

# **RURAL COUNTIES' ENVIRONMENTAL SERVICES JOINT POWERS AUTHORITY**

## **JOINT EXERCISE OF POWERS AGREEMENT**

March 11, 2004

(Attachment 1 amended: December 16, 2004)

THIS JOINT EXERCISE OF POWERS AGREEMENT ("Agreement"), is entered into by and among the counties listed on Attachment 1 hereof and incorporated herein by reference. All such counties are referred to herein as "Members" with the respective powers, privileges and restrictions provided herein.

### **RECITALS**

A. WHEREAS, the Joint Exercise of Powers Act (commencing with Article 1 of Chapter 5 of Division 7 of Title I of the Government Code of the State of California, hereinafter, the "Act") authorizes two or more public agencies, by agreement, to form a joint powers agency to exercise jointly any powers common to any or all of the contracting public agencies; and

B. WHEREAS, the Members are each responsible under California law for planning for the disposal of solid waste generated within their respective boundaries and for complying with other related environmental requirements; and

C. WHEREAS, the Members have determined that a joint exercise of powers authority should be formed to exercise their respective powers for the purpose of providing environmental services for their respective jurisdictions; and

D. WHEREAS, by this Agreement the Members desire to create and establish the Rural Counties' Environmental Services Joint Powers Authority ("Authority") for the purposes set forth herein and to exercise the powers described herein and as provided by law,

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Members individually and collectively agree as follows:

#### **1. Definitions**

Unless the context otherwise requires, the following terms shall for purposes of this Agreement have the meanings specified below:

**"Act"** means the Joint Exercise of Powers Act, commencing with Article 1 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California.

**"Agreement"** means this Joint Exercise of Powers Agreement as now exists or as it may from time to time be amended as provided herein.

**"Associate Member"** means a county, city or other public agency which is not a voting member of the Rural County Representatives of California, a California nonprofit corporation

("RCRC"), with legal power and authority similar to that of the Members, admitted pursuant to paragraph 4.d. below to associate membership herein by vote of the Board.

**"Authority"** means the Rural Counties' Environmental Services Joint Powers Authority created hereby.

**"Board"** means the governing board of the Authority.

**"Delegate"** means the supervisor designated by the governing board of each Member to serve on the Board of the Authority.

**"Member"** means any county which is a member of RCRC, has executed this Agreement and has become a member of the Authority.

**"Obligations"** means bonds, notes, warrants, leases, certificates of participation, installment purchase agreements, loan agreements and other securities or obligations issued by the Authority, or financing agreements entered into by the Authority pursuant to the Act and any other financial or legal obligation of the Authority under the Act.

**"Program" or "Project"** means any work, program, project or service provided by the Authority.

**" Rural County Representatives of California"** ("RCRC") means the nonprofit entity incorporated under that name in the State of California.

## **2. Purpose**

The purpose of the Authority is to provide Programs for planning, management and operation of solid waste programs, and for other environmental services including, but not necessarily limited to, legislative and regulatory advocacy, solicitation of grant funding, and implementation of grant-funded projects. In pursuit of this purpose, this Agreement provides for the joint exercise of powers common to any of its Members and Associate Members as provided herein, including assisting in financing as authorized herein, jointly exercised in the manner set forth herein.

## **3. Principal Place of Business**

The Authority's principal office shall be 1215 K Street, Suite 1650, Sacramento, CA 95814.

## **4. Creation of Authority; Addition of Members or Associate Members**

a. The Rural Counties' Environmental Services Joint Powers Authority, formerly known as the Regional Council of Rural Counties Authority for Environmental Services, is hereby created pursuant to the Act. As provided in the Act, the Authority shall be a public entity separate and distinct from the Members or Associate Members.

b. The Authority will cause a notice of this Agreement or any amendment hereto to be prepared and filed with the office of the Secretary of State of California in a timely fashion in the manner set forth in Section 6503.3 of the Act.

c. A county that is a member of RCRC may petition to become a member of the Authority by submitting to the Board a resolution adopted by its governing body adopting this Agreement. The Board shall review the petition for membership and shall vote to approve or disapprove the petition. If the petition is approved by a majority of the Board, such county shall immediately become a Member of the Authority.

d. Associate Members may be added to the Authority upon the affirmative approval of their respective governing board and pursuant to action by the Board upon such terms and conditions, and with such rights, privileges and responsibilities, as may be established from time to time by the Board. Such terms and conditions, and rights, privileges and responsibilities may vary among the Associate Members. Associate Members shall be entitled to participate in one or more Programs of the Authority as determined by the Board, but shall not be voting members of the Board. The Executive Director of the Authority shall enforce the terms and conditions for prospective Associate Members to the Authority as provided by resolution of the Board and as amended from time to time by the Board. Changes in the terms and conditions for Associate Membership by the Board will not constitute an amendment of this Agreement.

## **5. Term and Termination of Powers**

This Agreement shall become effective from the date hereof until the earlier of withdrawal of all Members or termination by the then remaining Members. The Authority shall continue to exercise the powers herein conferred upon it until termination of this Agreement, except that if any Obligations are outstanding, in no event shall the exercise of the powers herein granted be terminated until all outstanding Obligations and any interest thereon shall have been paid or provision for such payment shall have been made.

## **6. Powers; Restriction upon Exercise**

a. To effectuate its purpose, the Authority shall have the power to exercise any and all powers of the Members under the Act and other applicable provisions of law, subject, however, to the conditions and restrictions herein contained. Each Member or Associate Member may also separately exercise any and all such powers. The powers of the Authority are limited to those of a general law county.

b. The Authority may adopt, from time to time, such resolutions, guidelines, rules and regulations for the conduct of its meetings and the activities of the Authority as it deems necessary or desirable to accomplish its purpose, including the payment of fees and/or dues.

c. The Authority shall have the power to develop Programs for and with any or all of its Members or Associate Members upon such terms and conditions, including the payment of fees, early withdrawal from or late entry into a Program, as the Board may prescribe for such Program. Each Member or Associate Member shall appoint an employee of such Member or

Associate Member as technical liaison between such Member or Associate Member and the Authority for Program purposes.

d. The Authority is hereby authorized to do all acts necessary for the exercise of its powers, including, but not limited to:

- (1) executing contracts,
- (2) employing agents, consultants and employees,
- (3) acquiring, constructing or providing for maintenance and operation of any building, work or improvement,
- (4) acquiring, holding or disposing of real or personal property wherever located, including property subject to mortgage,
- (5) incurring debts, liabilities or obligations,
- (6) receiving gifts, contributions and donations of property, funds, services and any other forms of assistance from persons, firms, corporations or governmental entities,
- (7) suing and being sued in its own name, and litigating or settling any suits or claims, and
- (8) doing any and all things necessary or convenient to the exercise of its specific powers and to accomplishing its purpose.

e. Subject to the applicable provisions of any indenture or resolution providing for the investment of monies held thereunder or the terms of any grant, the Authority shall have the power to invest any of its funds as the Board deems advisable, in the same manner and upon the same conditions as local agencies pursuant to Section 53601 of the Government Code of the State of California.

f. All property, equipment, supplies, funds and records of the Authority shall be owned by the Authority, except as may be provided otherwise herein or by resolution of the Board.

g. Pursuant to the provisions of Section 6508.1 of the Act and Public Resources Code Section 40970, Obligations of the Authority shall not be debts, liabilities and obligations of the Members. The Obligations, together with any interest and premium thereon, shall not constitute debts, liabilities or obligations of any Member. The Members hereby agree that any such Obligations shall not constitute general obligations of the Authority but shall be payable solely from the moneys pledged to the repayment of principal or interest on such Obligations under the terms of the resolution, indenture, trust, agreement or other instrument applicable to such Obligations. Neither the Members nor the Authority shall be obligated to pay the principal of or premium, if any, or interest on the Obligations, or other costs incidental thereto, except from the revenues and funds pledged therefore, and neither the faith and credit nor the taxing power of the Members or the Authority shall be pledged to the payment of the principal of or premium, if any, or interest on the Obligations, nor shall the Members of the Authority be obligated in any manner to make any appropriation for such payment. No covenant or agreement contained in any Obligation shall be deemed to be a covenant or agreement of any Member, Delegate, or any officer, agent or employee of the Authority in an individual capacity, and

neither the Board nor any officer thereof executing the Obligations or any document related thereto shall be liable personally on any Obligation or be subject to any personal liability or accountability by reason of the issuance of any Obligations.

## **7. Governing Board**

a. The Board shall consist of the number of Delegates equal to one representative from each Member.

b. The governing body of each Member shall appoint one of its supervisors to serve as a Board Delegate. A Member's designation of its Delegate shall be delivered in writing to the Secretary and shall be effective until he or she is replaced by such governing body or is no longer a supervisor; any vacancy shall be filled by the governing body of the Member in the same manner provided above.

c. The governing body of each Member of the Board shall designate one or more alternates to act on its behalf in the absence of the Delegate; an alternate need not be a supervisor and may exercise all the rights and privileges of the Delegate, including the right to be counted in constituting a quorum, to participate in the proceedings of the Board, and to vote upon any and all matters. In the absence of the Delegate, only one alternate may vote at any meeting of the Board. Any Member's designation of an alternate shall be delivered in writing to the Secretary and shall be effective until such alternate is replaced by his or her governing body, unless otherwise specified in such writing; any vacancy shall be filled by the governing body of the Member in the same manner provided above.

d. Any person who is not a Delegate or a properly designated alternate and who attends a meeting on behalf of such Member may not vote or be counted toward a quorum but may, at the discretion of the Chair, participate in open meetings he or she attends.

e. Each Associate Member may designate a non-voting representative to the Board who may not be counted toward a quorum but who may attend open meetings, propose agenda items and otherwise participate in Board Meetings.

f. Delegates shall not receive compensation for serving as Delegates, but may claim and receive reimbursement for expenses actually incurred in connection with such service pursuant to rules approved by the Board and subject to the availability of funds.

g. The Board shall have the power, by resolution, to the extent permitted by the Act or any other applicable law, to exercise any powers of the Authority and to delegate any of its functions to one or more Delegates, officers or agents of the Authority, and to cause any authorized Delegate, officer or agent to take any actions and execute any documents for and in the name and on behalf of the Board or the Authority.

h. The Board may establish such committees as it deems necessary for any lawful purpose; such committees are advisory only and may not act or purport to act on behalf of the Board or the Authority.

i. The Board shall develop, or cause to be developed, and review, modify as necessary, and adopt each Program.

## **8. Meetings of the Board**

a. The Board shall meet at least once annually, but may meet more frequently upon call of any officer or as provided by resolution of the Board.

b. Meetings of the Board shall be called, noticed, held and conducted pursuant to the provisions of the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part I of Division 2 of Title 5 of the Government Code of the State of California.

c. The Secretary of the Authority shall cause minutes of all meetings of the Board to be taken and distributed to each Member as soon as possible after each meeting.

d. The lesser of ten (10) Delegates or a majority of the number of current Delegates shall constitute a quorum for transacting business at any meeting of the Board, except that less than a quorum may act to adjourn a meeting. Each Delegate shall have one vote.

e. Meetings may be held at any location designated in notice properly given for a meeting and may be conducted by telephonic or similar means in any manner otherwise allowed by law.

## **9. Officers; Duties; Official Bonds**

a. The Board shall elect a chair and vice chair from among its properly designated Delegates at the Board's annual meeting who shall serve a term of one (1) year or until their respective successor is elected. The chair shall conduct the meetings of the Board and perform such other duties as may be specified by resolution of the Board. The vice chair shall perform such duties in the absence or in the event of the unavailability of the chair.

b. The Board shall contract annually with RCRC for administration of the Authority, and the President and Chief Executive Officer of RCRC shall serve *ex officio* as Executive Director, Secretary, Treasurer, and Auditor of the Authority. As chief executive of the Authority, the Executive Director is authorized to execute contracts and other obligations of the Authority, unless prior Board approval is required by a third party, by law or by Board specification, and to perform other duties specified by the Board. The Executive Director may appoint such other officers as may be required for the orderly conduct of the Authority's business and affairs who shall serve at the pleasure of the Executive Director. Subject to the applicable provisions of any indenture or resolution providing for a trustee or other fiscal agent, the Executive Director, as Treasurer, is designated as the custodian of the Authority's funds, from whatever source, and, as such, shall have the powers, duties and responsibilities specified in Section 6505.5 of the Act. The Executive Director, as Auditor, shall have the powers, duties and responsibilities specified in Section 6505.5 of the Act.

c. The Legislative Advocate for the Authority shall be the Rural County Representatives of California.

d. The Treasurer and Auditor are public officers who have charge of, handle, or have access to all property of the Authority, and a bond for such officer in the amount of one hundred thousand dollars (\$100,000.00) shall be obtained at the expense of the Authority and filed with the Secretary or Assistant Secretary. Such bond may secure the faithful performance of such officer's duties with respect to another public office if such bond in at least the same amount specifically mentions the office of the Authority as required herein. The Treasurer and Auditor shall cause periodic independent audits to be made of the Authority's books by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act.

e. The business of the Authority shall be conducted under the supervision of the Executive Director by the personnel of the Regional Council of Rural Counties.

## **10. Disposition of Assets**

Upon termination of this Agreement, all remaining assets and liabilities of the Authority shall be distributed to the respective Members and Associate Members in such manner as shall be determined by the Board and in accordance with law.

## **11. Agreement Not Exclusive; Operation in Jurisdiction of Member**

This Agreement shall not be exclusive, and each Member or Associate Member expressly reserves its rights to carry out other Projects or Programs provided for by law and to issue other obligations for those purposes. This Agreement shall not be deemed to amend or alter the terms of other agreements among the Members or Associate Members, except as expressly provided herein; provided, however, that the Authority shall not conduct a Project or Program within the jurisdiction of a Member or Associate Member financed by Obligations without the consent of that Member or Associate Member, and that the giving or withholding of that consent is in the sole and absolute discretion of the Member or Associate Member, but if given by the Member or Associate Member and then relied upon by the Authority for purposes of entering into agreements with contractors, developers, lenders, other Members or Associate Members, or others, such consent may not be revoked.

## **12. Conflict of Interest Code**

The Authority shall by resolution adopt a Conflict of Interest Code as required by law.

## **13. Contributions and Advances**

Contributions or advances of public funds and of personnel, equipment or property may be made to the Authority by any Member, Associate Member or any other public agency to further the purpose of this Agreement. Payment of public funds may be made to defray the cost of any contribution. Any advance may be made subject to repayment, and in that case shall be repaid in the manner agreed upon by the advancing Member, Associate Member or other public agency and the Authority at the time of making the advance.

#### **14. Fiscal Year; Accounts; Reports; Annual Budget; Administrative Expenses**

a. The fiscal year of the Authority shall be the period from January 1 of each year to and including the following December 31, except for any partial fiscal year resulting from a change in accounting based on a different fiscal year previously.

b. Prior to the beginning of each fiscal year, the Board shall adopt a budget for the succeeding fiscal year.

c. The Authority shall establish and maintain such funds and accounts as may be required by generally accepted accounting principles. The books and records of the Authority are public records and shall be open to inspection at all reasonable times by each Member and its representatives.

d. The Auditor shall either make, or contract with a certified public accountant or public accountant to make, an annual audit of the accounts and records of the Authority. The minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California, and shall conform to generally accepted auditing standards. When an audit of accounts and records is made by a certified public accountant or public accountant, a report thereof shall be filed as public records with each Member (and also with the auditor of each county which is a Member) within 12 months after the end of the fiscal year.

e. In any year in which the annual budget of the Authority does not exceed five thousand dollars (\$5,000.00), the Board may, upon a unanimous approval by the Board, replace the annual audit with an ensuing one-year period, but in no event for a period longer than two fiscal years.

#### **15. Duties of Members or Associate Members; Breach**

If any Member or Associate Member shall default in performing any covenant contained herein, such default shall not excuse that Member or Associate Member from fulfilling its other obligations hereunder, and such defaulting Member or Associate Member shall remain liable for the performance of all covenants hereof. Each Member or Associate Member hereby declares that this Agreement is entered into for the benefit of the Authority created hereby, and each Member or Associate Member hereby grants to the Authority the right to enforce, by whatever lawful means the Authority deems appropriate, all of the obligations of each of the parties hereunder. Each and all of the remedies given to the Authority hereunder or by any law now or hereafter enacted are cumulative, and the exercise of one right or remedy shall not impair the right of the Authority to any or all other remedies.

#### **16. Indemnification**

To the full extent permitted by law, the Board may authorize indemnification by the Authority of any person who is or was a Board Delegate, alternate, officer, consultant, employee or other agent of the Authority, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a Delegate, alternate, officer, consultant, employee or other agent of the Authority. Such indemnification may be made against



expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the Authority and, in the case of a criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful and, in the case of an action by or in the right of the Authority, acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

## **17. Immunities**

All of the privileges and immunities from liabilities, exemptions from law, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits which apply to the activity of officers, agents or employees of any of the Members or Associate Members when performing their respective functions, shall apply to them to the same degree and extent while engaged as Delegates or otherwise as an officer, agent or other representative of the Authority or while engaged in the performance of any of their functions or duties under the provisions of this Agreement.

## **18. Amendment**

This Agreement may be amended by the adoption of the amendment by the governing bodies of a majority of the Members. The amendment shall become effective on the first day of the month following the last required member agency approval. An amendment may be initiated by the Board, upon approval by a majority of the Board. Any proposed amendment, including the text of the proposed change, shall be given by the Board to each Member's Delegate for presentation and action by each Member's board within 180 days, which time may be extended by the Board.

## **19. Withdrawal of Member or Associate Member**

If a Member withdraws as member of RCRC, its membership in the Authority shall automatically terminate. A Member may withdraw from this Agreement upon written notice to the Board; provided, however, that no such withdrawal shall result in the dissolution of the Authority as long as any Obligations of the Authority remain outstanding. Any such withdrawal shall become effective thirty (30) days after a resolution adopted by the Member's governing body which authorizes withdrawal is received by the Secretary of the Board. Notwithstanding the foregoing, any termination of membership or withdrawal from the Authority shall not operate to relieve any terminated or withdrawing Member or Associate Member from Obligations incurred by such terminated or withdrawing Member or Associate Member prior to the time of its termination or withdrawal.

## **20. Miscellaneous**

a. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

b. **Construction.** The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to.

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c. **Approvals.** Wherever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

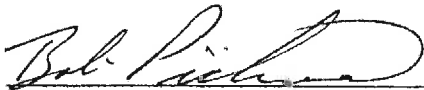
d. **Jurisdiction; Venue.** This Agreement is made in the State of California, under the Constitution and laws of such State and is to be so construed; any action to enforce or interpret its terms shall be brought in Sacramento County, California.

e. **Integration.** This Agreement is the complete and exclusive statement of the agreement among the parties hereto, and it supersedes and merges all prior proposals, understandings, and other agreements, whether oral, written, or implied in conduct, between and among the parties relating to the subject matter of this Agreement.

f. **Successors; Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, no Member or Associate Member may assign any right or obligation hereunder without the consent of the Board.

g. **Severability.** Should any part, term or provision of this Agreement be decided by the courts to be illegal or in conflict with any law of the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms or provisions hereof shall not be affected thereby.

The parties hereto have caused this Agreement to be executed and attested by their properly authorized officers.



Supervisor Bob Pickard, Chair

AS ADOPTED BY THE MEMBERS:

July 1, 1993

Amended and restated June 19, 1996

Amended and restated August 22, 2002

Amended and restated March 11, 2004

## **ATTACHMENT 1**

### **MEMBERS**

**As of March 11, 2004**

Alpine County  
Amador County  
Butte County  
Calaveras County  
Colusa County  
Del Norte County  
El Dorado County  
Glenn County  
Inyo County  
Lassen County  
Madera County  
Mariposa County  
Modoc County  
Mono County  
Nevada County  
Plumas County  
Sierra County  
Siskiyou County  
Tehama County  
Trinity County  
Tuolumne County

### **Added Members**

Imperial County	December 16, 2004
Shasta County	October 15, 2015

### **Terminated or Withdrawn Members**

Name of County	Date of Termination or Withdrawal
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