocino Solid Waste Authority Board of Commissioners.

ATTACHMENTS:

1. Proposed Resolution

Summary: Commissioners will consider adopting a resolution adopting the style of action minutes in conjunction with digital audio or digital audio-video recordings to be the official recordation used for the Mendocino Solid Waste Authority Board of Commissioners.

Background: Currently the MSWMA Commissioner meetings are using a summary style of minutes that can be an inefficient and inaccurate form of recordation, and an ineffective use of staff time. The action style of minutes is currently being used by both the Mendocino County Board of Supervisors and the Ukiah City Council. The following are excerpts from the City Clerk's Association of California Guidelines for Preparing Minutes for Governmental Agencies:

- The City Clerks Association of California issues guidelines as a tool for government agencies to transition to minute styles that are efficient, succinct, cost-effective for staff to prepare, and more appropriately aligned with the intent of the Government Code.
- All components of minutes shall be for the primary purpose of memorializing decisions made by the legislative body. Any minute component that does not serve this primary purpose should be minimized or eliminated; this includes comments made by individual body members and members of the public.
- Minutes should provide a record of a) when and where a meeting took place, and who was present (including member absences, late arrivals, departures, adjournment time); b) type of meeting (Regular/Special/Adjourned Regular); c) what was considered; d) what was decided; and e) agreed upon follow-up action. Pursuant to Government Code 54953(c)(2), minutes shall report any action taken and the vote or abstention on that action of each member present for the action.
- Comments made by members such as "for the record" or "for the minutes" have no bearing on the content of minutes and are given no greater and no lesser consideration than other comments made at the public meeting. Members seeking to memorialize comments should incorporate such verbiage into the language of the motion. As an alternative, members may submit written statements to be retained with the agenda item.
- Individuals speaking under public comment. Brief summary minutes shall, at a minimum, list the public member's name (if provided); and, at a maximum, include the overall topic and stance/position. Such as Mr. Jones spoke in opposition to the Project X. Being mindful that the minutes are recordings of the legislative body's proceedings, it is not appropriate to include detail of individual comments. There is an exception for public testimony provided during public hearings, for which the minutes shall include the speaker's name (if provided) and a summary position of the speaker (i.e., supported or opposed).

- The legislative body may wish to choose more, substantive (summary) minutes if there's no archival audio/video backup recording available of its proceedings. If audio/video recording is available for future reference, minute notations can be more limited (action).

Action Minutes make it possible to easily review the minute document for what actions were taken and people who contributed to the discussions. They also circumvent any possible clerk-misinterpretations, and/or Commissioner objections of what was or wasn't included in the minutes.

Discussion: Staff is recommending that the Commission adopt the resolution (Attachment 1) establishing the Action Minute style in conjunction with digital audio or digital audio-video recordings for the official recordation used for the Mendocino Solid Waste Authority Board of Commissioners.

Recommended Action: Adopt the resolution establishing the Action Minute style in conjunction with digital audio or digital audio-video recordings for the official recordation used for the Mendocino Solid Waste Authority Board of Commissioners.

RESOLUTION NO. 2023-**RESOLUTION OF THE MENDOCINO SOLID WASTE MANAGEMENT AUTHORITY BOARD OF COMMISSIONERS (MSWMA COMMISSIONERS) ADOPTING THE STYLE OF ACTION MINUTES IN CONJUNCTION WITH DIGITAL VIDEO AND/OR AUDIO RECORDINGS TO BE THE OFFICIAL RECORDATION USED FOR THE MSWMA COMMISSIONERS.**

WHEREAS, the MSWMA Commissioners are currently using a summary style of minutes that can be an inefficient and inaccurate form of recordation, and an ineffective use of staff time; and

WHEREAS, the Mendocino County Board of Supervisors and the Ukiah City Council have been successfully using Action Minutes and a digital video and/or audio recording for over ten years; and

WHEREAS, Action Minutes have become the preferred standard among many cities across the State; and

WHEREAS, Action Minutes is a style that is efficient, succinct, cost-effective for staff to prepare, more appropriately aligned with the intent of the Government Code, and quickly show actions taken, identifies individuals who participate in the discussions, is a cost-efficient use of staff time, and avoids any possible clerk-misinterpretations, and/or Commissioner objections of what was or wasn't included in the minutes; and

WHEREAS, if a Commissioner wishes to include a written statement with the minutes, those written statements can be included in its action minutes.

NOW, THEREFORE, IT IS HEREBY RESOLVED, that the MSWMA Commission establishes Action Minutes in conjunction with the video and/or digital audio recordings, which are to be kept as permanent records, as the official recordation of the meetings of the Mendocino Solid Waste Management Authority Board of Commissioners.

PASSED AND ADOPTED this 20th day of April, 2023, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Maureen Mulheren, Chair

ATTEST:

Kristine Lawler, CMC