MARYLAND ENVIRONMENTAL SERVICE

BOARD OF DIRECTORS

RESOLUTION NO. 98-02-3R

A RESOLUTION AUTHORIZING

the Director and other officers of the Maryland Environmental Service (the "Service") to execute and deliver amendments to the Intergovernmental Agreements (the "Intergovernmental Agreement Amendments") between the Service and Baltimore County, Maryland, Howard County, Maryland and Anne Arundel County, Maryland (the "Baltimore Regional Counties"), relating to the Baltimore Regional Compost Facility Project (the "Project"); authorizing the Director and other officers of the Service to execute and deliver an amendment to the Indenture of Trust (the "Indenture Amendment") and such other documents or certificates as may be necessary in connection with the Intergovernmental Agreement Amendments and Indenture Amendment; and providing generally for other matters necessary for the Project and for the amendments to the Intergovernmental Agreements and Indenture of Trust.

RECITALS

The Service was created by, exists under, and exercises the powers contained in Sections 3-101 through 3-130 of the Natural Resources Article of the Annotated Code of Maryland (1997 Replacement Volume, 1997 Supplement) as amended to date (the "Act"), including (among others) the powers (i) to borrow money and issue bonds or notes for the purpose of paying all or any part of the cost of any one or more projects and to provide for the security of such bonds or notes and the rights of the holders thereof; and (ii) to enter into contracts with the Federal or any State government, or any unit, instrumentality or subdivision thereof, or with any municipality or person within or without the State of Maryland, providing for or relating to the furnishing of services to the facilities of any project of the Service.

The Service and the Baltimore Regional Counties entered into Yard Debris Composting Intergovernmental Agreements (collectively, the "IGA") dated June 16, 1995. In accordance with the terms and conditions of each IGA the Service issued $5.915 million in Indebtedness (as defined in the IGA) and constructed a yard debris composting facility on a parcel of property provided by Howard County and located at 7101 Dorsey Run Road in Howard County, (the "Dorsey Run Road Composting Facility").

From November 1, 1995 through March 31, 1997, the Service operated a full scale composting facility at the Dorsey Run Road Composting Facility. Since February, 1997, the Service has utilized the site as a yard debris transfer operation. Yard debris that the Service accepts at the Dorsey Run Road Composting Facility has been and continues to be transferred to an Alternative Facility (as defined in the IGA) for composting. At all times the Service has performed its obligations in accordance with the terms and conditions of the IGA.

The Baltimore Regional Counties have requested the Service to offer all or a portion of the Dorsey Run Road Composting Facility site for sale. The Baltimore Regional Counties desire that the Service relocate the yard debris composting operations to an Alternative Facility, but to retain a portion of the Dorsey Run Road Composting Facility for use as a Yard Debris transfer facility. If all or a portion of the site is sold, the Baltimore Regional Counties and the Service intend that the Net Consideration (as defined in the Intergovernmental Agreement Amendments) from the sale proceeds be deposited with the Trustee (as defined in the IGA) and utilized to defease or redeem a portion of the Indebtedness in accordance with the Trust Indenture (as defined in the IGA).

In order to utilize the Net Consideration to defease or redeem a portion of the Indebtedness, the IGA and the Trust Indenture must be amended. Each of the Baltimore Regional Counties has approved the Intergovernmental Agreement Amendments between the Service and each County. Pursuant to the Intergovernmental Agreement Amendments, the Baltimore Regional Counties shall continue to deliver to the Project the Guaranteed Annual Tonnage of Yard Debris (as defined in the IGA). The Baltimore Regional Counties shall also continue to pay to the Service a Processing Fee (as defined in the IGA) for each ton of acceptable Yard Debris that is delivered to the Project and will also pay a Supplemental Fee (as defined in the IGA) in the event that the Total Costs (as defined in the IGA) associated with the Project exceed the Composting Facility Revenues (as defined in the IGA).

The Service considers the Intergovernmental Agreement Amendments, the Indenture Amendment, and the sale of all or a portion of the Dorsey Run Road Composting Facility to be in furtherance of the public purposes of the Act and the Service.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MARYLAND ENVIRONMENTAL SERVICE, that:

1. Capitalized terms used and not defined herein shall have the meanings set forth in the title and the Recitals to this Resolution.

2. The Intergovernmental Agreement Amendments in substantially the form presented to this meeting are hereby approved, and the Director of the Service shall be, and hereby is, authorized to execute and deliver such Intergovernmental Agreement Amendments substantially in the form approved hereby with such changes, omissions, insertions, and revisions as shall be deemed advisable by the Director, provided, however, that such changes, omission, insertions and revisions shall not alter the substance of the transaction authorized and approved by this Resolution.

3. The Indenture Amendment shall be, and hereby is, adopted and approved, and the Director of the Service shall be, and hereby is, authorized to execute and deliver such Indenture Amendment substantially in the form approved hereby with such changes, omissions, insertions, and revisions as shall be deemed advisable by the Director; provided, however, that such changes, omissions, insertions and revisions shall not alter the substance of the transaction authorized and approved by this Resolution.

4. The Director, the Treasurer and the other officers of the Service shall be, and hereby are, authorized to take such other steps and to execute and deliver such other documents and certificates as the Director shall deem desirable to effect the execution and delivery of the Intergovernmental Agreement Amendments and the Indenture Amendment, and the completion of the

sale of all or a portion of the Dorsey Run Road Composting Facility property, and the other matters contemplated by this Resolution.

5. The execution by the Director or other officers of the Service of any document authorized herein to be executed by the Director or other officers shall constitute conclusive evidence of approval of such document, and any and all changes thereto from the form presented to the Service herewith, by the Service.

6. All acts, consents, and agreements of the Service and its officers made prior to the date of this Resolution and related to the matters contemplated by this Resolution are hereby confirmed and ratified.

7. This Resolution shall take effect immediately upon its adoption.

ADOPTED THIS 26th DAY OF FEBRUARY, 1998

MARYLAND ENVIRONMENTAL SERVICE

SEAL

BY: _____
JAMES W. PECK, DIRECTOR

BY: _____
CATHERINE P. STEVENSON, DEPUTY DIRECTOR

BY: _____
KENNETH HOWARTH, TREASURER

BY: _____
CAROLYN D. DAVIS, SECRETARY

ATTEST:

_____
CAROLYN D. DAVIS, SECRETARY

AMENDATORY AGREEMENT

YARD DEBRIS COMPOSTING INTERGOVERNMENTAL AGREEMENT

THIS AMENDATORY AGREEMENT TO THE YARD DEBRIS COMPOSTING INTERGOVERNMENTAL AGREEMENT, is made and entered into as of **the _____ day of _____, 1998,** by and between _____County, Maryland (the "County"), a body politic and corporate and a political subdivision of the State of Maryland, and Maryland Environmental Service (the "Service"), an instrumentality of the State of Maryland constituted as a body politic and corporate.

RECITALS

The parties entered into a Yard Debris Composting Intergovernmental Agreement ("IGA") dated June 16, 1995. On that same day the Service also entered into separate Yard Debris Composting Intergovernmental Agreements with _____County and _____County (the "Baltimore Regional Counties", as defined in the IGA). In accordance with the terms and conditions of each IGA the Service issued $5.915 million in Indebtedness (as defined in the IGA) and constructed a Yard Debris composting facility on a parcel of property provided by Howard County and located at 7101 Dorsey Run Road in Howard County, (as further defined herein, the "Dorsey Run Road Composting Facility").

From November 1, 1995 through March 31, 1997, the Service operated a full scale composting facility at the Dorsey Run Road site. Since April 1, 1997, the Service has utilized the site as a transfer operation. Yard Debris that the Service accepts at the Dorsey Run Road Composting Facility has been and continues to be transferred to an Alternative Facility (as defined in the IGA) for composting.

The Baltimore Regional Counties have requested the Service to offer all or a portion of the Dorsey Run Road Composting Facility site for sale. The Baltimore Regional Counties desire that the Service relocate the Yard Debris composting operations to an Alternative Facility, but to retain a portion of the Dorsey Run Road Composting Facility for use as a Yard Debris transfer facility. If all or a portion of the site is sold, the Baltimore Regional Counties and the Service intend that the Net Consideration (as defined herein) from the sale proceeds be deposited with the Trustee (as defined in the IGA) and utilized to defease a portion of the Indebtedness in accordance with the Trust Indenture (as defined in the IGA).

The purpose of this Amendment is to modify the IGA to reflect these understandings.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

Section 1: The definition of "Alternative Facility" is hereby amended to be as follows:

"**Alternative Facility**" means any composting or solid waste disposal facility, or transfer facility, or any combination of such facilities thereof, irrespective of the Service's ownership interest in such facility, located a commercially reasonable distance from the site of the Dorsey Run Road Composting Facility, and designated by the Service, in consultation with the Baltimore Regional Counties, to receive all or a portion of the Yard Debris required to be accepted by the Service under this Intergovernmental Agreement.

The Western Branch Composting Facility located at Upper Marlboro, Maryland and the Beltsville Agricultural Research Center located at Beltsville, Maryland are each recognized by the Baltimore Regional Counties and the Service as constituting an acceptable Alternative Facility.

Section 2: The definition of "Composting Facility" is hereby amended to be as follows:

"**Composting Facility**" means the Yard Debris composting facility which the Service has developed on an approximately 56 acre parcel of land located in Howard County, Maryland, at 7101 Dorsey Run Road (the "Dorsey Run Road Composting Facility"), and any Alternative Facility, and which is intended to receive Yard Debris from the County under the Yard Debris Composting Intergovernmental Agreement. The Dorsey Run Road Composting Facility shall include a compost pad, a scale and scale house or other appropriate facilities to weigh incoming and outgoing vehicles, internal access roads and such other ancillary Yard Debris composting facilities the Service, after first consulting with the Baltimore Regional Counties, deems necessary.

Section 3: The definition of "Composting Facility Revenues is hereby amended to be as follows:

"**Composting Facility Revenues**" means, for any Fiscal Year, the aggregate amount of any revenues, fees and income received by the Service in connection with the operation of the Composting Facility and the provision of Yard Debris composting services to the County under the Yard Debris Composting Intergovernmental Agreement, including (without limitation) **(a)** revenues from the Processing Fee and any other tipping fees charged to users of the Composting Facility; **(b)** other operating revenues of the Composting Facility, including (but not limited to) charges for services or use of property or equipment, or proceeds from the sale of composted Yard Debris collected by the Service; **(c)** the proceeds from any award of damages or settlement given to the Service in connection with a condemnation of all or a portion of the Service's interest in the Composting Facility; **(d)** the proceeds from any award of damages or settlement given to the Service in connection with any claim, suit or proceeding brought by the Service against any subcontractor hired pursuant to Section 2.2 of this Intergovernmental Agreement, against any other person hired by the Service to provide services or materials in furtherance of the Service's obligations under this Intergovernmental Agreement, or against any person who may cause the Service to incur costs under this Intergovernmental Agreement; **(e)** the proceeds from the conveyance of all or any portion of the Service's interest in the Composting Facility; and **(f)** interest earnings on money held by the Service in the Special Purpose Fund, but not including interest earnings on any accounts or reserves created under Section 3.8 of this Intergovernmental

Agreement; provided, however, that Composting Facility Revenues do not include the Supplemental Fee, and provided further that Composting Facility Revenues do not include **(x)** gifts, grants, bequests, contributions or donations to the Service which constitute non-operating revenue of the Service or **(y)** any balance in the Special Purpose Fund on the first day of a Fiscal Year carried over from any previous Fiscal Year.

Section 4: The following definition is hereby added to Section 1.1 of the IGA:

"Net Consideration" means the gross price received by the Service from the conveyance of all or any portion of the Service's interest in the Composting Facility, including, without limitation, the Service's interest in the Dorsey Run Road Composting Facility, less the costs of (i) real estate commissions due any broker or agent providing real estate brokerage or sale services to the Service; (ii) engineering and legal services directly related to the conveyance of the Service's interest in all or a portion of the Composting Facility; (iii) real estate transfer and recording taxes and fees; and (iv) other expenses necessary or incidental to the conveyance of all or a portion of the Service's interest in the Composting Facility.

Section 5: Section 4.6(a) is hereby amended to be as follows:

(a) Termination By All The Baltimore Regional Counties. The County shall have, and is hereby granted, the option to terminate this Intergovernmental Agreement at any time **(i)** by obtaining agreement of the other Baltimore Regional Counties as to the termination of this Intergovernmental Agreement and upon termination by the other Baltimore Regional Counties of the Yard Debris Composting Intergovernmental Agreement to which they are parties, **(ii)** by paying to the Service the amount set forth in Section 4.7 hereof, **(iii)** by giving the Service not less than thirty day's advance written notice of such termination, and **(iv)** by executing an agreement between the Service and the Baltimore Regional Counties pursuant to which the Baltimore Regional Counties shall take title to and liability for all the Service's interest in the Composting Facility site.

Section 6: A new section 4.6(c) is hereby added to the IGA:

(c) Termination Upon Relocation of Transfer Facility at the Dorsey Run Road Composting Facility. Notwithstanding the foregoing, if the Service notifies the County that it intends to discontinue use of the Dorsey Run Road Composting Facility as a transfer facility, and the location of a replacement transfer facility or Alternative Facility, whichever may be closest to the Dorsey Run Road Composting Facility, is so far from the Dorsey Run Road Composting Facility that the County's cost of delivering Yard Debris to the closest replacement transfer facility or Alternative Facility is increased, then the County may, without the approval of the other Baltimore Regional Counties, terminate this Intergovernmental Agreement **(i)** by giving the Service and the Baltimore Regional Counties not less than thirty (30) day's advance written notice, and **(ii)** by paying to the Service the amount set forth in Section 4.7 hereof. A termination will not be effective, and the County's obligation to deliver Yard Debris and make payments hereunder shall not cease, until all amounts due under Section 4.7 are paid in full to the Service. The County shall have no right to terminate this Intergovernmental Agreement under this Section 4.6(c) if the County does not provide its written

notice to the Service and the Baltimore Regional Counties within thirty (30) day's receipt of the Service's notification of its intent to discontinue use of the Dorsey Run Road Composting Facility as a transfer facility.

If another Baltimore Regional County terminates a Yard Debris Composting Intergovernmental Agreement pursuant to Section 4.6(c), the County agrees that, as of the effective date of the termination, it will assume one half of the terminating County's Proportionate Share of the rights and obligations existing under the Yard Debris Composting Intergovernmental Agreements. Notwithstanding the foregoing, the County shall have no obligation to assume or deliver any portion of the terminating County's Guaranteed Annual Tonnage.

Section 7: Section 4.8 is hereby amended to be as follows:

The parties agree that upon the exercise of the option to terminate under Section 4.6(a) and satisfaction of the requirements under Section 4.7, the Service shall immediately convey to the Baltimore Regional Counties, as tenants in common, and the Baltimore Regional Counties shall accept, all the Service's right, title and interest in the Composting Facility, all the Service's interest in all appurtenant real and personal property, and in the remaining assets of the Special Purpose Fund and any other reserves and accounts held by the Service under this Intergovernmental Agreement. The initial ownership interest of each of the Baltimore Regional Counties in the Composting Facility and all the other property conveyed hereunder shall equal each County's Total Proportionate Share.

Section 8: A new Section 4.10 is hereby added to the IGA:

SECTION 4.10. Transfer of Composting Facility Property Prior to Termination.

The Service may, after consultation with the Baltimore Regional Counties, convey all or a portion of its interest in the Composting Facility, including, without limitation the Dorsey Run Road Composting Facility, to any person. The Service shall immediately deposit the Net Consideration received as a result of the conveyance in the Redemption Fund (as defined in the Trust Indenture). The Net Consideration shall be utilized by the Service for no other purpose than to redeem a pro-rata amount of the Indebtedness at the earliest redemption date specified in the Trust Indenture. Notwithstanding the terms and provisions of Section 4.9 of this Intergovernmental Agreement, if the Service conveys all or a portion of its interest in the Dorsey Run Road Composting Facility, the terms and provisions of Section 4.9 shall be immediately void and of no effect, it being the express intention of the parties that Section 4.9 shall have effect only if, upon termination of this Intergovernmental Agreement pursuant to Article V, the Service has the same ownership interest in the Dorsey Run Road Composting Facility that it had on July 12, 1995.

Section 9: The term "Composting Facility" in the Recitals and in Sections 2.1, 2.2, 2.3, 2.5, 2.12, 3.2(a), 3.8, 4.9, 7.1 and 7.14 of the IGA shall be replaced by the term "Dorsey Run Road Composting Facility". The term "Compost Facility" in Section 3.7 of the IGA shall be replaced by the

term "Composting Facility".

Section 10: The following paragraph is hereby added to Section 3.8 of the IGA:

Notwithstanding any provisions of this Intergovernmental Agreement to the contrary, the Net Consideration received by the Service pursuant to Section 4.10 hereof shall be deposited in the Redemption Fund established under the Trust Indenture and shall be applied to the defeasance and redemption of the Indebtedness set forth in Exhibit A to the Amendment to Indenture of Trust by and between the Service and the Bank of New York.

Section 11: Except as hereby amended, the IGA shall remain in full force and effect and is hereby, in all respects, ratified and confirmed.

IN WITNESS WHEREOF, the Service and the County have executed and sealed this Amendment to Intergovernmental Agreement.

[SEAL] **SIGNATURE BLOCK**

AMENDMENT TO INDENTURE OF TRUST

THIS AMENDMENT TO INDENTURE OF TRUST, dated as of _____, 1998, is by and between Maryland Environmental Service, a body politic and corporate constituting an instrumentality of the State of Maryland ("Service") and The Bank of New York, a New York banking corporation, as successor trustee (the "Trustee") to Signet Trust Company (the "Prior Trustee").

RECITALS

The Service and the Prior Trustee entered into an Indenture of Trust (the "Original Indenture") dated June 1, 1995. On that same day the Service also entered into separate Yard Debris Composting Intergovernmental Agreements with Anne Arundel County, Baltimore County and Howard County (the "Baltimore Regional Counties", as defined in the IGA). In accordance with the terms and conditions of each IGA the Service issued $5.915 million in Indebtedness (as defined in the IGA) and constructed a Yard Debris composting facility on a parcel of property provided by Howard County and located at 7101 Dorsey Run Road in Howard County, (as further defined herein, the "Dorsey Run Road Composting Facility").

From November 1, 1995 through March 31, 1997, the Service operated a full scale composting facility at the Dorsey Run Road site. Since April 1, 1997, the Service has utilized the site as a transfer operation. Yard Debris that the Service accepts at the Dorsey Run Road Composting Facility has been and continues to be transferred to an Alternative Facility (as defined in the IGA) for composting.

The Baltimore Regional Counties have requested the Service to offer all or a portion of the Dorsey Run Road Composting Facility site for sale. The Baltimore Regional Counties desire that the Service relocate the Yard Debris composting operations to an Alternative Facility, but to retain a portion of the Dorsey Run Road Composting Facility for use as a Yard Debris transfer facility. If all or a portion of the site is sold, the Baltimore Regional Counties and the Service intend that the Net Consideration (as defined herein) from the sale proceeds be deposited with the Trustee (as defined in the IGA) and utilized to defease and redeem a portion of the Indebtedness in accordance with the Trust Indenture (as defined in the IGA).

The purpose of this Amendment is to modify the Original Indenture to reflect these understandings.

AMENDMENTS

Section 1. In Appendix A to the Indenture, the following definition is hereby added to the Indenture:

"Alternative Facility" means any composting or solid waste disposal facility, or transfer facility, or any combination of such facilities thereof, located a commercially reasonable distance from the site of the Dorsey Run Road Composting Facility and designated by the Service to receive all or a portion of the Yard Debris required to be accepted by the Service under the Intergovernmental Agreement.

The Western Branch Composting Facility located at Upper Marlboro, Maryland and the Beltsville Agricultural Research Center located at Beltsville, Maryland are each recognized by the Baltimore Regional Counties and the Service as constituting an acceptable Alternative Facility.

Section 2: In Appendix A to the Indenture, the definition of "Composting Facility" is hereby amended to be as follows:

"**Composting Facility**" means the Yard Debris composting facility which the Service has developed on an approximately 56 acre parcel of land located in Howard County, Maryland, at 7101 Dorsey Run Road (the "Dorsey Run Road Facility"), and any Alternative Facility, and which is intended to receive Yard Debris from the Baltimore Regional Counties under the Intergovernmental Agreement. The Dorsey Run Road Composting Facility shall include a compost pad, a scale and scale house or other appropriate facilities to weigh incoming and outgoing vehicles, internal access roads and such other ancillary Yard Debris composting facilities the Service deems necessary or appropriate.

Section 3: In Appendix A to the Indenture, the definition of "Composting Facility Revenues" is hereby amended to be as follows:

"**Composting Facility Revenues**" means, for any Fiscal Year, the aggregate amount of any revenues, fees and income received by the Service in connection with the operation of the Composting Facility and the provision of Yard Debris composting services to the Baltimore Regional Counties under the Intergovernmental Agreement, including (without limitation) **(a)** revenues from the Processing Fee and any other tipping fees charged to users of the Composting Facility; **(b)** other operating revenues of the Composting Facility, including (but not limited to) charges for services or use of property or equipment, or proceeds from the sale of composted Yard Debris collected by the Service; **(c)** the proceeds from any award of damages or settlement given to the Service in connection with a condemnation of all or a portion of the Service's interest in the Composting Facility; **(d)** the proceeds from any award of damages or settlement given to the Service in connection with any claim, suit or proceeding brought by the Service against any subcontractor hired pursuant to the Intergovernmental Agreement, against any other person hired by the Service to provide services or materials in furtherance of the Service's obligations under the Intergovernmental Agreement, or against any person who may cause the Service to incur costs under the Intergovernmental Agreement; **(e)** the proceeds from the conveyance of all or any portion of the Service's interest in the Composting Facility; and **(f)** interest earnings on money held by the Service in the Special Purpose Fund, but not including interest earnings on any accounts or reserves created under of the Intergovernmental Agreement; provided, however, that Composting Facility Revenues do not include do not include **(x)** gifts, grants, bequests, contributions or donations to the Service which constitute non-operating revenue of the Service or **(y)** any balance in the Special Purpose Fund on the first day of a Fiscal Year carried over from any previous Fiscal Year.

Section 4: The following paragraph is hereby added to Section 4.05 of the Indenture:

(e) Notwithstanding any provision of this Indenture to the contrary, the Net Consideration (as defined in the Intergovernmental Agreement) received by the Service pursuant to Section 4.10 of the Intergovernmental Agreement shall be deposited in the Redemption Fund and shall be applied to the defeasance and redemption of the Bonds to be identified by the Service within thirty (30) days' receipt of the Net Consideration.

Section 5: The term "Composting Facility", as it appears in Section 2.05 and in the second

use of the term in the definition of Project in Appendix A of the Indenture shall be replaced by the term "Dorsey Run Road Composting Facility".

Section 6: Except as hereby amended, the Indenture shall remain in full force and effect, and is hereby, in all respects, ratified and confirmed.

SEAL

MARYLAND ENVIRONMENTAL SERVICE

James W. Peck
Director

ATTEST:

Catherine Pieper Stevenson
Deputy Director

SEAL

THE BANK OF NEW YORK, as Trustee

Craig S. Wenzler
Assistant Treasurer

ATTEST:

State of Maryland
Anne Arundel County

Before Me, the undersigned Notary Public, personally appeared this _____ day of _____, 1998, **James W. Peck**, Director of the Maryland Environmental Service, and that he, as such officer, being authorized so to do, executed the aforegoing Amendment to Indenture of Trust for the purposes contained therein, by signing his name thereto as Director of the Maryland Environmental Service and causing the corporate seal of the Maryland Environmental Service to be affixed thereto and attested by the Deputy Director of the Maryland Environmental Service.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal

_____
Notary Public

My commission expires _____

State of New York
County of _____-

Before Me, the undersigned Notary Public, personally appeared this _____ day of _____, 1998, **Craig S. Wenzler**, an Assistant Treasurer of The Bank of New York, and that he, as such officer, being authorized so to do, executed the aforegoing Amendment to Indenture of Trust for the purposes contained therein, by signing his name thereto as Assistant Treasurer and causing the corporate seal of The Bank of New York to be affixed thereto and attested by a duly authorized signatory.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal

_____
Notary Public

My commission expires _____