

AMENDMENT NO. 1  
AGREEMENT NO. 3312 (Napa Co. #)

SOUTH NAPA WASTE MANAGEMENT AUTHORITY  
JOINT EXERCISE OF POWERS AGREEMENT

This AMENDMENT NO. 1 (the "AMENDMENT") to AGREEMENT NO. 3312 is entered into on the date last executed by and between the CITY OF VALLEJO, a municipal corporation, and the COUNTY OF NAPA, a political subdivision of the State of California (hereinafter referred to as "MEMBERS").

WITNESSETH:

WHEREAS, on March 17, 1993, Napa County and Vallejo City created the South Napa Waste Management Authority (hereinafter referred to as "SNWMA") pursuant to the South Napa Waste Management Authority Joint Exercise of Powers Agreement (Agreement No. 3312); and

WHEREAS, Napa City has entered into an agreement, satisfactory to SNWMA, with their franchised hauler to deliver all solid wastes collected under their franchise to the SNWMA transfer facility for processing, transportation and disposal; and

WHEREAS, the City of Napa has requested that it be permitted to join the SNWMA; and

WHEREAS, Napa County and Vallejo City wish to grant that request and have agreed to amend Agreement No. 3312, also known as the South Napa Waste Management Authority Joint Exercise of Powers to add the City of Napa as a member.

\* \* \*

NOW, THEREFORE BE IT AGREED, pursuant to Government Code Sections 6500 et seq., as that:

- A. The foregoing recitals are true and correct.
- B. This amendment may be executed in counterparts, and all counterparts together shall be construed as one document.
- C. The following sections of Agreement No. 3312 are amended to read in full as follows:

1. Section 1 of Agreement No. 3312 is amended to read in full as follows:

SECTION 1. DEFINITIONS

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

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

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

"AUTHORITY" means the SOUTH NAPA WASTE MANAGEMENT AUTHORITY (SNWMA), a joint exercise of powers authority created by the MEMBERS pursuant to this AGREEMENT.

"BOARD" means the BOARD of DIRECTORS of the AUTHORITY.

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act (Public Law No. 96-510, 94 Stat. 2767).

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

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

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

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

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

"REVENUE BONDS" means revenue bonds, notes, certificates of participation or any other instruments or evidences of indebtedness issued, executed, or delivered by the AUTHORITY

from time to time pursuant to the GOVERNMENT CODE or any other applicable law in order to finance the TRANSFER FACILITY and/or any financial aspects of closed landfill maintenance.

"SERVICE AREA" means those areas from which the TRANSFER FACILITY will accept SOLID WASTE for processing, transportation, and disposal. The TRANSFER FACILITY need not be located within the SERVICE AREA. The SERVICE AREA shall include all areas within the Cities of Napa and Vallejo and within Napa County Garbage Service Zone One (as defined in the December 18, 1990 Napa County Franchise Agreement No. 882), the unserved areas adjacent to Napa County Garbage Service Zone One, and a portion of Solano County limited to those islands of unincorporated areas completely surrounded by the City of Vallejo and those areas contiguous to the City of Vallejo that are contained in the City of Vallejo's sphere of influence as defined by the Solano County Local Agency Formation Commission. If and when any additional cities join the AUTHORITY pursuant to Section 2.2, the SERVICE AREA shall also include all areas within the joining City or Cities. Until such joinder, the areas within such Cities shall be deemed to be within the SERVICE AREA only as to the self haulers of SOLID WASTE and/or franchised collection companies of SOLID WASTE who have entered into direct agreements with the AUTHORITY to deliver such SOLID WASTE to the TRANSFER FACILITY.

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

"TRANSFER FACILITY" means a SOLID WASTE facility, including any accessory facilities related thereto, meeting the requirements of a "transfer or processing station" under Section 40200 of the California Public Resources Code, for the receiving, processing, recycling and transportation of SOLID WASTE and the recovery of materials from such SOLID WASTES, which facility is owned either by the AUTHORITY and/or by a private entity, but in all events is operated for the benefit of the AUTHORITY and the MEMBERS.

2. Section 2.2 of Agreement No. 3312 is amended to read in full as follows:

2.2 Additions. Any city located within the SERVICE AREA may join the AUTHORITY, upon approval of the MEMBERS with the consultation of bond counsel. Such approval shall not be granted unless and until these jurisdictions shall have successfully entered into agreements, satisfactory to the AUTHORITY, which direct their franchised hauler(s) to deliver all SOLID WASTES collected under such franchise(s) to the TRANSFER FACILITY for processing, transportation and disposal. Such agreements may, but are not required to be part of their franchise agreements.

3. Section 4.1 of Agreement No. 3312 is amended to read in full as follows:

4.1 Composition. The AUTHORITY shall be composed of the City of Napa, the City of Vallejo and the County of Napa.

4. Section 4.4 of Agreement No. 3312 is amended to read in full as follows:

4.4 DIRECTORS.

- (a) The BOARD shall consist of three DIRECTORS. Each MEMBER shall appoint one DIRECTOR. Upon execution of this AGREEMENT by a MEMBER, the MEMBERS shall appoint its representative to the BOARD and at least one person as an alternate to serve in the case of absence or conflict on the part of the appointed DIRECTOR. Thereafter, vacancies shall be filled by the appointing MEMBER within thirty (30) days of the occurrence thereof. Each DIRECTOR and alternate shall be an elected official of the governing body of the MEMBER that he or she represents. If a DIRECTOR or alternate ceases holding any such elected position, he or she shall then cease to serve as a DIRECTOR or alternate. The AUTHORITY and the BOARD shall be entitled to rely on a written notice from the City Clerk (in the case of the Cities) and the Clerk of the Board of Supervisors (in the case of the County) as conclusive evidence of the appointment and removal of the DIRECTORS and/or alternates representing that MEMBER.
- (b) Each DIRECTOR and alternate shall hold office from the first meeting of the BOARD after appointment by the MEMBER, until his or her successor is selected by the MEMBER that appointed that DIRECTOR. Each DIRECTOR and

alternate shall serve at the pleasure of the MEMBER that he or she represents and may be removed at any time, without cause, at the sole discretion of that MEMBER.

- (c) No compensation shall be received by any DIRECTOR or alternate unless expressly provided by unanimous resolution of the BOARD.

5. Section 5.2 of Agreement No. 3312 is amended to read in full as follows:

5.2 MANAGER. Except and until the AUTHORITY exercises its option to have its own employees or contractors, the MANAGER of the AUTHORITY shall be the Director of Environmental Management. The Director of Environmental Management shall contract with the Authority for services and shall serve until such time as the AUTHORITY exercises its option to have its own employees or contractors.

6. Section 5.3 of Agreement No. 3312 is amended to read in full as follows:

5.3 Support Services. Except and until the AUTHORITY exercises its option under the GOVERNMENT CODE and Section 5.1 of the AGREEMENT, the County of Napa will provide support services to the AUTHORITY including all legal, financial, accounting, data processing, secretarial, purchasing and personnel services. Such services and their costs will be included in the annual budget referred to in Section 7.2.

7. Subparagraph (g) of Section 6.2 of Agreement No. 3312 is amended to read as follows:

- (g) to establish rates, tolls, tipping fees, other fees, rentals and other charges in connection with the TRANSFER FACILITY, as well as any and all services provided by the AUTHORITY, and to include in such rates and charges amounts necessary to carry out those purposes described in Section 3 of this AGREEMENT;

8. Section 8.3 of Agreement No. 3312 is amended to read in full as follows:

8.3 Voting.

- (a) Each DIRECTOR shall have one vote on all matters presented to the BOARD for a vote.

- (b) Except as provided in Section 8.3(c), the vote of two of the DIRECTORS shall constitute the act of the BOARD.
- (c) A unanimous vote of all of the DIRECTORS shall be necessary in order to approve any of the following:
- i the construction budget for the TRANSFER FACILITY;
  - ii the annual operating budget of the AUTHORITY in excess of debt service on REVENUE BONDS and the payment to the transfer station operator;
  - iii the issuance, execution or delivery of REVENUE BONDS;
  - iv any change in a budget exceeding 10% of the total amount of that budget;
  - v any amendment to or the termination of this AGREEMENT;
  - vi voting rules regarding the approval of contracts between the AUTHORITY and any one or more MEMBERS (it being understood that all such contracts must be approved pursuant to rules adopted in this manner); and
  - vii the admission of an additional member or a substitute member including by means of assignment.

9. Section 9.1 of Agreement No. 3312 is amended to read in full as follows:

9.1 The AUTHORITY became effective March 17, 1993 and this AMENDMENT NO. 1 of Agreement No. 3312 shall become effective upon execution by all MEMBERS and shall continue in full force and effect until amended pursuant to Section 11 or until dissolved pursuant to Section 10 of this AGREEMENT. However, in no event shall the AUTHORITY be dissolved until all of the AUTHORITY's obligations and liabilities respecting all REVENUE BONDS are satisfied, discharged, or terminated or until the provisions of Section 10.2 are complied with.

10. Section 13.1 of Agreement No. 3312 is amended to read in full as follows:

SECTION 13.      NOTICES

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

CITY OF VALLEJO:      Vallejo City Manager  
555 Santa Clara Street  
Vallejo, CA 94590

COUNTY OF NAPA:      Clerk of the Board of Supervisors  
1195 Third Street, Room 310  
Napa, CA 94559

CITY OF NAPA:      City of Napa Clerk  
P.O. Box 660  
955 School Street  
Napa, CA 94559

AUTHORITY:      South Napa Waste Management  
Authority  
County Administrator  
1195 Third Street, Room 310  
Napa, CA 94559

IN WITNESS WHEREOF, the MEMBERS have caused this AMENDMENT No. 1 to AGREEMENT NO. 3312 to be duly executed and attested by their respective officers, duly authorized so to act, as of the

date set forth in the first paragraph of this AMENDMENT.

COUNTY OF NAPA:

By Vince Ferriole  
VINCE FERRIOLE, Chairman of the  
Napa County Board of Supervisors

DATED: 8/25/93

Mary Jean McLaughlin  
ATTEST: Clerk of the Napa County  
Board of Supervisors

David William Spitz  
APPROVED AS TO FORM:  
Napa County Counsel

CITY OF VALLEJO:

By Anthony Intintoli  
ANTHONY INTINTOLI, Mayor of the  
City of Vallejo

DATED: 8-24-93

James Stewart  
ATTEST: Clerk of the  
City Council of Vallejo

Jim. Rowley  
APPROVED AS TO FORM:  
Vallejo City Attorney

BY EXECUTING THIS DOCUMENT THE CITY OF NAPA ACKNOWLEDGES THAT IT  
WISHES TO JOIN THE SOUTH NAPA WASTE MANAGEMENT AUTHORITY, CONSENTS  
AND AGREES TO THE FORM OF THIS AMENDMENT, AND CONSENTS AND AGREES TO  
ALL OF THE PROVISIONS CONTAINED IN AGREEMENT NO. 3312, AS AMENDED BY  
THIS DOCUMENT.

CITY OF NAPA:

By Ed Solomon  
ED SOLOMON, Mayor of the  
City of Napa

DATED: 8-24-93

Patricia Lawson  
ATTEST: Acting City Clerk of the  
City Council of Napa

Cynda Mills  
APPROVED AS TO FORM:  
Napa City Attorney

**APPROVED** MAR 24 1993  
**BOARD OF SUPERVISORS**  
**COUNTY OF NAPA**

Jed Christensen  
Countersigned:  
Finance Director

MARY JEAN MCLAUGHLIN  
CLERK OF THE BOARD

BY Heri G. Bush