



AGENDA

BOARD OF SUPERVISORS, COUNTY OF MONO STATE OF CALIFORNIA

Regular Meetings: The First, Second, and Third Tuesday of each month. Location of meeting is specified just below.

MEETING LOCATION Board Chambers, 2nd Fl., County Courthouse, 278 Main St., Bridgeport, CA 93517

Regular Meeting June 12, 2018

TELECONFERENCE LOCATIONS:

1) First and Second Meetings of Each Month: Mammoth Lakes CAO Conference Room, 3rd Floor Sierra Center Mall, 452 Old Mammoth Road, Mammoth Lakes, California, 93546; 2) Third Meeting of Each Month: Mono County Courthouse, 278 Main, 2nd Floor Board Chambers, Bridgeport, CA 93517.

Board Members may participate from a teleconference location. Note: Members of the public may attend the open-session portion of the meeting from a teleconference location, and may address the board during any one of the opportunities provided on the agenda under Opportunity for the Public to Address the Board.

NOTE: In compliance with the Americans with Disabilities Act if you need special assistance to participate in this meeting, please contact Shannon Kendall, Clerk of the Board, at (760) 932-5533. Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting (See 42 USCS 12132, 28CFR 35.130).

Full agenda packets are available for the public to review in the Office of the Clerk of the Board (Annex I - 74 North School Street, Bridgeport, CA 93517). Any writing distributed less than 72 hours prior to the meeting will be available for public inspection in the Office of the Clerk of the Board (Annex I - 74 North School Street, Bridgeport, CA 93517). **ON THE WEB:** You can view the upcoming agenda at <http://monocounty.ca.gov>. If you would like to receive an automatic copy of this agenda by email, please subscribe to the Board of Supervisors Agendas on our website at <http://monocounty.ca.gov/bos>.

UNLESS OTHERWISE SPECIFIED BY TIME, ITEMS SCHEDULED FOR EITHER THE MORNING OR AFTERNOON SESSIONS WILL BE HEARD ACCORDING TO AVAILABLE TIME AND PRESENCE OF INTERESTED PERSONS. PUBLIC MAY COMMENT ON AGENDA ITEMS AT THE TIME THE ITEM IS HEARD.

9:00 AM Call meeting to Order

Pledge of Allegiance

1. **OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD**

on items of public interest that are within the subject matter jurisdiction of the Board.
(Speakers may be limited in speaking time dependent upon the press of business)

and number of persons wishing to address the Board.)

2. RECOGNITIONS - NONE

3. COUNTY ADMINISTRATIVE OFFICE

CAO Report regarding Board Assignments

Receive brief oral report by County Administrative Officer (CAO) regarding work activities.

4. DEPARTMENT/COMMISSION REPORTS

5. CONSENT AGENDA

(All matters on the consent agenda are to be approved on one motion unless a board member requests separate action on a specific item.)

A. Board Minutes

Departments: Clerk of the Board

Approval of minutes from the Regular meeting held on May 15, 2018.

Recommended Action: Approve the minutes from the Regular meeting held on May 15, 2018.

Fiscal Impact: None.

B. County Response to the 2017-2018 Grand Jury Interim Report

Departments: CAO

Approval of Board of Supervisor's response to the 2017-2018 Grand Jury Interim Report

Recommended Action: Approve response letter to the 2017-2018 Grand Jury Interim Report.

Fiscal Impact: None.

C. Approval of FY17-18 Regional Surface Transportation Program Exchange Agreement

Departments: Public Works

Years ago, the State acting through Caltrans authorized a program that allowed small counties to exchange their allocated Federal funds and State matching funds for State-only funds. This process allows the County to receive the funds for use for any purpose for which Road Funds can be used without the requirement to meet Federal requirements. This action will allow Mono County to continue to exchange its allocated Federal funds and State matching funds for State-only funds..

Recommended Action: Approve and authorize the Chair's signature on the FY 17-18 Federal Exchange and State Match Agreement.

Fiscal Impact: \$329,725 revenue to Public Works' Road Fund.

D. Proposed Ordinance Amending Mono County Code Section 1.12.050

Departments: County Counsel

Proposed ordinance amending Mono County Code Section 1.12.050, related to appeals of administrative citations issued by the Compliance Division, to clarify language and increase the pool of potential hearing officers available to hear such appeals.

Recommended Action: Adopt proposed ordinance ORD18-____, Amending Chapter 1.12, Section 1.12.050 of the Mono County Code Pertaining to Appeals of Administrative Citations.

Fiscal Impact: None.

E. Three Month Extension of Solid Waste Franchise Agreements

Departments: Public Works; Solid Waste Division

Three-month extension to existing Solid Waste Franchise Agreements to allow for completion of negotiations prior to entrance into new franchise agreements.

Recommended Action: Exercise option in Article 3.01(c) of the Solid Waste Franchise Agreement to extend the Agreement by three months. Direct staff to prepare required notice to franchisees

Fiscal Impact: A three-month extension of the agreement provides for the continued collection of franchise fees of around \$25,500. All funds are deposited into the Solid Waste Enterprise Fund.

6. CORRESPONDENCE RECEIVED - NONE

All items listed are located in the Office of the Clerk of the Board, and are available for review. Direction may be given to staff regarding, and/or the Board may discuss, any item of correspondence listed on the agenda.

7. REGULAR AGENDA - MORNING

A. Motion to Reconsider Provisions within Mono County Code Chapter 7.92 "Smoking Policies and Restrictions"

Departments: Board of Supervisors

30 Minutes (20 minute presentation; 10 minute discussion)

(John Peters) - Motion pursuant to Board Rule 30 to reconsider provisions added to Mono County Code Chapter 7.92 by Mono County Ordinance ORD18-03 (April 17, 2018), that prohibit the sale of certain flavored cigars, cigarettes and chewing tobacco currently being sold within the unincorporated areas of the County and/or to

make such other changes to Chapter 7.92 as the Board deems necessary or appropriate.

Recommended Action: Hear report from Supervisor Peters, staff and members of the public. Consider and potentially approve motion to reconsider. If motion to reconsider is approved, direct staff to amend ordinance amending Chapter 7.92 consistent with direction provided, for consideration by the Board at a regularly-scheduled meeting. Provide any other desired direction to staff.

Fiscal Impact: None.

B. Mono County Land Mobile Radio System Update

Departments: Information Technology

30 minutes (20 minute presentation; 10 minute discussion)

(Nate Greenberg) - This agenda item will provide an update on the work performed on the Mono County Land Mobile Radio System since December 2017 and outline the road map for the coming season.

Recommended Action: Informational item only.

Fiscal Impact: None at this time.

C. Delta Wireless Contract Renewal

Departments: Information Technology

5 minutes

(Nate Greenberg) - Delta Wireless provides engineering and technical assistance to the Information Technology Department in the management of the Mono County Land Mobile Radio System (MCLMRS). This item renews a Time & Materials agreement for FY 18-19 in the amount of \$150,000 which covers both labor and capital equipment purchases.

Recommended Action: Approve County entry into proposed contract with Delta Wireless and authorize the County Administrative Officer to execute said contract on behalf of the County. Provide any desired direction to staff.

Fiscal Impact: Up to \$150,000 which is fully within the FY 2018-2019 Radio & Communications budget.

D. County Counsel's Office Presentation

Departments: County Counsel

30 minutes (20 minutes presentation; 10 minutes discussion)

(Stacey Simon) - Presentation by Mono County Counsel Stacey Simon providing an overview of the County Counsel's office and highlighting accomplishments for the current year and goals for next fiscal year.

Recommended Action: None (informational only). Provide any desired direction to staff.

Fiscal Impact: None.

8. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

on items of public interest that are within the subject matter jurisdiction of the Board. (Speakers may be limited in speaking time dependent upon the press of business and number of persons wishing to address the Board.)

9. CLOSED SESSION

A. Closed Session--Human Resources

CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Stacey Simon, Leslie Chapman, Dave Butters, Janet Dutcher, and Anne Larsen. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39--majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono County Public Safety Officers Association (PSO), and Mono County Sheriff Department's Management Association (SO Mgmt). Unrepresented employees: All.

THE AFTERNOON SESSION WILL RECONVENE NO EARLIER THAN 1:00 P.M.

10. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

on items of public interest that are within the subject matter jurisdiction of the Board. (Speakers may be limited in speaking time dependent upon the press of business and number of persons wishing to address the Board.)

11. REGULAR AGENDA - AFTERNOON

A. 2018 - 19 Budget Hearing

Departments: CAO, Finance

3 Hours

(Leslie Chapman, Janet Dutcher) - Public hearing and adoption of the 2018-19 CAO Recommended Budget as presented or amended.

Recommended Action: 1. Conduct public budget hearing, 2. Adopt resolution R18-_____, A Resolution of the Mono County Board of Supervisors Adopting the Final Mono County Budget for Fiscal Year 2018-2019, as presented or amended, and 3. Approve the County Position Allocation list as presented or amended. The Mono County Recommended Budget for fiscal year 2018-19 is available on the Mono County Website: <https://monocounty.ca.gov/auditor/page/2018-19-recommended-budget>. The document may also be accessed on the Mono County

website home page by clicking the “2018-19 Recommended Budget” link under “Spotlight.”

Fiscal Impact: CAO Recommended budget includes \$101,543,569 in expenditures, \$95,018,557 in revenues and relies on \$6,525,012 in carryover fund balance. The General Fund component includes \$37,206,514 in expenditures, \$35,719,865 in revenues, and relies on \$1,486,649 in carryover fund balance.

12. BOARD MEMBER REPORTS

The Board may, if time permits, take Board Reports at any time during the meeting and not at a specific time.

ADJOURN



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE June 12, 2018

Departments: Clerk of the Board

TIME REQUIRED

SUBJECT Board Minutes

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Approval of minutes from the Regular meeting held on May 15, 2018.

RECOMMENDED ACTION:

Approve the minutes from the Regular meeting held on May 15, 2018.

FISCAL IMPACT:

None.

CONTACT NAME: Scheereen Dedman

PHONE/EMAIL: x5538 / sdedman@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

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5-15-18 Draft Minutes

History

Time	Who	Approval
6/7/2018 7:12 AM	County Administrative Office	Yes
6/7/2018 2:46 AM	County Counsel	Yes
6/5/2018 3:46 PM	Finance	Yes



**DRAFT MEETING MINUTES
BOARD OF SUPERVISORS, COUNTY OF MONO
STATE OF CALIFORNIA**

Regular Meetings: The First, Second, and Third Tuesday of each month. Location of meeting is specified just below.

MEETING LOCATION Mammoth Lakes Suite Z, 437 Old Mammoth Rd, Suite Z, Mammoth Lakes, CA 93546

**Regular Meeting
May 15, 2018**

Flash Drive	Portable Recorder
Minute Orders	M18-94 – M18-101
Resolutions	R18-28
Ordinance	ORD18-07

9:00 AM Meeting Called to Order by Chair Gardner.
Supervisors Present: Corless, Gardner, Peters, and Stump.

The Mono County Board of Supervisors stream all of their meetings live on the internet and archives them afterward. To listen to any meetings from June 2, 2015 forward, please go to the following link: <http://www.monocounty.ca.gov/meetings>

Pledge of Allegiance led by Supervisor Stump.

1. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

No one spoke.

2. RECOGNITIONS - NONE

3. COUNTY ADMINISTRATIVE OFFICE

CAO Report regarding Board Assignments

Receive brief oral report by County Administrative Officer (CAO) regarding work activities.

Leslie Chapman, CAO:

- Budget is already on the agenda, so nothing to report.

4. DEPARTMENT/COMMISSION REPORTS

Annie Linaweaver, Behavioral Health Clinical Supervisor

- Here on behalf of Robin Roberts, on April 26 Robin provided a debrief with staff involved

Note:

These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors

making a decision about the student that made threats towards the school, teachers, and students at Mammoth High School.

5. CONSENT AGENDA

(All matters on the consent agenda are to be approved on one motion unless a board member requests separate action on a specific item.)

A. Fish and Game Fine Fund Expenditure

Departments: Economic Development

(Jeff Simpson) - On Wednesday April 4, 2018, the Mono County Fish and Wildlife Commission approved a recommendation to the Board of Supervisors for a \$4,000 expenditure out of the Fish and Game Fine Fund to reprint the Eastern Sierra Fishing Map.

Action: The Board consider and approve the recommendation by the Mono County Fish and Wildlife Commission to allocate \$4,000 from the Fish and Game Fine Fund to reprint the Eastern Sierra Fishing Map.

Peters moved; Corless seconded

Vote: 4 yes; 0 no

M18-94

B. 2018 Mono County Fog Seal and Striping Project

Departments: Public Works

The Project will provide pavement preservation and striping rehabilitation to Mono County community roads and to the Bryant Field and Lee Vining Airport. The project manual, including the project plans, were approved at the Board meeting on April 3, 2018. One bid was received for the Project prior to the May 1, 2018 bid submission deadline.

Action: Identify Intermountain Slurry Seal, Inc. as the responsible bidder submitting the lowest responsive bid in response to the Invitation for Bids for the 2018 Mono County Fog Seal and Striping Project ("Project"); 2) approve and authorize Public Works Director to execute a contract with Intermountain Slurry Seal, Inc. for the Project in an amount not to exceed \$691,121.95; 3) authorize the Public Works Director, in consultation with County Counsel, to administer that contract, including making minor amendments to said contract from time to time as the Public Works Director may deem necessary, and issue change orders to the contract in accordance with Public Contract Code §20142, in an amount not to exceed \$47,056.10 per change order, provided such amendments and change orders do not substantially alter the scope of work, do not cause spending on the project to exceed the budgeted authority, and are approved as to form and legality by County Counsel.

Peters moved; Corless seconded

Vote: 4 yes; 0 no

M18-95

Note:

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Supervisor Stump:

- Noted that Garrett Higerd, Engineer, wanted to let the Board know he is trying to squeeze as much possible into that project.

C. Out-of-State Travel Authorization for NACo's 83rd Annual Conference and Exposition

Departments: Clerk of the Board

Out-of-state travel request for Supervisor Corless to attend the National Association of Counties' (NACo) 83rd Annual Conference and Exposition in Nashville, TN.

Action: Approve out-of-state travel for Mono County Supervisor Stacy Corless (the county's NACo representative) to attend NACo's 83rd Annual Conference and Exposition in Nashville from July 13-16, 2018.

Peters moved; Corless seconded

Vote: 4 yes; 0 no

M18-96

D. Appointments to the Mammoth Lakes Mosquito Abatement District

Departments: CAO

In order to ensure the orderly conduct of business, the Mammoth Lakes Mosquito Abatement District requires a duly appointed Board of Trustees. At this time, there are no appointed Trustees. This item will appoint 5 interested citizens to the District Board.

Action: Appoint Jeff Boucher, David Harvey, Stephen Ganong, Dan Schaller and Lyle Koegler to 4-year terms on the Mammoth Lakes Mosquito Abatement District Board of Trustees, expiring May 15, 2022.

Corless moved; Stump seconded

Vote: 4 yes; 0 no

M18-97

Supervisor Corless:

- Pulled item for discussion.
- Discussed the Special District.
- Recognized the volunteers to serve on the board.

E. County Maintained Mileage for FY18-19

Departments: Public Works

Annual review of the County maintained road mileage.

Action: Adopt Resolution No. R18-28, Specifying Additions and/or Exclusions to the Maintained Mileage Within the County Road System and Establishing Maintained Mileage for Fiscal Year 2018 – 2019.

Peters moved; Corless seconded

Vote: 4 yes; 0 no

Note:

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R18-28

F. Appointment to the Construction Board of Appeals

Departments: CDD - Building Division

Consider appointment of the following individual to the five (5) member Construction Board of Appeals: Randy Gilbert - CA General Contractor.

Action: Appoint Randy Gilbert to the Construction Board of Appeals for a four-year term expiring December 31, 2021.

Peters moved; Corless seconded

Vote: 4 yes; 0 no

M18-98

G. CSA#1 Crowley Lake Skatepark Budget Increase Request

Departments: Finance, CAO

Increase in the Capital Improvement Projects Budget for the skatepark by \$14,000 to a total project budget of \$704,000. The Skatepark project is funded by CSA#1.

Action: 1. Amend the Crowley Lake Skatepark Budget for FY 2017-18 in the Capital Improvement Projects Budget from \$690,000 to \$704,000 for construction expenses and reimbursement from County Service Area #1 (CSA#1). 2. Approve transfer of \$14,000 from the CSA#1 contingency budget to cover this increase (both actions require 4/5ths vote).

Peters moved; Corless seconded

Vote: 4 yes; 0 no

M18-99

H. Proposed Ordinance adding Mono County Code 5.65 to the Mono County Code regulating short-term rentals in residential areas

Departments: CDD

Proposed ordinance adding Chapter 5.65 to the Mono County Code regulating short-term rentals in residential areas. As proposed, Chapter 5.65 would establish a permitting process for short-term rentals in residential areas within the unincorporated county and includes application and review requirements, enforcement provisions, operational requirements and conditions, and a limit on the number of owner-occupied (Type I) rentals in the Clark Tract in June Lake.

Action: Adopt proposed ordinance No. ORD18-07, An Ordinance of the Mono County Board of Supervisors Adding Chapter 5.65 to the Mono County Code Pertaining to the Local Regulation and Permitting of Short-Term Rentals in Residential Areas Within the Unincorporated Area of the County. Approve and direct staff to file a notice of determination for the proposed Addendum under the California Environmental Quality Act for the ordinance.

Note:

These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors

Peters moved; Corless seconded
Vote: 4 yes; 0 no
ORD18-07

6. CORRESPONDENCE RECEIVED

All items listed are located in the Office of the Clerk of the Board, and are available for review. Direction may be given to staff regarding, and/or the Board may discuss, any item of correspondence listed on the agenda.

A. Application for Alcoholic Beverage License

Departments: Clerk of the Board

Application for the Department of Alcoholic Beverage Control for alcoholic beverage license from Crowley Lake General Store.

7. REGULAR AGENDA - MORNING

A. Workshop - Building a Financially Resilient Mono County

Departments: Finance

(Janet Dutcher) - Presentation about Government Finance Officers' Association (GFOA) identification of eight essential characteristics of a financially resilient system and the building blocks of long-term financial planning, followed by a discussion on how this system might apply to Mono County.

Action: Receive presentation. Discuss application to Mono County. Provide any desired direction to staff.

Janet Dutcher, Finance Director:

- Went through presentation.

B. FY 2018-2019 Budget Update

Departments: CAO, Finance

(Janet Dutcher, Leslie Chapman) - Finance and the CAO will update the Board about the FY 2018-2019 budget development and process.

Action: Receive information and provide direction to staff, if desired.

Janet Dutcher, CAO:

- Went through presentation (available in additional documents).

Break: 10:28 AM

Reconvene: 10:38 PM

C. Agricultural Commissioner's Presentation

Departments: Agricultural Commissioner

(Nathan D. Reade, Agricultural Commissioner) - Presentation on the various functions of the Agricultural Commissioner's Office.

Action: None (informational only). Provide any desired direction to staff.

Nathan Reade, Agricultural Commissioner:

Note:

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- Went through presentation (updated version available in additional documents).

D. 2018 Agricultural Commissioner's Crop Report

Departments: Agricultural Commissioner

(Nathan D. Reade, Agricultural Commissioner) - Presentation by Nathan Reade regarding 2017 Mono County Crop and Livestock Report..

Action: None (informational only). Provide any desired direction to staff.

Nathan Reade, Agricultural Commissioner:

- Went through presentation.

E. District Attorney's Department Presentation

Departments: District Attorney

(Tim Kendall) - This presentation will give an overview of the Department, review goals that were set in the 2017-18 budget process and inform the Board on department goals for the 2018-2019 budget year, how these goals are measured, and how the priorities of the department contribute to the Board's Strategic Plan.

Action: None; informational only.

Tim Kendall, District Attorney:

- Went through presentation.

8. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

No one spoke.

Closed Session: 12:03 PM

9. CLOSED SESSION

A. Closed Session - Real Property Negotiations

CONFERENCE WITH REAL PROPERTY NEGOTIATORS. Government Code section 54956.8. Property: Mammoth Mall, 126 Old Mammoth Rd., Mammoth Lakes, CA. Negotiating Parties: Mono County and Greenlaw Partners. Agency negotiators: Leslie Chapman, Stacey Simon and Tony Dublino

THE AFTERNOON SESSION WILL RECONVENE NO EARLIER THAN 1:00 P.M.

Reconvene: 1:00 PM

Nothing to report out of Closed Session.

10. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

No one spoke.

Note:

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11. REGULAR AGENDA - AFTERNOON

A. Mammoth Community Water District Presentation of Groundwater Report and Request for Board Support

Departments: CAO

(Patrick Hayes, General Manager, MCWD) - Mammoth Community Water District presentation of groundwater report and request for Board to approve a letter to the Bureau of Land Management (BLM) requesting additional groundwater monitoring and mitigation measures related to geothermal development on lands under BLM's jurisdiction.

Action: Receive presentation. Consider and provide direction regarding proposed letter to BLM. Provide any direction to staff.

Tony Dublino, Assistant CAO:

- Introduced item.

Patrick Hayes, General Manager:

- Went through presentation.
- Provided handouts (available in additional documents).

Public Comment:

Paul Thompson, Executive Director, ORMAT, parent co for mammoth pacific power plant.

Don Condon, Mammoth Lakes resident

Lynn Boulton, Range of Light Group

Stacey Powell, Mammoth Times

Robert Creasy, Director, Mammoth Community Water District Board; Director, High Sierra Energy

Board direction to write letter of support.

B. Air Service Report

Departments: Economic Development

(John Urdi - Executive Director, Mammoth Lakes Tourism) - Presentation by John Urdi, Executive Director of Mammoth Lakes Tourism, regarding an update on scheduled commercial Air Service and the summer/fall Minimum Revenue Guarantee (MRG) partnership program.

Action: None (informational only). Provide any desired direction to staff.

John Urdi, Mammoth Lakes Tourism Executive Director:

- Annual report on air service.

C. Local Area Management Program (LAMP) Presentation

Departments: Health

(Louis Molina) - Presentation by Louis Molina regarding Mono County's proposed Local Area Management Program (LAMP). The LAMP prescribes requirements and conditions for onsite wastewater treatment systems (OWTS), which include construction standards, siting, servicing, and reporting requirements.

Note:

These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors

Action: None (informational only). Provide any desired direction to staff.

Louis Molina, Environmental Health:

- Went through presentation.

D. Non-Funded Challenge Cost Share Agreement Between Mono County, Town of Mammoth Lakes, Inyo National Forest and Humboldt-Toiyabe National Forest

Departments: CAO

(Tony Dublino) - Consideration of a Non-Funded Challenge Cost Share Agreement (NFCCSA) between the County of Mono, Town of Mammoth Lakes, Inyo National Forest and Humboldt-Toiyabe National Forest, for the purposes of administering joint recreation efforts.

Action: Authorize CAO to enter NFCCSA, in substantial conformance with the attached draft.

Corless moved; Peters seconded

Vote: 4 yes; 0 no

M18-100

Tony Dublino, Assistant CAO:

- Discussed item.
- Update on expenditures.

Mayor John Wentworth, TOML:

- Town approved this agreement.
- Town Manager had minor clarifying language.

Break: 2:51 PM

Reconvene: 2:56 PM

E. Appeal of Timeliness Determination -- Probation Officers Decertification Petition

Departments: County Counsel

(Anne Larsen) - Appeal filed by Mono County Probation Officers (MCPO) of determination made by Mono County Employee Relations Officer (Human Resources Director Dave Butters) that MCPO's petition requesting decertification of Local 39 as the exclusive representative of the MCPO was untimely filed under Mono County Personnel Rule 670 subdivision (H). The appeal is brought pursuant to Rule 670, subdivision (L).

Action: Deny the appeal filed by Mono County Probation Officers (MCPO) and uphold the determination made by Mono County Employee Relations Officer (Human Resources Director Dave Butters) that MCPO's petition requesting decertification of Local 39 as the exclusive representative of the MCPO was untimely filed under Mono County Personnel Rule 670 subdivision (H). The appeal is brought pursuant to Rule 670, subdivision (L).

Gardner moved; Stump seconded

Vote: 4 yes; 0 no

M18-101

Note:

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Anne Larsen, Deputy County Counsel:

- Introduced the item.
- Gave Board packet (available in additional documents)

Mono County Probation Officers' Association represented by Stacie Casabian, Curtis Hill, and Erin Van Kampen:

- Provided explanation of appeal.

Dave Butters, Human Resources Director:

- Provided County explanation.

Letter from Local 39 (available in additional documents).

12. BOARD MEMBER REPORTS

The Board may, if time permits, take Board Reports at any time during the meeting and not at a specific time.

Supervisor Corless:

- Last Wednesday, attended the RCRC Executive Committee meeting. Updates on economic development. Attended a meeting discussing travel cannabis and regulating that activity.
- Attended air pollution control district meeting in Lee Vining. Concern from Mono Basin residents concerning the placement of the monitoring station.
- Attended LTC. Called YNP Superintendent who already spoke to Supervisor Gardner.
- Yesterday, attended the Behavioral Health Advisory Board meeting. Discussion of senior services and activities in Mammoth. Want to thank Amanda Greenberg from Behavioral Health and Kathy Peterson from Social Services. Christina Carrow, a local therapist, presented on the need on more organized activities. Amanda will lead some sort of focus group to determine needs. She also presented an update on the housing project in Walker.
- Close meeting in honor of Randy Witters from Crowley Lake.

Supervisor Gardner:

- Last Wednesday evening I attended the Mono Basin RPAC meeting. We had an excellent session talking about the proposed Caltrans Lee Vining Main Street project. Caltrans is making a strong effort to get input from the community.
- Last Thursday I participated in the quarterly Collaborative Planning Team meeting. There were several good updates from the agencies represented at the meeting. It is quite clear this meeting is an effective way to keep us all informed about various agency projects. We may want to think about how to draw in more regional agencies such as Inyo County and others.
- Last Thursday and yesterday I had a chance to meet the new Inyo National Forest Supervisor, Tammy Randall-Parker. Tammy comes from Colorado and has a rich background in collaborative efforts. I was impressed with her approach and am hopeful we will see some good progress with her new leadership.
- Finally, yesterday I again participated in a special meeting of the Eastern Sierra Transit Authority Board. We continue to work on selecting an Executive Director.

Supervisor Peters:

- 5th Search and Rescue
- 10th Met with Recycling Thrift Store Chairman
- 14th LTC

Note:

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- **Upcoming:**
- Town Hall Bridgeport 23rd
- CSAC Leg Conference Next week

Supervisor Stump:

- 5-8 : Attended the Hilton Creek Community Services District meeting. Loan request from the County Pool was my topic. The District will send a copy of the April minutes as documentation of the actual amount of loan requested and the vote of that Board to request it.
- 5-10 : Attended the Great Basin Unified Air Pollution Control District meeting in Lee Vining. District's budgets were approved along with dust management reports on both the Owens Dry Lake and Mono Lake. New air quality station has been installed in Lee Vining that will monitor both PM 2.5 and PM 10.
- 5-10 : Attended the Owens Valley Groundwater Authority meeting. The Authority continues to take the steps necessary to become a fully constituted JPA, such as adopting a code of ethics. The proposed request for qualifications document to recruit a consultant to prepare a Groundwater Sustainability Plan was also approved.
- 5-11 : Received a legal briefing on the latest lawsuit filed by the City of Los Angeles against the Great Basin Unified Air Pollution Control District. The hearing on that was set for 5-11 in Sacramento District Court.
- 5-14 : Attended the Local Transportation Commission meeting. Cal Trans gave an excellent report on actions they are taking on Hwy 395 between Bridgeport and the Bodie Road. Commission authorized a support letter, electronic version, be submitted to support Prop 69.
- I will be out of the County starting Thursday until Sunday evening to attend my Niece's wedding.

ADJOURNED in honor of Randy Witters at 3:56 PM

ATTEST

BOB GARDNER
CHAIR OF THE BOARD

SCHEEREN DEDMAN
SR. DEPUTY CLERK



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE June 12, 2018

Departments: CAO

TIME REQUIRED

SUBJECT County Response to the 2017-2018
Grand Jury Interim Report

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Approval of Board of Supervisor's response to the 2017-2018 Grand Jury Interim Report

RECOMMENDED ACTION:

Approve response letter to the 2017-2018 Grand Jury Interim Report.

FISCAL IMPACT:

None.

CONTACT NAME: Tony Dublino

PHONE/EMAIL: 760.932.5415 / tdublino@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
Staff Report
Response Letter

History

Time	Who	Approval
5/31/2018 9:47 AM	County Administrative Office	Yes
6/7/2018 2:50 AM	County Counsel	Yes
6/7/2018 12:07 PM	Finance	Yes



County of Mono

County Administrative Office

Leslie L. Chapman
County Administrative Officer

Tony Dublino
Assistant County Administrative Officer

Dave Butters
Human Resources Director

Jay Sloane
Risk Manager

TO: Board of Supervisors

FROM: Tony Dublino, Assistant CAO

DATE: June 12, 2018

RE: Board of Supervisor's Response to 2017-18 Mono County Grand Jury Interim Report

Recommendation:

Approve proposed Board of Supervisors response or provide additional comments and clarifications.

Fiscal Impact:

None.

Discussion:

State law requires elected officials as well as the Board of Supervisors to respond to the findings and recommendations of Grand Jury reports. The Board must respond within 90 days of the issuance of the report (Penal Code section 933(c)).

State law prescribes the specific manner and language to be used by an agency head or governing body in responding to findings and recommendations of a grand jury report. The prescribed response with respect to a finding is to "agree" or "disagree" with an explanation. The prescribed response with respect to a recommendation is generally to indicate whether the recommendation will or will not be "implemented" with an explanation. (Penal Code section 933.05).

None of the Grand Jury's investigations or findings in this 2017-2018 Interim Report have resulted in any recommendations or action required of Mono County offices or agencies. The proposed Board response is to 'agree' with all findings.

If you have any questions regarding this item, please contact me at (760) 932-5415.

Respectfully submitted,

Tony Dublino
Assistant CAO



Larry Johnston ~ District One Fred Stump ~ District Two Bob Gardner ~ District Three
John Peters ~ District Four Stacy Corless ~ District Five

BOARD OF SUPERVISORS COUNTY OF MONO

P.O. BOX 715, BRIDGEPORT, CALIFORNIA 93517
(760) 932-5533 • FAX (760) 932-5531
Shannon Kendall, Clerk of the Board

June 12, 2018

Honorable Judge Mark Magit
Presiding Judge of the Superior Court
100 Thompsons Way
P.O. Box 1037
Mammoth Lakes, California 93546

Re: Response to the Mono County Grand Jury 2017-2018 Interim Report

Dear Judge Magit:

Please consider this letter as the official response to the Mono County Grand Jury Report 2017-2018 Interim Report and place this document on file as the Mono County Board of Supervisors' response.

As your honor is aware, the 2016-2017 Grand Jury complaints, findings and recommendations involving offices within the County's jurisdiction have been satisfied, and no further action is being recommended in the 2017-2018 Interim Report. The County is pleased to learn that all new complaints received by the 2017-2018 Grand Jury involving offices within the County's jurisdiction have been investigated with no resulting recommendations for additional action. The County has no reason to dispute any of the Grand Jury's findings as they relate to offices within our jurisdiction, and accepts all findings:

Mono County Sheriff's Office regarding Holding Cell

The County agrees with the findings

Mono County Sheriff's Office regarding Jail Cook Position

The County agrees with the findings

Registrar of Voters Processes and Procedures

The County agrees with the findings

Assessor's Office morale, education and communication

The County agrees with the findings

EMS Complaint Received

The County agrees with the findings

San Quentin Inmate Complaint

The County agrees with the findings

The Board of Supervisors and County staff recognize the critical role the Grand Jury provides to the community and the County by ensuring the legal and financial adequacy of government services. The Grand Jury provides a sense of openness, transparency and accountability that are crucial to our democracy, and the County appreciates the work performed and the guidance offered. The County thanks the members of the Grand Jury for their public service and encourages the Court to continue to ensure broad representation from all communities of Mono County.

Sincerely,

Bob Gardner, Chair
Mono County Board of Supervisors



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE June 12, 2018

Departments: Public Works

TIME REQUIRED

SUBJECT Approval of FY17-18 Regional
Surface Transportation Program
Exchange Agreement

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Years ago, the State acting through Caltrans authorized a program that allowed small counties to exchange their allocated Federal funds and State matching funds for State-only funds. This process allows the County to receive the funds for use for any purpose for which Road Funds can be used without the requirement to meet Federal requirements. This action will allow Mono County to continue to exchange its allocated Federal funds and State matching funds for State-only funds..

RECOMMENDED ACTION:

Approve and authorize the Chair's signature on the FY 17-18 Federal Exchange and State Match Agreement.

FISCAL IMPACT:

\$329,725 revenue to Public Works' Road Fund.

CONTACT NAME: Brett McCurry

PHONE/EMAIL: 760 932 5449 / bmccurry@mono.ca.gov

SEND COPIES TO:

Public Works

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
<input type="checkbox"/> Staff Report
<input type="checkbox"/> Exhibit A Exchange Agreement

History

Time

Who

Approval

6/7/2018 6:59 AM	County Administrative Office	Yes
6/7/2018 3:33 PM	County Counsel	Yes
6/7/2018 12:16 PM	Finance	Yes



MONO COUNTY DEPARTMENT OF PUBLIC WORKS

POST OFFICE BOX 457 • 74 NORTH SCHOOL STREET • BRIDGEPORT, CALIFORNIA 93517
760.932.5440 • Fax 760.932.5441 • monopw@mono.ca.gov • www.monocounty.ca.gov

Date: June 5, 2018
To: Honorable Chair and Members of the Board of Supervisors
From: Brett McCurry.
Subject: FY17/18 RSTP Road Funding Agreement

Recommended Action:

Approve and authorize Chair's signature on the FY17/18 Federal Exchange and State Match Agreement for allocation of Federal Surface Transportation Program Funds through the State's Regional Surface Transportation Program.

Fiscal Impact:

\$329,725 revenue to Public Works' Road Fund.

Discussion:

The annual funding through the Regional Surface Transportation Program (RSTP) apportionment is a significant source of revenue for Mono County's road maintenance programs. Although the amount is based on a statewide formula that does not change, the RSTP funding along with the annual gas tax apportionment continue to be the foundations of Public Works' Road Division.

The Federal Apportionment Exchange Program and State Match Agreement, a copy of which is enclosed with this report as Exhibit A, will authorize the exchange of federal highway funds for state highway funds. The proposed exchange is made available to rural counties on an annual basis. The purpose of the exchange is to eliminate the Federal restrictions and processes in the expenditure of the funds for agencies whose revenue is small enough to not warrant complying with those processes. The only restrictions on these funds are the restrictions that apply to all the gas tax revenues we receive.

The revenues that are being generated and will increase once SB1 is fully implemented will be the first significant increase in available funding for roads in many years.

If you have any questions regarding this item, please contact me at 760.932.5449 or by email at bmccurry@mono.ca.gov or Doug Wilson at 760.932.5459 or by email at dwilson@mono.ca.gov.

Respectfully submitted,


Brett McCurry,
Road Operations Superintendent

Attachments: Exhibit A – Agreement No. X18-5947(057)

DEPARTMENT OF TRANSPORTATION

Division of Local Assistance
1120 N STREET
P.O. BOX 942874, MS# 1
Sacramento, CA 94274-0001
TTY 711



File : 09-MNO-0-CR
X18-5947(057)
2017/2018 Exchange and State
Match Program

April 30, 2018

Mr. Jeff Walters
Director of Public Works
Mono County
P.O. BOX 457
Bridgeport, CA 93717

Subject: Optional Regional Surface Transportation Program (RSTP/RSTBGP) Federal Exchange and State Match Program for FY 2017/2018.

Dear Mr. Walters:

This letter serves to notify you of the opportunity to participate in the Optional RSTP/RSTBGP Federal Exchange and State Match Program for FY 2017/2018.

In an effort to streamline this program, we have enclosed the Federal Exchange and State Match Agreement required for participation. The agreement contains the estimated amount of federal funds you are eligible to exchange along with matching state funds. We have not yet received the final apportionment amounts for Federal Fiscal Year (FFY) 2018. The exchanged amount is based on your FFY 2017 apportionment including adjustments made to prior year RSTP/RSTBGP balances. Necessary rescissions or additions will be reflected on next year's Agreement. In order to participate in this year's program and receive the funds, you must do the following:

*Concur with the amount shown on the agreement. If you do not agree with this amount, please contact Amy Chieng of HQ Local Assistance at (916) 653-4334 no later than June 16, 2018.

*Sign both copies of this agreement and return them to Department of Transportation, Division of Local Assistance, P.O. Box 942874, MS#1, Sacramento, CA 94274-0001. When we receive your signed agreements, they will be executed and one original will be returned to your agency.

*Once you receive the executed agreement, forward your invoice directly to the District Local Assistance Office.

If you need additional information regarding the program, please refer to Chapter 18 of the Local Assistance Program Guidelines. Please contact Amy Chieng at (916) 653-4334 if you have any questions.

Sincerely,

Christian P. Jensen

JOHN HOOLE, Chief
Office of Project Implementation - South
Division of Local Assistance

Enclosures

c: OLP AE Project Files
(09) DLAE - Forest Becket

FEDERAL APPORTIONMENT EXCHANGE PROGRAM AND STATE MATCH PROGRAM
CALIFORNIA DEPARTMENT OF TRANSPORTATION - NON MPO COUNTY

09 MONO
District County

Agreement No. X18-5947(057)
AMS Adv ID:0918000056

THIS AGREEMENT is made on _____, by the COUNTY of MONO , a political subdivision of the State of California (COUNTY), and the State of California, acting by and through the Department of Transportation (STATE).

WHEREAS, COUNTY desires to assign federal apportionments made available to COUNTY for allocation to transportation projects in accordance with Section 182.6 of the Streets and Highways Code [Regional Surface Transportation Program (RSTP)/Regional Surface Transportation Block Grant Program (RSTBGP) funds] in exchange for nonfederal State Highway Account funds, and

WHEREAS Section 182.9 of the Streets and Highways Code requires the allocation of State Matching funds from the State Highway Account to COUNTY:

NOW, THEREFORE, the parties agree as follows:

I. FEDERAL APPORTIONMENT EXCHANGE PROGRAM

A. As authorized by Section 182.6 of the Streets and Highways Code, and the RTPA having agreed to exchange or elected not to exercise its authority as it relates to the COUNTY'S portion of the RSTP/RSTBGP under Section 182.6(g), COUNTY agrees to assign to STATE:

\$229,725.00 from the eligible portion of its estimated annual minimum RSTP/RSTBGP Apportionment for Fiscal Year 2017/2018.

The eligible portion of said minimum apportionment is the COUNTY's estimated annual minimum RSTP/RSTBGP apportionment established under Section 182.6(d)(2) of the Streets and Highways Code less any federal apportionments already obligated for projects chargeable to COUNTY's eligible portion of its estimated annual minimum RSTP/RSTBGP apportionment.

For Caltrans Use Only

I hereby Certify upon my own personal knowledge that budgeted funds are available for this encumbrance			
<i>Jessamine Felos</i>	Accounting Officer	Date <i>4/18/2018</i>	\$ <i>329,725.00</i>

TO: STATE CONTROLLER'S OFFICE Claims Audits 3301 "C" Street, Rm 404 Sacramento, CA 95816	DATE PREPARED: 4/18/2018	PROJECT NUMBER: 918000056
REQUISITION NUMBER / CONTRACT NUMBER: RQS - 2660 - 091800000126		

FROM: **Department of Transportation**

SUBJECT: **Encumbrance Document**

VENDOR / LOCAL AGENCY: **COUNTY OF MONO**

CONTRACT AMOUNT:
\$ 329,725.00

PROCUREMENT TYPE: **Local Assistance**

CHAPTER	STATUTES	ITEM	YEAR	PEC / PECT	COE/Category	AMOUNT
14	2017	2660-102-0042	2017/2018	2030010830	2170/0000	\$ 100,000.00
14	2017	2660-102-0042	2017/2018	2030010840	2240/0400	\$ 229,725.00

ADA Noti For individuals with sensory disabilities, this document is available in alternate formats. For information, call (915) 654-6410 or TDD (916) -3880 or write Records and Forms Management, 1120 N. Street, MS-89, Sacramento, CA 95814.

B. COUNTY agrees that it will not undertake any capacity-expanding project funded herein located in an air quality nonattainment area without prior inclusion of said project by its RTPA in the "build" alternative of the air quality conformance analysis and the RTPA's subsequent concurrence in the project's implementation.

II. STATE MATCH PROGRAM - Section 182.9

A. As authorized by Section 182.9 of the Streets and Highways Code, STATE agrees to pay to COUNTY \$100,000.00 from the unobligated balance of COUNTY's State Matching funds for Fiscal Year 2017/2018.

B. COUNTY agrees that before COUNTY uses State Matching funds for any other lawful purpose, COUNTY shall use such funds to match federally funded transportation projects.

III. COMMON PROVISIONS

A. Subject to the availability of State funds by the State Budget Act, and upon receipt of COUNTY invoice evidencing COUNTY's assignment of COUNTY's estimated apportionment under Section I.A to STATE, STATE agrees to pay to COUNTY an amount not to exceed \$329,725.00 that equals the sum of the estimated apportionment amounts identified in Sections I.A and the State Match funds identified in Section II.A.

B. COUNTY agrees to use all State funds paid hereunder only for transportation purposes that are in conformance with Article XIX of the California State Constitution.

C. COUNTY agrees to establish a special account within their County Road Fund for the purpose of depositing all payments received from STATE pursuant to this agreement.

D. COST PRINCIPLES

1. The COUNTY agrees to comply with, and require all project sponsors to comply with, Office of Management and Budget Supercircular 2 CFR Part 200, Cost Principles for STATE and LOCAL government, Uniform Administrative Requirements for Grants and Cooperative Agreements to STATE and LOCAL governments.

2. COUNTY will assure that its fund recipients will be obligated to agree that (a) Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, part 31, et seq., shall be used to determine the allowability of individual project cost items and (b) Those parties shall comply with Federal Administrative Procedures in accordance with 2 CFR Part 200, Uniform Administrative Requirements for Grants and Cooperative Agreements to STATE and LOCAL governments. Every sub-recipient receiving funds as a contractor or sub-contractor under this agreement shall comply with federal administrative procedures in accordance with 2 CFR Part 200, Uniform Administrative Requirements for Grants and Cooperative Agreements to STATE and LOCAL governments.

3. Any fund expenditures for costs for which COUNTY has received payment or credit that are determined by subsequent audit to be unallowable under Office of Management and Budget

Supercircular, 2 CFR Part 200, are subject to repayment by COUNTY to STATE. Should COUNTY fail to reimburse funds due STATE within 30 days or demand, or within such other period as may be agreed in writing between the parties hereto, STATE is authorized to intercept and withhold future payments due COUNTY from STATE of any third-party source, including, but not limited to, the State Treasurer, the State Controller and the CTC.

E. THIRD PARTY CONTRACTING

1) COUNTY shall not award a construction contract over \$10,000 or other contracts over \$25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Government Code Sections 4525 (d), (e) and (f)] on the basis of a noncompetitive negotiation for work to be performed using funds without the prior written approval of STATE.

2) Any subcontract or agreement entered into by COUNTY as a result of disbursing funds received pursuant to this Agreement shall contain all of the fiscal provisions of this Agreement; and shall mandate that travel and per diem reimbursements and third-party contract reimbursements to subcontractors will be allowable as project costs only after those costs are incurred and paid for by the subcontractors.

3) In addition to the above, the preaward requirements of third party contractor/consultants with COUNTY should be consistent with Local Program Procedures as published by STATE.

F. ACCOUNTING SYSTEM

COUNTY, its contractors and subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate fund expenditures by line item. The accounting system of COUNTY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices.

G. RIGHT TO AUDIT

For the purpose of determining compliance with this Agreement and other matters connected with the performance of COUNTY'S contracts with third parties, COUNTY, COUNTY's contractors and subcontractors and STATE shall each maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts. All of the above referenced parties shall make such materials available at their respective offices at all reasonable times for three years from the date of final payment of funds to COUNTY. STATE, the California State Auditor, or any duly authorized representative of STATE or the United States Department of Transportation, shall each have access to any books, records, and documents that are pertinent for audits, examinations, excerpts, and transactions, and COUNTY shall furnish copies thereof if requested.

H. TRAVEL AND SUBSISTENCE

Payments to only COUNTY for travel and subsistence expenses of COUNTY forces and its subcontractors claimed for reimbursement or applied as local match credit shall not exceed rates authorized to be paid exempt non-represented State employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced are in excess of those authorized

DPA rates, then COUNTY is responsible for the cost difference and any overpayments shall be reimbursed to STATE on demand.

STATE OF CALIFORNIA
Department Of Transportation

COUNTY OF MONO

Office of Project Implementation
Division of Local Assistance
Date:

Chair, Board of Supervisors
Date:



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE June 12, 2018

Departments: County Counsel

TIME REQUIRED

SUBJECT Proposed Ordinance Amending
Mono County Code Section 1.12.050

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed ordinance amending Mono County Code Section 1.12.050, related to appeals of administrative citations issued by the Compliance Division, to clarify language and increase the pool of potential hearing officers available to hear such appeals.

RECOMMENDED ACTION:

Adopt proposed ordinance ORD18-____, Amending Chapter 1.12, Section 1.12.050 of the Mono County Code Pertaining to Appeals of Administrative Citations.

FISCAL IMPACT:

None.

CONTACT NAME: Anne Larsen

PHONE/EMAIL: 760 924-1707 / alarsen@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download
Staff Report
Ordinance 1.12.050
Exh A to Ordinance 1.12.050

History

Time

Who

Approval

6/7/2018 7:13 AM	County Administrative Office	Yes
6/7/2018 2:52 AM	County Counsel	Yes
6/7/2018 12:07 PM	Finance	Yes

County Counsel
Stacey Simon

Assistant County Counsel
Christian E. Milovich

Deputies
Anne M. Larsen
Jason Canger

**OFFICE OF THE
COUNTY COUNSEL**

Mono County
South County Offices
P.O. BOX 2415
MAMMOTH LAKES, CALIFORNIA 93546

Telephone
760-924-1700

Facsimile
760-924-1701

Paralegal
Jenny Senior

To: Board of Supervisors

From: Anne Larsen

Date: June 12, 2018

Re: Amendment to Mono County Code Section 1.12.050

Recommended Action

Adopt ordinance amending Mono County Code Section 1.12.050 -
Administrative appeal hearings

Discussion

Mono County Code Section 1.12.050 sets forth the rules and procedures governing the process for appealing administrative citations issued by Mono County Code Compliance, including how and when to request an appeal hearing, and the deadlines and procedures for the appeals process. Our office has undertaken the project of amending the current language of Section 1.12.050 to make it clearer and easier to use and to address the scarcity of hearing officers who may properly consider these appeals. Included with this report are copies of the current Mono County Code Section 1.12.050 and the proposed amendment to Section 1.12.050 which adds more specificity to the current code language, simplifies some of the current code language and widens the potential pool of hearing officers qualified to hear appeals of administrative citations.

The proposed amendment would change the requirement that the hearing officer reside outside the supervisorial district in which the violation occurred or in which the person responsible for the violation lives, to instead require that the hearing officer not reside in the "community" where the violation occurred or in which the person responsible for the violation lives. The proposed amendment defines "community" in conformity with the definition set forth in the Mono County General Plan Map as follows:

“For purposes of this paragraph, ‘community’ includes any of the following areas designated in the Mono County General Plan Map: (1) Antelope Valley, (2) Benton, (3) Benton Hot Springs, (4) Bodie Hills, (5) Bridgeport; (6) Chalfant, (7) Hammil Valley, (8) June Lake, (9) Long Valley, (10) Mammoth Vicinity, (11) Mono Basin, (12) Oasis, (13) Sonora Junction, (14) Swauger Creek, and (15) Wheeler Crest.”

The current residency requirement for hearing officers has made it difficult to secure qualified hearing officers. The proposed amendment to allow the hearing officer to reside within the same supervisorial district - as long as the hearing officer’s residence is not within the same “community” - should widen the pool of potential qualified hearing officers, while minimizing the risk of bias which could be associated with having a hearing officer consider an appeal concerning a violation or property owner in his or her own community.

The proposed amendment would also increase the pool of qualified hearing officers by changing the current requirement that the hearing officer be a planning commissioner, to instead allow qualified hearing officers to be either a planning commissioner or an independent professional qualified to act as the hearing officer if no planning commissioner is willing or able to serve.

Fiscal Impact

None.

If you have any questions on this matter prior to your meeting, please call me at 924-1707.



ORDINANCE NO. 18-__

**AN ORDINANCE OF THE MONO COUNTY BOARD OF SUPERVISORS
AMENDING CHAPTER 1.12, SECTION 1.12.050 OF THE MONO COUNTY CODE
PERTAINING TO APPEALS OF ADMINISTRATIVE CITATIONS**

WHEREAS, Mono County Code Chapter 1.12, Section 1.12.050 (“Section 1.12.050”) establishes the rules and procedures for appealing an Administrative Citation;

WHEREAS, the Mono County Board of Supervisors wishes to clarify and simplify the rules and procedures for appeals under Section 1.12.050;

WHEREAS, the Mono County Board of Supervisors recognizes that the current requirements for hearing officers set forth in Section 1.12.050 have made it difficult to secure qualified hearing officers;

WHEREAS, the Mono County Board of Supervisors wish to amend Section 1.12.050 to broaden the potential pool of qualified hearing officers by allowing qualified hearing officers to reside in the same supervisorial district in which the violation occurred or in which the person responsible for the violation resides, as long as the hearing officer does not reside in the same “community” (as that term is defined in the Mono County General Plan) in which the violation occurred or in which the person responsible for the violation resides; and

WHEREAS, the Mono County Board of Supervisors wish to amend Section 1.12.050 to further broaden the potential pool of qualified hearing officers by allowing a qualified hearing officer to be a planning commissioner or an independent professional qualified to act as the hearing officer if no planning commissioner is willing or able to serve.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF MONO COUNTY ORDAINS as follows:

SECTION ONE: Chapter 1.12, Section 1.12.050 of the Mono County Code is hereby amended in its entirety to read as set forth in Exhibit “A” attached hereto and incorporated herein by this reference.

SECTION TWO: This Ordinance shall become effective 30 days from the date of its adoption and final passage, which appears immediately below. The Clerk of the Board of Supervisors shall post this ordinance and also publish the ordinance in the manner prescribed by Government Code section 25124 no later than 15 days after the date of its adoption and final

1 passage. If the Clerk fails to so publish this ordinance within said 15-day period, then the
2 ordinance shall not take effect until 30 days after the date of publication.

3 **PASSED, APPROVED and ADOPTED** this ___ day of June, 2018, by the following
4 vote, to wit:

5 **AYES:**

6 **NOES:**

7 **ABSENT:**

8 **ABSTAIN:**

9
10
11
12 _____
13 Bob Gardner, Chair
14 Mono County Board of Supervisors

15
16 **ATTEST:**

17 **APPROVED AS TO FORM:**

18
19 _____
20 Clerk of the Board

21 _____
22 County Counsel

EXH. A

1.12.050 - Administrative appeal hearing.

A. Any person receiving an administrative citation may request an appeal hearing within ten business days after the citation was served. The request for a hearing must be made in writing and filed with the county clerk in person or by mail. When an administrative citation is sent by mail, the hearing must be requested within ten business days after the citation was postmarked.

B. As soon as practicable after receiving the written request for a hearing, the county administrative officer shall appoint a hearing officer who shall be either a planning commissioner or an independent professional qualified to act as the hearing officer if no planning commissioner is willing or able to serve. The person appointed to serve as hearing officer shall not reside in the community in which the person responsible for the violation lives or where the subject property is located. For purposes of this paragraph, "community" includes any of the following areas designated in the Mono County General Plan Map: (1) Antelope Valley, (2) Benton, (3) Benton Hot Springs, (4) Bodie Hills, (5) Bridgeport; (6) Chalfant, (7) Hammil Valley, (8) June Lake, (9) Long Valley, (10) Mammoth Vicinity, (11) Mono Basin, (12) Oasis, (13) Sonora Junction, (14) Swauger Creek, and (15) Wheeler Crest. The clerk shall provide the hearing officer with a copy of the citation and written request for hearing at the time the hearing officer is appointed. The county administrative officer, or his or her designee, shall then fix a date, time and place for the hearing. At least ten business days before the hearing date, written notice of the date, time, and place of the hearing shall be served on the recipient of the citation and on the property owner (if different), as well as on anyone else who received formal notice of the citation, by any one of the following means:

1. Personal service;
2. Certified mail, postage prepaid, return receipt requested. Such service shall be deemed effective and perfected on the date of mailing.

C. The failure of any person with an interest in the property on which the violation occurred to receive notice of the appeal hearing shall not affect the validity of any proceedings taken under this chapter.

D. Failure of any person to timely request a hearing in accordance with the provisions of this section shall constitute a waiver of his or her right to a hearing.

E. The hearing officer shall consider any written or oral evidence presented at the hearing consistent with the following procedures:

1. The person who filed the appeal shall have the burden of proof at the hearing;
2. The contents of the county's file shall be accepted into evidence (except as to such portions of the file, if any, that contain confidential or privileged information);

3. The notice of violation and the administrative citation shall be admitted as prima facie evidence of the facts stated therein.

F. The hearing officer shall independently consider the facts of the case and shall draw his or her own independent conclusions as to the merit of the appeal; i.e., the appeal shall be heard de novo.

G. Upon conclusion of the hearing and receipt of information and evidence, the hearing officer may immediately render a decision, continue the proceeding or take the matter under submission and later render a decision.

H. The order and decision of the hearing officer shall be the final administrative action of the county. If the hearing officer finds a violation has occurred, he or she may nevertheless, for good cause shown, reduce, waive or conditionally reduce the fines stated in the citation. The hearing officer may also impose additional conditions and deadlines by which to correct the violation or to pay any outstanding fine(s).

I. The hearing officer shall issue a written order and decision setting forth supporting findings within 30 days after the conclusion of the hearing. The written order and decision shall also inform the person who filed the appeal of his or her right under state law to appeal the order of the hearing officer to the Superior Court within twenty days after service of the written order and decision is perfected on the appellant in conformity with Government Code Section 53069.4(b)(1).

J. The clerk shall serve the hearing officer's written order and decision on the appellant and compliance specialist within five working days after the written order and decision is received by the clerk for filing. Service of the hearing officer's written order and decision on the appellant shall be by certified mail, postage prepaid, return receipt requested. Service of the hearing officer's written order and decision on the compliance specialist shall be by email or regular mail.

K. Fines shall not accrue during the administrative hearing appeals processes associated with the violation on which the fine is based.

L. If an administrative citation is appealed under this section, then the fines or penalties will not be collected before the hearing officer issues the written order and decision.



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE June 12, 2018

Departments: Public Works; Solid Waste Division

TIME REQUIRED

SUBJECT Three Month Extension of Solid
Waste Franchise Agreements

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Three-month extension to existing Solid Waste Franchise Agreements to allow for completion of negotiations prior to entrance into new franchise agreements.

RECOMMENDED ACTION:

Exercise option in Article 3.01(c) of the Solid Waste Franchise Agreement to extend the Agreement by three months. Direct staff to prepare required notice to franchisees

FISCAL IMPACT:

A three-month extension of the agreement provides for the continued collection of franchise fees of around \$25,500. All funds are deposited into the Solid Waste Enterprise Fund.

CONTACT NAME: Justin Nalder

PHONE/EMAIL: 760 932 5453 / jnalder@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download

[Staff Report](#)

[Franchise Agreement](#)

History

Time

6/7/2018 5:08 PM

Who

County Administrative Office

Approval

Yes

6/7/2018 5:18 PM

County Counsel

Yes

6/7/2018 5:43 PM

Finance

Yes



MONO COUNTY DEPARTMENT OF PUBLIC WORKS SOLID WASTE DIVISION

POST OFFICE BOX 457 • 74 NORTH SCHOOL STREET • BRIDGEPORT, CALIFORNIA 93517
760.932.5440 • FAX 760.932.5441 • monopw@mono.ca.gov • www.monocounty.ca.gov

Date: June 12, 2018
To: Honorable Chair and Members of the Board of Supervisors
From: Justin Nalder, Solid Waste Superintendent
Subject: Solid Waste Franchise Agreement Extension

Recommended Action:

1. Exercise option in Article 3.01(c) of the Solid Waste Franchise Agreement to extend for three months. Direct staff to prepare required notice to franchisees.

Fiscal Impact:

Extending the Franchise Agreements would allow continued collection of Franchise Fees of around \$25,500 to the County over a three-month period.

Discussion:

The existing Franchise Agreements with D&S Waste and Mammoth Disposal, Inc. are set to expire on June 30, 2018. Both parties have been involved in negotiating new franchise agreements, but final agreements have not yet been reached. There is a provision in the existing contract, allowing up to a 3-month extension. It is recommended that this extension be authorized.

From Franchise Agreement:

3.01(c) Three-month Optional County Extension Right. County in its sole discretion may extend the Term one or more times for one or more times for one or more months, not exceeding 3 months total, by giving Franchisee at least 15 days' advance Notice from the then current Expiration Date.

If you have any questions regarding this item, please contact me at (760) 932-5453.

Respectfully submitted,

Justin Nalder
Solid Waste Superintendent

PRIMARY FRANCHISE AGREEMENT
BETWEEN THE COUNTY OF MONO
AND
D & S WASTE REMOVAL, INC.
FOR COLLECTION OF SOLID WASTE
FROM RESIDENTIAL AND COMMERCIAL CUSTOMERS
IN UNINCORPORATED MONO COUNTY

Franchise Date: July 1, 2011
Expiration Date: June 30, 2016

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This Agreement between the County of Mono and the Franchisee named on the execution page of this Agreement, is dated the Franchise Date on its cover page.

RECITALS:

The County is responsible for protection of public health and the environment. The County is not only authorized, but required to provide solid waste handling services to its citizens under the provisions of the California Integrated Waste Management Act (the “Act”), which is under the California Public Resources Code at Section 40000, *et seq.*, including source reduction, recycling, composting, and the collection, transfer and disposal of solid waste within the unincorporated County area.

The County is liable for its solid waste. The County, not any waste hauler, is liable to the State under the Act for any fines up to \$10,000 per day levied for noncompliance with the Act. Local public agencies like the County have also generally been held liable under federal Superfund laws for the costs of cleaning up Hazardous and Unpermitted Waste sites that accepted solid waste generated within the jurisdiction of the local public agency. Therefore the County is prudent to provide for terms and conditions of its solid waste processing and disposal under this Agreement.

Franchisee has been providing quality and cost-effective solid waste handling services in Mono County. Franchisee is an existing franchisee and provider of solid waste handling services within the unincorporated area of Mono County and has developed customer relationships and experience which will enable it to provide quality services throughout the region.

It is necessary to require Franchisee to deliver solid waste to a solid waste facility owned by the County or pay Capacity Payment therefore. In view of the findings contained in Exhibit R-1 to this Agreement, the County has determined that in order to sustain its solid waste program, minimize its risk of liability for waste generated within its borders, and continue to provide beneficial solid waste services, such as education and recycling, to its residents and to visitors to the area, it is necessary to require that solid waste collected by franchisees be delivered to a solid waste facility owned and/or operated by the County or, in those limited circumstances when it is not feasible to do so, to require that Capacity Payment be made on all waste tonnage being exported from the County.

NOW, THEREFORE, in consideration of the mutual promises, covenants, guaranties and conditions contained in this Agreement and for other good and valuable consideration, the County and Franchisee agree as follows:

ARTICLE 1. DEFINITIONS AND CONTRACT INTERPRETATION

1.01 Definitions.

In this Agreement words have the meanings defined in Exhibit 1.01, which controls in the event of any conflict with the definitions used in the preamble and recitals above.

1.02 Interpretation and Construction

a. Gender and Plurality. Words stated (or implied) in the masculine gender include correlative words of the feminine and neuter genders, and *vice versa*. For example, "he" and "she" are used interchangeably; "customer" refers to both men and women, whether the related adjective "his" or "her" is used; and "County Representative" refers to both men and women, even if the pronoun "he" is used.

b. Headings, Font. Any captions or headings following the Article, Exhibit, Section, Subsection, and paragraph numbers and preceding the operative text of this Agreement are for convenience of reference only and do not control or affect the scope, intent, meaning, construction, interpretation or effect of this Agreement. Any underlined, italicized, bold-faced, upper captioned, bold-faced or other font style is for ease of reading and contract administration only and does not imply relative importance or unimportance of any provision of this Agreement.

c. References to Parts. References to Sections and Articles refer to Sections and Articles of this Agreement, unless specified otherwise. References to Exhibits refer to Exhibits attached to this Agreement. Reference to "Subsections" refers to the Subsection contained in the same Section in which the reference occurs, unless otherwise provided.

d. Specifics No Limitation on Generalities. The mention of any specific duty or liability imposed upon the Franchisee may not be construed to limit or restrict any general liability or duty imposed upon the Franchisee elsewhere in this Agreement or Applicable Law.

1.03 Integration.

This Agreement, including the Exhibits, contains the entire agreement between the Parties with respect to the rights and responsibilities of the Parties under this Agreement, including the enforcement and administration of this Agreement. This Agreement completely and fully supersedes all prior understandings and agreements between the Parties with respect to their rights and responsibilities, including those contained in Procurement Proceedings.

1.04 Severability.

a. Substitute Provision. If any clause, sentence, provision, Subsection, Section or Article of this Agreement (an “**Agreement Provision**”) is ruled unconstitutional, illegal, invalid, non-binding or unenforceable by any court of competent jurisdiction, then the Parties will:

- (1) within one week of the ruling, meet and negotiate a substitute for the Agreement Provision and any related amendments, deletions or additions to other provisions of this Agreement that together effect the Parties’ original intent to the greatest extent allowable under Applicable Law; and
- (2) if necessary or desirable to accomplish item (1), apply to the court that made the original ruling for a judicial construction of the substituted Agreement Provision and any other changes to this Agreement.

Franchisee will pay County half of the actual costs of any application within 20 days of certified receipt of County’s request.

b. Remaining Provisions. Except as provided in Subsection c, the unconstitutionality, illegality, invalidity, non-binding nature or unenforceability of any Agreement Provision will not affect any of the remaining provisions of this Agreement.

c. Exception. If any Agreement Provision with respect to County’s request that Solid Waste be delivered to a Designated Disposal Site, including Section 7.01, is ruled unconstitutional, illegal, invalid, non-binding or unenforceable by any court of competent jurisdiction, then the County may in its sole discretion either:

- (1) delete that Agreement Provision and construe and enforce this Agreement under this Section, or
- (2) terminate this Agreement, or
- (3) accept that ruling without deleting that Agreement Provision.

1.05 Interpretation.

This Agreement must be interpreted and construed reasonably and neither for nor against either Party, regardless of the degree to which either Party participated in its drafting.

Franchisee acknowledges that it determined to participate in the procurement of this Agreement upon its own choice and initiative and during the course of that procurement County met and conferred with Franchisee and solicited Franchisee’s comments, exceptions and proposals with respect to provisions in the Agreement.

The Parties have negotiated this Agreement at arms length and with advice of their respective attorneys, and no provision herein is construed against the County solely because it prepared this Agreement in its executed form.

1.06 Timely Performance

a. Specified Days on Weekdays.

(1) **Performance.** Where this Agreement requires that an obligation be performed within a specified number of days, if the last day falls on a weekend or holiday, the obligated Party may perform that obligation on the next weekday following the weekend or holiday. *For example, if Franchisee must provide documentation to County within 2 days of County request on a Friday, Franchisee must give County the documentation by the following Monday.*

(2) **Counting.** Each calendar day is counted when determining the last day of the specified number of days. *For example, if Franchisee must provide documentation to County within one week of County's request on a Friday, Franchisee must give County the documentation by the next Friday.*

b. Specified Hours on Any Day. Where this Agreement requires that an obligation be performed at a specified time, in any of the following events the obligated Party must perform that obligation within the specified time, *even if the time for performance falls on a weekend or holiday:*

1. the specified time is measured in hours,
2. the County specifies the time (*for example, on a Saturday even though performance would otherwise occur on Monday*), or
3. County determines that there is a threat to public health or safety.

ARTICLE 2. FRANCHISEE'S REPRESENTATIONS AND WARRANTIES

2.01 Franchisee. Franchisee represents and warrants as contained in Exhibit 2.01.

ARTICLE 3. TERM OF AGREEMENT

3.01 Term.

a. Term. The term (the "Term") of the Agreement commences on the Franchise Date and expires on June 30, 2016 (The "Expiration Date") *unless* terminated earlier as provided by the express terms of this Agreement.

b. Two-year Optional County Extension Right. The County may in its sole discretion extend the Term for up to 2 additional years commencing on the Expiration Date by Notice to

Franchisee given no later than (1) April 30, 2016, or (2) such other date to which the Parties agree.

c. Three-month Optional County Extension Right. County in its sole discretion may extend the Term one or more times for one or more months, not exceeding 3 months total, by giving Franchisee at least 15 days' advance Notice from the then current Expiration Date.. *For example, County could extend the Term by 1 month, and then 2 more months.*

3.02 Survival of Certain Provisions. The following provisions survive the Term:

- (1) all representations, warranties, certifications and acknowledgements;
- (2) Indemnifications;
- (3) Performance Obligations to pay County, including any County Payment Obligations;
- (4) obligations to submit Records and reports to County, including the final Annual Report; and
- (5) any other rights and obligations of the Parties stated to survive the Term.

If County does not award Franchisee an agreement to continue to provide Solid Waste Handling Services following the expiration or earlier termination of this Agreement, Franchisee will make Reasonable Business Efforts to cooperate with County and any subsequent solid waste service provider(s) to assure a smooth transition from Franchise Services to other services, including all of the following:

1. transferring Records to County promptly on County request,
2. providing reports under this Agreement,
3. allowing Customers to use Containers for the following times:
 - up to two weeks (with respect to expiration), or
 - until Customers have replacement containers (with respect to termination) but in no event longer than 30 service days, and
4. coordinating with County and any subsequent Solid Waste Handling Service provider to transition to new service for a period of up to 30 service days and, if necessary, thereafter provided County pays Franchisee's Direct Costs for such coordination occurring beyond the 30-day period.

3.03 Parties' Rights. Upon expiration or earlier termination of this Agreement, Franchisee will immediately stop providing Franchise Services even if the expiration or termination occurs before the end of the period described in Public Resource Code § 49520. Franchisee acknowledges the following:

1. As a current franchisee of County, it is not entitled to notice from the County under Public Resources Code Section 49520, but instead has the right only to continue to provide Franchise services for the unexpired term of its existing Franchise Agreement with County;
2. This Agreement does not grant Franchisee any rights under Public Resource Code § 49520.
3. Franchisee does not have the right to make any claim under Public Resource Code § 49520, but only under this Agreement.

4. After expiration or earlier termination of this Agreement, County may re-procure one or more agreements for solid waste services with Franchisee or other solid waste haulers. Those agreements may be exclusive, partially exclusive, or wholly exclusive franchises, contracts, licenses, permits or otherwise, with or without competitive bidding).

Franchisee acknowledges that it has no right to recover an amount equal to the undepreciated value of assets it uses to provide Franchise Services that might remain at the expiration or termination of this Agreement, from County or Customers.

ARTICLE 4. COLLECTION

4.01 Scope of Basic Franchise Services.

a. Service Area and Franchise Services. County grants Franchisee the non-exclusive) franchise, right and privilege together with the obligation to arrange to provide Franchise Services within the Franchise Area, subject to the following conditions:

(1) Franchisee is ready, willing and able to provide Franchise Services, and

(2) Franchisee fully and timely satisfies its Franchise Obligations, including paying Franchise Consideration, Capacity Payment, and Solid Waste Parcel Fees

Franchisee accepts that franchise, right and privilege under this Agreement.

Franchisee acknowledges that Section 12.10.020B of the Mono County Code limits Franchisee's franchise, right and privilege to provide Franchise Services. County may authorize up to one other Person, in addition to Franchisee, to provide Solid Waste services substantially similar to Franchise Services within the Franchise Area.

The County may contract with Franchisee or with Persons other than Franchisee for Unpermitted Waste collection, transportation, disposal, processing and/or diversion services.

In consideration for this franchise, Franchisee will pay County the Franchise Consideration under Section 13.02a.

Franchisee will independently arrange to provide Franchise Services at the frequency, capacity, price and other terms agreed to with its Customers. Franchisee acknowledges that County is not responsible for supervising or performing Franchise Services.

b. Exclusions. The franchise grant excludes the right and privilege to collect Solid Waste handled by anyone who may handle solid waste without a franchise under Section 12.10.021 of the Mono County Code, as same may be amended from time to time.

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Franchisee acknowledges that Customers are not obligated to discard their Recyclables and that they may donate, sell or otherwise dispose of their Recyclables, including taking them to drop-off facilities and donating or selling them to private or public entities.

c. Regularly-Scheduled Franchise Services.

1. Residential Solid Waste.

(i) **Collection.** Franchisee will continue to collect all Solid Waste set out by Persons who are existing customers of Franchisee as of the Franchise Date at the Residential Set-out Site of Residential premises located within the Franchise Area. Franchisee will commence collecting all Solid Waste set out at the Residential Set-out Site of Residential premises located in the Franchise Area within 7 days of anyone's request for Collection Service at that premise.

(ii) **Cancellation of Services.** Upon oral or written direction of any existing or new Residential Customer Franchisee will cease providing Franchise Service immediately or at any other time specified by that Person, without penalty, and, refund any pre-paid Service Fees under Section 4.09b. Franchisee will notify Customers of cancellation rights, under Section 4.10.

(iii) **Containers.** Except as provided below, Franchisee will provide all Residential Customers located within the Franchise Area with one or more Carts for the deposit of Solid Waste having a nominal capacity of up to 96 gallons ("**Residential Containers**") unless the Customer provides his own can as set forth below, or, at Customer's request, with a Bin. Franchisee must provide Residential Containers that are clean, water tight, constructed of a material of suitable strength and durability (such as heavy plastic), bear resistant to the satisfaction of the County, and tight seamed. Franchisee will return Residential Containers to the Set-out Site after Collection upright, with can lids properly secured. Franchisee will ensure that any Bins that it provides to Residential Customers will comply with all of the requirements applicable to Commercial Containers under Subsections c(2)(iii), e(3) and e(4).

Customers may provide their own can provided it is of a type and kind that substantially meets the above requirements, and Franchisee shall have no liability for any damage to a Customer can that fails to substantially meet the above criteria. Further, if Franchisee deems any Customer can to be in such a condition as to cause any liability to Franchisee, Franchisee may refuse to handle that can and shall tag the can giving the reason for Franchisee's rejection.

Within one month of the Franchise Date and every 6 months thereafter, Franchisee will notify all Residential Customers subscribing to Bins that they can subscribe to cans or Carts. The notice must include a description of can or Cart service and list the applicable Service Fees. Franchisee will provide the County with a draft of the notice for review and approval at least 15 days prior to its mailing or delivery to Residential Customers

(iv) *Frequency.* Franchisee will Collect all Solid Waste set out at the Residential Set-out Site each week, on the same day (“**Regularly-Scheduled Residential Collection Day**”). If Franchisee is unable, for any reason, to Collect all Solid Waste from a Customer on the Regularly-Scheduled Residential Collection Day, then it will Collect that Solid Waste on the next Service Day or at a time arranged with the customer, but no later than 48 hours following the missed pick up.

2. Commercial Solid Waste.

(i) *Collection.* Franchisee will continue to collect all Solid Waste placed in Bins, and compactors, (“**Commercial Containers**”) or other Containers by existing Commercial Customers of Franchisee at the location on the Commercial Premises agreed to between Franchisee and the Customer (“**Commercial Set-out Site**”). Franchisee will commence collecting all Solid Waste placed in Commercial Containers at the Commercial Set-out Site by Persons located within the Franchise Area within 7 days of that Person’s request for Collection Service at that premise.

(ii) *Cancellation of Franchise Services.* Upon written direction of any existing or new Commercial Customer, Franchisee will cease providing Franchise Service immediately or at any other time specified by that Customer, without penalty, and refund any pre-paid Service Fees under Section 4.09b. Franchisee will notify Customers of cancellation rights, under Section 4.10.

(iii) *Containers.* Franchisee will provide all Commercial Customers with Containers of the type ordered by the Commercial Customer. Franchisee will clean and maintain those Containers and keep them in a sanitary condition, free from putrescible residue, and in a manner so as not to promote the harborage, or attraction of vectors or birds, or the creation of nuisances. Franchisee will clean and maintain Containers under Subsections e(3) and e(4). Franchisee will provide Commercial Containers that are:

- (1) durable,
- (2) constructed from structural steel plate with all welded seams,
- (3) leak-proof,
- (4) equipped with a noncombustible lid, uniformly colored, satisfactory to the County as providing adequate protection against fire hazard, rodents, and bears, and
- (5) display Franchisee’s name and telephone number in legible lettering no less than 2 inches in height as well as language warning against illegal dumping and Unpermitted Waste (including Hazardous Waste) or special waste disposal, as satisfactory to County.

For the purposes of this provision, a container will be considered to provide adequate protection against bears if, when properly secured by the Customer, it is not breached by a bear more than 3 time(s) in any 30-day period.

Franchisee will monitor Commercial and Residential Containers to determine compliance with the requirements of this section. If a Container is not compliant, then

Franchisee will provide the Customer with written Notice that he/she may either: (1) obtain a compliant Container from Franchisee with or without payment of an additional fee; or (2) purchase a compliant Container at his/her own expense (with respect to Residential cans).

When a Customer requests Franchise Service, Franchisee will provide written notice to each Commercial Customer utilizing Bin service of the types of wastes which require special handling and may not be discarded in the debris box and informing the Customer of the proper methods for disposing of such wastes. Franchisee will submit this notice to the County for approval prior to distribution.

(iv) **Frequency.** Franchisee will Collect Solid Waste set out at the Commercial Set-out Site at least once each week, or more frequently as directed by the Commercial Customer, on the day or days written in the Customer's Subscription Order ("**Regularly-Scheduled Commercial Collection Day**") or on such other day as mutually agreed to by Commercial Customer and Franchisee. If Franchisee is unable, for any reason except inaccessibility of the Bin, to Collect Solid Waste from a Customer on the Regularly-Scheduled Commercial Collection Day or other day agreed to by Customer, then it will Collect that Solid Waste on the next Service Day following the date of the missed pick up. Where Franchisee is unable to Collect Solid Waste due to the inaccessibility of the Bin, it shall notify the Customer that the Bin is inaccessible and make arrangements with the Customer for access to the Bin and Collection within 72 hours.

d. Collection Schedules.

1. **Hours.** Franchisee will make its best efforts to Collect all Solid Waste only between 6:30 a.m. and 7:00 p.m., Monday through Saturday except that Franchisee may Collect Solid Waste between those hours on Sunday:

- (1) in areas of the County designated for Commercial use;
- (2) if road closures have prevented collection during the previous 7 days ; or
- (3) with prior approval from the Director.

Franchisee will comply with the Mono County Noise ordinance codified at Chapter 10.16 of the Mono County Code.

2. **Changes to Collection Schedule.** Prior to changing the Regularly-Scheduled Collection Day for any Customer, Franchisee will, where feasible, provide 15 days' oral or written Notice to that Customer. In no event shall a Customer's Regularly-Scheduled Collection Day be changed without prior oral or written Notice to that Customer.

e. Changes in Service Levels; Container Exchanges.

1. **Delivery.** Franchisee will give Customers Containers in accordance with Subsections c1(iii) and c2(iii). Within 7 days after receiving a request for Franchise Service (including repair or replacement of Containers) or changes in Franchise Service, Franchisee will respond to and fulfill that request.

2. **Pick Up.** No later than the next Regularly-Scheduled Collection Day occurring after direction of a Customer to discontinue Franchise Service, Franchisee will pick up and remove that Customer's Container(s).

3. **Repair and Replacement.** Franchisee will repair or replace Containers or provide locks (as herein described) for Bins within 72 hours of a request therefor from a Customer or the County. If Franchisee cannot complete a repair within 72 hours, Franchisee will give the Customer a replacement Container without surcharge within those 72 hours. Franchisee will offer Container locks at prices from time to time in effect. Alternatively, Customers can provide their own locks. In each case, however, there may be a monthly "lock charge" for Franchisee's servicing locked Containers.

4. **Cleaning Bins.** Franchisee will steam clean and paint, or replace, Commercial Containers as needed, but no less than once each Contract Year for Customers that generate large amounts of putrescible Solid Wastes, including Residential premises, restaurants, grocery stores, cafeterias, and other Containers as directed by the County. Franchisee will steam clean and paint all Commercial Containers prior to providing them to the Customer, whether as new Franchise Service subscription or replacement Container for existing Franchise Service. Franchisee will remove graffiti from Containers within 14 days of identification by Franchisee or oral or written notice by County or Customer. Franchisee will remove graffiti comprised of pictures or verbal obscenities within 48 hours (weekends excepted). Promptly upon County's request, Franchisee will give County a list of dates that Franchisee cleaned, painted or otherwise repaired Containers.

f. **C&D Waste; Roll-Off.** At anyone's request and agreement (including a Residential or Commercial Customer) with respect to price and frequency of Collection, Franchisee may Collect C&D or other Inert Waste (including dirt) that is placed in debris boxes, roll-offs, or other similar containers.

4.02 Pickup of Excess and Bulky Waste.

Upon request of a Residential or Commercial Customer, Franchisee will Collect excess Solid Waste or Bulky Waste at the Residential or Commercial Set-out Site on that Customer's next Regularly-Scheduled Collection Day or other date agreed to between the Customer and Franchisee for a price that is mutually agreed to by Franchisee and Customer. Upon request of a Person who does not receive regular Commercial or Residential Collection from Franchisee, Franchisee will collect Bulky Waste or excess Solid Waste at a location and time and for a price that are mutually agreed to by that Person and Franchisee.

4.03 Service Standards.

a. **General.** Franchisee will provide all Franchise Services in a prompt, thorough, comprehensive, reliable, courteous and professional manner, consistent with industry practices, so that Customers receive high-quality service at all times. Franchisee must provide Franchise

Services regardless of weather conditions or difficulty of collection, subject to the exceptions for events of force majeure and under Section 4.04. More detailed specifications for particular aspects of Franchise Services enumerated elsewhere in this Agreement do not relieve Franchisee of its duty and obligation to accomplish all other aspects of Franchise Services under this Subsection.

b. Litter.

(1) **Customer.** If Franchisee repeatedly observes littered solid waste outside a container set out for collection, Franchisee will do the following:

1. discuss ways to prevent litter directly with the customer who subscribes to those containers, and
2. if the problem persists, report its discussion to County.

(2) **Franchisee.** Franchisee will clean up litter caused by Franchisee's employees. Franchisee will also clean up all litter within a 10-foot diameter of the Residential Set-out Site when Collecting any Bulky Waste and excess Solid Waste under Section 4.02. Franchisee will ensure that each Collection Vehicle carries a broom, rake, and shovel at all times for this purpose.

c. Spills and Leaks.

1. **Solid Waste Spills.** Franchisee will transport Solid Waste only in covered vehicles and comply with Section 12.10.050 of the Mono County Code. Franchisee will prevent Solid Waste from escaping, dropping, spilling, blowing or scattering from Vehicles during Collection and transportation, and comply with Section 12.10.040 of the Mono County Code. Franchisee will not transfer loads from one vehicle to another on any public street, unless necessitated by mechanical failure or accidental damage to a vehicle, or unless otherwise satisfactory to the Director. Franchisee will equip each Vehicle with a broom and shovel. Franchisee will immediately clean up any Solid Waste that is dropped, blown, spilled, scattered or leaked from any Vehicle and/or tracked by any Vehicle onto any alley, street or public place.

2. **Liquid Leaks.** During Collection and transportation, Franchisee will also act to prevent oil, hydraulic fluid, paint or other liquid from leaking out of Vehicles Franchisee will ensure that each Collection Vehicle carries petroleum-absorbent materials. Franchisee will immediately cover leaked fluids with absorptive materials, remove those materials from the ground, and apply a cleaning agent to cleanse the soiled spot. Franchisee will supply each Vehicle with an absorbent cleaning agent.

3. **Reimbursement.** If Franchisee fails to clean up Solid Waste or leaked liquids within 2 hours' telephonic or other notice by the County, the County may clean up or cause to be cleaned up the Solid Waste or leaked liquids and Franchisee will reimburse the County for the County's Reimbursement Costs thereof. Franchisee is responsible for paying any fines, civil penalties or other charges that may be assessed for improperly covering loads or leaking liquids.

d. Pavement and Utilities. Franchisee is responsible for damage to pavement and driving surfaces whether Containers are located on public or private property, other than ordinary wear and tear, if the damage is the result of vehicles exceeding the maximum weight limits allowed by Applicable Law or Franchisee's negligent operation of vehicles, *unless* with respect to private property, Customer has executed a damage waiver or indemnification on that Customer's Subscription Order. Franchisee is not responsible for Collection of any Customer Containers if Franchisee believes entering onto private property will expose Franchisee to a claim for damages under this paragraph. In such event, Franchisee shall leave an explanatory Non-Collection Notice with Customer shall resume Collection upon Customer's placement of container at a location accessible by Franchisee without liability for damage to property.

Franchisee is responsible for damage to public and private utilities, whether located on public streets or property or private property, if damage is the result of the inattention, carelessness or negligence of Franchisee.

The County or the Customer may direct Franchisee to promptly repair or replace damaged private driving surfaces or utilities shown to have been damaged as a direct result of the weight of Franchisee's collection vehicle or the negligent acts of Franchisee or repair and replace them itself or through a third party, to satisfaction of the Customer or the County, as the case may be. Franchisee will reimburse the Customer for his or her Direct Costs of repair or replacement of driving surfaces or utilities and the County its County's Reimbursement Costs of repair or replacement in each case for damage shown to have been caused by Franchisee's collection vehicle or negligent acts.

4.04 Service Exceptions. Franchisee is *not* required to Collect any Solid Waste in the following events, when it must take the following actions:

Collection Exceptions	Response (including leaving a Non-Collection Notice marked to explain the reason for non-collection)
Excess Weight: any Cart weighs more than the manufacturer's recommended weight, as evidenced by warranties or other documentation satisfactory to the County.	Inform Customers of weight limitations on the Customer Subscription Order, marked on the Cart, or through some other written means.
Unsafe Condition: Franchisee determines that any condition at or near any Set-out Site threatens anyone's health or safety or damage to Franchisee's equipment.	Franchisee will notify the Customer whose Set-out Site presents the threat of the danger thereof. Franchisee may leave written notice or tag the container or leave a telephonic message for the Customer, prior to leaving Customer's premises describing the threat and danger. Franchisee may discontinue collection for that Set-out Site until the safety hazard is eliminated to Franchisee's satisfaction.
Hazardous Waste. Franchisee determines that Containers contain Hazardous Waste	Franchisee will give the Customer whose Container contains Hazardous Waste or unsafe

<p>(other than Household Hazardous Waste not discovered and identified by Franchisee acting under its Hazardous Waste Screening Protocol) or other materials threaten anyone’s health or safety damage to Franchisee’s equipment,</p>	<p>material written information about their proper disposal. Franchisee will give a Non-Collection Notice to the Customer. Franchisee will follow the procedures outlined in the Unpermitted Waste Screening Protocol, as it applies to Hazardous Waste, including providing notice to the County Health Department and to the Director.</p>
<p>Contaminated materials. Customer has discarded materials <i>other</i> than the following:</p> <ul style="list-style-type: none"> • Recyclables in a Container labeled “Recyclables”, • Yard Waste in any Container provided for discard of Yard Waste. 	<p>Franchisee will leave an explanatory Non-Collection Notice with information listing examples of Recyclables or Yard Waste and how to discard them</p>
<p>Exposure to liability for property damage. Franchisee believes entering onto the property will expose Franchisee to liability for damage to pavement or utilities (4.03d).</p>	<p>Franchisee will leave an explanatory Non-Collection Notice and shall resume Collection upon Customer’s placement of container at a location accessible by Franchisee without liability for damage to property.</p>
<p>Inaccessibility of Bin. Franchisee is unable to Collect Solid Waste due to the inaccessibility of the Bin (4.01c(iv)).</p>	<p>Franchisee will leave an explanatory Non-Collection Notice and make arrangements with Customer for access to the Bin and Collection within 72 hours.</p>

d. Customer Delinquency or Nonpayment. Franchisee will comply with Section 12.10.070 of the Mono County Code, Franchisee is not obligated to provide Franchise Services to any Customer who is habitually delinquent, as defined in the written policy developed by Franchisee under subsection (1), paying fees for Franchise Services or who does not pay fees for Franchise Services, if Franchisee does the following:

- (1) Franchisee develops a written policy for addressing nonpayment or delinquency by its Customers that is approved by the County, and
- (2) Franchisee terminates or suspends that Customer’s Franchise Services under the approved policy.

4.05A Missed Pickups and Other Complaints.

Franchisee acknowledges that the County determined to procure and enter into this Agreement with Franchisee, among other reasons, in order to provide improved Customer service, relations and satisfaction.

a. Timeliness. Within 72 hours after Customer or County complaint (such as a missed pickup), Franchisee will take action to resolve the complaint acceptably to Customer or County (including providing a special pickup). If Customer placed his/her container out after the scheduled pick-up time, Franchisee shall not be obligated to “resolve the complaint acceptably to Customer” but will use Reasonable Business Efforts to resolve the problem.

b. Records. Franchisee will keep a daily record of all communications between Franchisee and Customers including orders, complaint and disputes. Franchisee will include information requested by the County, including the following:

- (1) date and time of communication,
- (2) individual's name and address (if he is willing to give this information), and
- (3) description of the communication, and
- (4) date and manner of complaint resolution (or reason for lack of response).

Franchisee will include copies of daily complaint logs in each Quarterly Report furnished to the Director.

Upon reasonable advance notice, Franchisee will give County access to those records pertaining to its Franchise operations during Franchisee's Office Hours by either or both of the following means, at County option:

1. at Franchisee Office, or
2. electronically, where available.

If Franchisee deems any such information "confidential" or "business proprietary" it shall give County access upon County's execution and delivery of a confidentiality agreement wherein County agrees to keep such information confidential and not disclose same to any third party except as consented to by Franchisee, or as required by the California Public Records Act. Any action by Franchisee to enjoin disclosure shall be in accordance with the provisions of section 10.05 of this Agreement.

c. Resolution. Franchisee will comply with the Customer Complaint and Billing Dispute Resolution Protocol in Exhibit 4.05e.

4.05B Means of Communicating with County and Customers

a. Phone

(1) **Hours and Toll-free Number.** Franchisee will maintain a toll-free telephone number at least during Office Hours and, if Franchisee provides Residential Collection on Saturday, from 8:00 a.m. to noon on Saturdays ("**Phone Hours**"). Franchisee will provide an answering machine or answering service to take reports of missed pick-ups and other complaints that are received outside of Phone Hours.

(2) **Listing.** Franchisee will list the telephone number under Franchisee's name in the County telephone directories (white pages and yellow pages).

(3) **Emergency Number.** Franchisee will also maintain an emergency telephone number disclosed to the County Representative and anyone else named by County for use outside Phone Hours. Franchisee will make a representative in a position of authority available at the emergency number outside Phone Hours who will return any emergency call as soon as possible, but within one hour.

b. E-mail

(1) **Franchisee's.** Franchisee will make its email address available to County for the purpose of corresponding with County. Franchisee may make its email address available to Customers for the purpose of corresponding with Customers.

(2) **Customers'.** If Franchisee corresponds with Customers by email, Franchisee will record those customers' email addresses.

c. **Posting Contact Information.** Franchisee will post its Contact Information on all of its written communications with Customers, including:

1. bills,
2. Subscription orders,
3. non-collection notices, and
4. newsletters.

4.06 Public Education and Community Relations.

a. Distribution of Materials.

1. **Community Relations Materials.** County may prepare and distribute community relations materials to Customers at any time. Within 15 days of the County's request, Franchisee will do either of the following:

- give the County a current Customer list, including addresses and any email addresses,; or
- mail the materials to its Customers itself and, e-mail them to Customers that receive bills on-line or have requested electronic communication (if any).

When Franchisee prepares and distributes materials to Customers capable of accommodating materials prepared by County (e.g., an envelope mailing), Franchisee will provide County with a reasonable opportunity to include community relations materials with such distribution.

2. **Customer Bills.** The County may once each Contract Year produce and give Franchisee printed inserts, specified as a sheet no larger than 8½ by 11 inches and small promotional items, such as magnets, which Franchisee will include in Customers' bills or otherwise give to Customers upon County request at no cost to the County.

In addition, Franchisee will print public information directed by the County on Customers' bills.

4.07 Customers' Privacy.

Franchisee will strictly observe and protect Customers' rights of privacy. Franchisee will not reveal information identifying individual Customers or the composition or contents of a Customer's waste stream to anyone other than the County unless upon request of a regulatory authority (including law enforcement and courts of law) acting pursuant to a warrant or other court order, by Applicable Law or by Customer's authorization. This provision will not be

construed to preclude Franchisee from preparing, participating in or assisting in the preparation of waste characterization studies or waste stream analyses or recycling that may be required by the County or Applicable Law. In addition, Franchisee will not market, sell, convey, or donate to anyone any list with the name or address of Customers *except* that Franchisee will give that list to the County or someone else as directed by the County or as required by law. If County directs that list be given to any party other than County, Franchisee shall, in lieu of complying with that direction, deliver the list to the County and the County shall then give that list to the party intended. The rights accorded Customers pursuant to this Section are in addition to any other privacy right accorded Customers pursuant to Applicable Law.

4.08 No Discrimination.

Franchisee will not discriminate against Customers entitled to Franchise Service on account of Suspect Categories, as that term may be defined by Applicable Law.

4.09 Franchisee Billing.

a. Billing. Franchisee will bill and collect Service Fees. Franchisee acknowledges that the County is not obligated to bill or collect Service Fees. Franchisee will not hold the County liable for any under-billings to Customers of Service Fees or delinquent Service Fee payments. Franchisee may suspend services for non-payment of bills and pull Bins from those locations at any time on not less than 10 days' advance notice to Customer, in accordance with section 4.04d.

b. Refunds. Franchisee will refund to Customers any overcharges for Franchise Services the earlier of 2 weeks from the time that Franchisee discovered the overcharge or Customer notified Franchisee of the overcharge. "**Overcharges**" includes: (1) Franchisee's billing errors; and (2) refunds for Franchise Services paid in advance by Customers who terminated Franchise Services prior to the end of the billing period.

c. Customer Disputes. Franchisee will take Customers' calls during normal office hours and promptly respond to Customers' correspondence with respect to disputes regarding billing or otherwise, or resolving disputes. Franchisee acknowledges that the County is not responsible for handling Customer disputes, and County acknowledges that disputes between Customer and Franchisee are to be resolved between those parties except where the dispute involves the County, this Franchise Agreement, or County rules and regulations.

d. Records. Franchisee will maintain billing records under Section 10.01.

e. Uniformity. Franchisee will charge uniform Service Fees for services provided to all Customers, regardless of location and cost of Franchise Service. Notwithstanding the foregoing, Franchisee may discount rates under Section 13.01a.

f. Billing County Fees; Solid Waste Fee. Upon County request, Franchisee will include County fees on Customers' bills for Franchise Services as a Franchise Obligation. As of the Franchise Date, Franchisee will include Solid Waste Parcel Fees under Section 13.02.

g. Aggregate Rates and Fees. Except for the Solid Waste Fee, Franchisee may not identify or itemize County Fees separately from its Service Fees without the express written consent of County, including in any of the following:

- (1) communications with Customers (including the Franchise Service Summary, bills, or other correspondence); or
- (2) public posting.

4.10 Description of Customers' Rights.

Within

- (1) 30 days of the Franchise Date for existing Customers and
- (2) prior to the provision of Franchise Services to new Customers,

Franchisee will give Customers a written Subscription Order. In each Subscription Order and in Customer's first bill of each Contract Year, Franchisee will include a description of the following Customers' Franchise Services and rights under this Agreement, as the County may amend from time to time following dated Notice to Franchisee:

- (1) the scope of Franchise Services provided, including day of collection and arrangements for the collection of Bulky Waste or excess Solid Waste;
- (2) the Service Fee (or, rate);
- (3) Holiday schedules;
- (4) the ability of Customers to immediately terminate their Subscription Order upon oral or written notice to Franchisee without penalty under Section 4.01c1(ii) and c2(ii), and describing their refund rights for pre-paid but unused Franchise Service under Section 4.09b; and
- (5) any other provisions of this Agreement or Applicable Law directed by County.
- (6) Fees for missed pick-ups caused by late put out of container and fees for inaccessibility of containers on scheduled pick-up times.

The Subscription Order may include a waiver of damage liability and/or indemnification in connection with subscriptions for Franchise Services on private driveways, roads, easements or pavement.

4.11 Customer Satisfaction Survey.

The County may conduct a Customer satisfaction survey for implementation of Franchise Services, including a survey mailed to Customers together with Customers' bills, in the form of a post card or letter returnable to the County. Alternatively, Franchisee may give the County a Customer list, within 15 days of the County's request made pursuant to this section. Franchisee may review and comment upon the form and content of the survey. Franchisee will cooperate with the County and its surveyor in the conduct of the survey, including distributing surveys with bills to Customers. Franchisee may obtain a copy of the results of the survey upon request to the County.

4.12 Public Performance Review.

The County Board may conduct a public hearing upon 60 days' Notice to Franchisee at the time that the County Board selects, not more than once during each Contract Year, to review Franchisee's performance and quality of Franchise Service. Franchisee will attend and participate in that hearing. The County Board may use Records and reports required under Article 10, including Records of Customer complaints, as a basis of its reviews. Within 30 days after the conclusion of the public hearing, the County will issue a report with respect to the matters raised at the hearings.

4.13 Enforcement of Franchise.

The County may, in its sole discretion, enforce the franchise requirement under Section 12.10.020 of the Mono County Code against third party violators, taking into account the cost of doing so and other factors. Franchisee may independently enforce the rights granted by this Agreement against third party violators (excluding the other franchisee operating pursuant to a franchise agreement with County), including seeking injunctive relief, and the County will use good faith efforts to cooperate in such enforcement actions brought by Franchisee. The County will not be liable to Franchisee in any manner, including for any costs or damages such as lost revenues or lost profits, should anyone refuse to subscribe to Franchise Services from Franchisee and/or perform Franchise Services under a franchise agreement with the County in competition with Franchisee, and in doing so violate the grant of franchise given to Franchisee in this Agreement. In that event, Franchisee's sole and exclusive remedy will be to seek an injunction, damages or other available judicial relief against any such third person or entity that engages in any conduct or activity that violates Franchisee's rights under this Agreement. If Franchisee becomes aware of any activity by a third party that violates or may violate the provisions of Section 12.10.020 of the Mono County Code, Franchisee will give County notice of that activity.

ARTICLE 5. OPERATIONS

5.01 Routing.

a. Route Maps and Account Information. Within 30 days of the Franchise Date, Franchisee will give the County route maps or narratives containing the following information ("**Routing Specifications**"):

- (1) a description of each individual route, including starting and end points and street-by-street course;
- (2) Collection day of the week for each individual route; and
- (3) approximate Collection times (a.m. or p.m.) marked at several points along each individual route or noted with the narrative description of the route.

b. Route Changes. Franchisee will inform the County of any proposed change in Routing Specifications not less than 15 days prior to the proposed date of implementation or as otherwise agreed to by Franchisee and the Director.

c. Route Audits. Upon reasonable advance notice to Franchisee, the County may conduct audits of Franchisee's Collection routes. Franchisee will cooperate with the County audits, including permitting County employees or other Persons designated by the Director to follow or ride in the Collection Vehicles. Franchisee has no responsibility or liability for the salary, wages, benefits or workers compensation claims of anyone designated by the Director to conduct audits and County shall indemnify, defend and hold Franchisee harmless from and against any and all liability, damages, claims, lawsuits, fines, penalties, costs, suits and losses arising out of or in any way related to County's conduct of audits, except to the extent caused by Franchisee's negligence or willful misconduct.

d. Commingling of Waste. Franchisee will not commingle Solid Waste it picks up *outside* of the unincorporated area of Mono County with Solid Waste that it Collects *inside* the unincorporated area of the County.

5.02 Vehicles, Service Assets, and Drivers.

a. Vehicle Appearance. Bodies of Vehicles used in Collection or transportation of Solid Waste must have watertight beds of metal or impervious material that can be cleaned under Section 12.10.050 of the Mono County Code. Franchisee will utilize packer-type, completely enclosed Vehicles unless another type of Vehicle is required by weather, terrain or type of Solid Waste to be hauled. Franchisee will paint and label all Vehicles in a consistent, uniform, and professional manner.

b. Compliance with Applicable Law. Franchisee will keep a maintenance log, including evidence of its Vehicles' compliance with Applicable Law, including air emissions, noise and inspections reports to the same extent and scope as if all Franchisee Vehicles were registered and licensed in California, it being the intent that all Vehicles comply with the same set of rules and regulation and no Franchisee obtain a competitive advantage by claiming any out of state domicile for its Vehicles. Franchisee will give the County copies of the maintenance log, (including California Highway Patrol BIT inspections) and registration certificates within 10 days of the County's request. The County may inspect Vehicles, including in connection with any Permits issued by the County.

c. Vehicle Identification. Franchisee will paint its name, toll-free telephone number and a unique Vehicle number on all Vehicles in letters and figures not less than 12 inches high for packer trucks and not less than 6 inches high on other Vehicles, and comply with Section 12.10.050 of the Mono County Code.

d. Cleaning, Maintenance, and Availability. Franchisee will at all times maintain Vehicles in good, clean condition and repair so that they operate properly and safely. Franchisee may not leave Vehicles loaded with Solid Waste for over 24 consecutive hours. Franchisee will

maintain in readiness at least one spare Vehicle, fully fueled and ready to dispatch and replace any Vehicle which breaks down on route within reasonable time of break down. Customers will not have to wait for Franchise Service while a disabled Vehicle is repaired.

e. Equipment. Franchisee will equip each Collection Vehicle with a fire extinguisher which must be maintained and checked under manufacturer's warranty and maintenance recommendations.

f. Re-Refined Oil. To the extent permitted by equipment warranties and/or available services, Franchisee will give serious consideration to recycling used oil from its Vehicle maintenance operations and to use re-refined oil in its Vehicles but only to the extent Franchisee receives assurances satisfactory to Franchisee in its sole and absolute discretion, that such use will not damage its equipment, lessen its useful life, add to its expense or result, or be likely to result, in potential environmental liability. Should Franchise elect to adopt such a policy, Franchisee will submit copies of re-refined oil invoices to the County upon County request.

g. Service Assets. Franchisee will prepare a Service Asset Inventory under Exhibit 5.02g.

5.03 RESERVED

5.04 Personnel.

a. Nondiscrimination. Franchisee will not discriminate against any of its personnel on the basis of Suspect Categories.

b. Compliance with Law. Franchisee will comply with all labor law, including keeping records of compliance with the Federal Immigration and Control Act of 1986. Failure to comply with Applicable Law (such as a citation or failure-to-abate notice from the California Division of Occupational Safety and Health) is a breach of this Agreement.

c. Conduct. Franchisee will employ only competent, qualified, conscientious, and sober personnel to ensure Franchise Services satisfactory to the County. Franchisee will ensure that its employees serve the public in a courteous, professional and reliable manner.

d. Drivers. Franchisee will ensure that all drivers of Vehicles have in full force and effect a valid license of the appropriate class issued by the California Department of Motor Vehicles. Franchisee will provide suitable operational and safety training for all of its personnel, including those who drive Vehicles or operate other equipment for Collection, which training will include on-the-job-training by supervisors. Franchisee will train sufficient numbers of drivers to drive all Collection routes so as to ensure no lapse of Franchise Services and will use Reasonable Business Efforts to assign the same driver(s) to identified routes in order to encourage accountability and enhance Customer relations. Franchisee will train its drivers to identify and not to collect Unpermitted Waste. Franchisee will implement drug and alcohol

testing under Applicable Law. Franchisee will maintain copies of licenses for all Vehicle operators and full and complete records of training and testing, which Franchisee will make available to the County at Franchisee's Office during Office Hours.

e. Field Supervisor. Franchisee will provide at least one qualified individual as on-site supervisor of field operations who shall, at a minimum, be responsible for checking collection operations, coordinating improvements to Franchise Service, resolving field problems, and responding to complaints of Customers in person or by telephone. Franchisee will fully authorize that supervisor to resolve Customer disputes and handle all aspects of Customer service. Franchisee will give the name and contact information for that supervisor to the County upon or prior to the Franchise Date.

5.05 Contingency Plan

Franchisee will prepare a contingency plan designed to provide Vehicles and personnel necessary and sufficient to maintain uninterrupted Franchise Service during

- (1) mechanical breakdowns,
- (2) extreme weather conditions,
- (3) road closures,
- (4) strikes, work stoppages and other concerted job actions or similar events, and
- (5) emergencies, including natural disasters,

including procedures for replacing Vehicles disabled on routes. A copy of that plan is attached to this Agreement as Exhibit 5.05. Franchisee will give County the plan within 7 days of any subsequent modification and County shall notify Franchisee of any deficiencies County believes exist with respect to the Plan.

5.06 Unpermitted Waste.

Franchisee will comply with the Unpermitted Waste screening, identification and prevention protocol ("**Unpermitted Waste Screening Protocol**") attached to Exhibit 5.06 or may develop and follow its own Unpermitted Waste Screening Protocol which is at least as stringent as Exhibit 5.06 and which is satisfactory to the Director. If Franchisee delivers Unpermitted Waste to the Designated Disposal Facility or a Diversion Facility, Franchisee will arrange for proper disposal under Applicable Law and/or cooperate with the facility owner or operator with respect thereto. Nothing herein shall limit or circumscribe any right Franchisee may have against the generator of such waste for damages incurred by Franchisee's handling and disposal of such waste material.

5.07 Semi-Annual Meetings.

Franchisee will meet with County at the County offices in Bridgeport

- (1) a minimum of twice each Contract Year in April and October, or other time as directed by the County, and
- (2) at any additional times directed by the County.

The purpose of the meetings may include addressing operational issues and contract compliance, reviewing quarterly reports and resolving any issues or problems related to the Franchise Services.

ARTICLE 6. DIVERSION

6.01 Diversion Reporting.

a. Reporting and Substantiation of Diverted Materials. Franchisee will report the amount of Diverted Recyclables, E-waste and Universal Waste to the County in its Quarterly Report or when required by the Act. Franchisee will include:

- (1) the date of diversion,
- (2) the quantity (by each type) of those materials expressed in cubic yards, pounds, or tons,
- (3) the community or project where the materials originated, and
- (4) the name and telephone number of the material recovery facilities or composting sites to which Franchisee delivered the materials and a receipt or invoice from that Diversion Facility.

“Diversion Facility” means any materials recovery facility, salvager, processing facility or materials end user. **“Diverted Recyclables”** means the net quantity of Recyclables that Franchisee has Collected at Residential and Commercial premises and at construction or demolition projects and Diverted, including Recyclables in Bulky Waste. The net quantity will be the gross amount of material Collected and delivered to the Diversion Facility, less any quantity of Solid Waste that was contained therein and deducted from payment and/or Diversion and disposed by said Facility. **“Divert,” “Diverted,” “Diversion”** or other form thereof means to divert from disposal so that the disposal tonnage is not reported as disposed under the State’s disposal reporting system and qualifies as diversion under the Act.

Franchisee will additionally report to the County on a quarterly basis the amount of Solid Waste contained within Diverted Recyclables that was separated from the Recyclables. Franchisee’s report will include the date of Collection, the quantity of Solid Waste expressed in cubic yards, pounds or tons, and the community or project where the Solid Waste originated.

b. Additional Information. If the County questions reports, Records or other documentation that serves as the basis of measuring the quantity or types of Diverted Recyclables (and associated Solid Waste), E-waste and Universal Waste , Franchisee will respond to the County’s questions and give County additional clarifying documentation as soon as possible, but within 30 days from the date the County submits questions to Franchisee.

ARTICLE 7. SOLID WASTE DISPOSAL

7.01 Transportation to Designated Disposal Facility.

a. Designated Disposal Facility. Franchisee will transport and deliver all Solid Waste, except for Recyclables that it Diverts, to the Designated Disposal Facility, including:

- (1) Solid Waste that Franchisee Collects from Residential and Commercial premises under Section 4.01c,
- (2) Solid Waste that Franchisee Collects in performing emergency services under Section 8.01,
- (3) excess or Bulky Waste that Franchisee Collects under Section 4.02, and
- (4) C&D Waste that Franchisee Collects under Section 4.01f.

The County may change the Designated Disposal Facility upon 30 days' Notice to Franchisee. Franchisee will observe and comply with all rules and regulations in effect at the Designated Disposal Facility and follow directions of the operator of the Designated Disposal Facility, including:

- (1) unloading Solid Waste in designated areas,
- (2) accommodating operations and maintenance activities,
- (3) complying with Unpermitted Waste exclusion programs, and
- (4) complying with facility hours of operation, unless otherwise agreed to by the parties.

If Franchisee exits Mono County while transporting Solid Waste to the Designated Disposal Facility for any reason, Franchisee shall document the type and amount of Solid Waste which exiting the County, under Section b.2.(1) and b.2.(2) below. Franchisee shall additionally provide such documentation as may be requested by the Director verifying the ultimate Disposal of such Solid Waste at the Designated Disposal Facility and/or the diversion of any Recyclables under Article 6.

Franchisee will at all times operate according to safe industry practices.

b. Exceptions. Notwithstanding Subsection a, Franchisee is *not* obligated to deliver Solid Waste to the Designated Disposal Facility in the following circumstances described in Subsections b1 and b2:

1. Countywide: Highway Closures. Franchisee may redirect Solid Waste that it Collects in the County from the Designated Disposal Facility if State Highway 395 or Benton Crossing Road is closed to all traffic at any point between the location where Franchisee Collected the Solid Waste and the Benton Crossing Landfill by the California Highway Patrol, the California Department of Transportation, the Mono County Department of Public Works, or the Mono County Sheriff's Department, or in accordance with orders from regulatory authorities, *and* Franchisee fully and timely satisfies the following conditions:

(i) **Notice.** Prior to redirecting Solid Waste from the Designated Disposal Facility, Franchisee gives the Director (or if the Director is unavailable, another person in the Department of Public Works administrative office) oral notice, followed by Notice, of highway or road closure and Franchisee's inability to deliver Solid Waste to the Designated Disposal Facility;

(ii) **Records.** Franchisee keeps accurate Records with respect to Solid Waste that Franchisee redirects from the Designated Disposal Facility, including:

- (a) the amount and type of Solid Waste, documented by a weight ticket from the County's Walker or Bridgeport Transfer Station or issued by a certified weigh master from another California or Nevada state-certified truck scale satisfactory to the Director,
- (b) the type of Vehicle or Container in which Franchisee transported that Solid Waste,
- (c) the date of highway, road closure and diversion, or regulatory order,
- (d) the extent of highway closure, and
- (e) the County staff person to whom Franchisee gave oral notice.

(iii) **Reporting.** Included in its Quarterly Report submitted to the County under Section 10.02, Franchisee submits a report satisfactory to the County with supporting weight tickets as described above for that Solid Waste redirected during that quarter.

(iv) **Capacity Payment.** Together with its quarterly payment of Franchise Consideration payable under Section 13.02a, Franchisee pays County the Capacity Payment for that Solid Waste not disposed of at the Designated Disposal Facility and as otherwise provided under Exhibit 7.01b.

2. North of Sonora Junction: Unless County provides Franchisee 30 days' Notice that such Solid Waste must be disposed of at the Designated Disposal Facility, Franchisee may redirect Solid Waste that it Collects from premises in the County located north of the Sonora Junction from the Designated Disposal Facility if Franchisee fully and timely satisfies the following conditions,:

(i) **Records.** Franchisee keeps accurate Records with respect to diverted Solid Waste, including:

- (a) the amount and type of Solid Waste, documented by a weight ticket from the County's Walker Transfer Station or issued by a certified weigh master from another California or Nevada state-certified truck scale satisfactory to the Director, and
- (b) the type of Vehicle or Container in which Franchisee transported that Solid Waste,

(ii) **Reporting.** Included in its Quarterly Report submitted to the County under Section 10.02, Franchisee submits a report satisfactory to the County with supporting weight tickets as described above for that Solid Waste diverted during that quarter.

(iii) **Capacity Payment.** Together with the payment of quarterly Franchise Consideration payable under Section 13.02a, Franchisee pays the County the Capacity Payment for each load hauled out of Mono County during the quarter as under Exhibit 7.01b, as may be amended by the County, effective upon Notice to Franchisee.

7.02 Defense and Indemnification; Release.

a. **Scope.** Franchisee will indemnify, hold harmless and defend County under Section 11.02.

b. **Unpermitted Waste.** Except for any liability incurred by Franchisee for action taken at the direction of the County where Franchisee has informed County that such action may result in Liabilities and County has not withdrawn such direction, Franchisee hereby releases and holds harmless, and will not seek contribution or compensation of any nature from County for Liabilities relating to Unpermitted Waste, including relating to RCRA, CERCLA, or the California Health and Safety Code. Franchisee will not make any claims against or assert an interest in any account, fund or reserve that the County may establish or set aside, from the proceeds of the Franchise Consideration or otherwise, or maintains to cover Liabilities relating to Unpermitted Waste, which established fund or reserve the County is under no obligation to establish or maintain.

7.03 Disposal Fees.

Franchisee will timely pay gate and any other fees charged by the Designated Disposal Facility under the County's existing gate fee schedule and Gate Fee Administration Policy, as the County may amend those fees or policy from time to time.

ARTICLE 8. MISCELLANEOUS SERVICE PROVISIONS

8.01 Emergency Services.

Within 8 hours of County request, Franchisee will provide (or begin providing) services beyond the scope of Franchise Services at the times and to the extent directed by the County, including unscheduled gathering, pick up, collection and disposal of C&D Debris, Bulky Waste and other solid waste resulting from natural disasters such as earthquakes, fires, storms, floods or riots. Franchisee will charge the County the lesser of the following amounts:

- (1) Franchisee's Reimbursement Costs for those services, or

(2) Franchisee's lowest charge to its Customers to Collect any Container (such as roll-offs or bins) located in County for Collection of the same capacity or frequency of service (or service charge pro-Rated for most similar capacity or frequency);

8.02 Ownership of Solid Waste.

All materials that Franchisee Collects, including Solid Waste (including Recyclables) C&D Debris, E-waste and Universal Waste, becomes the property of Franchisee when it empties Containers into its Vehicles, under Section 12.10.080 of the Mono County Code. This agreement will not affect any other agreement Parties may reach with respect to Franchise Services, including designating the Designated Disposal Facility. Title to any other waste material shall at no time vest in Franchisee.

8.03 Compliance with Applicable Law.

a. Compliance. Franchisee acknowledges that the County is authorized to make all necessary and reasonable rules and regulations regarding all aspects of Solid Waste Handling Services, including Franchise Services.

Franchisee will comply compliance with Applicable Law, including Title 12 of the Mono County Code.

Provisions of Applicable Law are incorporated into this Agreement by reference as Franchisee's contractual obligations. County may enforce those provisions as breaches of this Agreement (subject to remedies under this Agreement). County has no obligation to enforce Applicable Law. If breaches of this Agreement are also violations of the Mono County Code, County may either exercise its remedies under this Agreement or enforce the Code, or both.

If any Franchise Obligation is more stringent than Applicable Law, Franchisee and its Subcontractors must satisfy that Franchise Obligation.

b. Referenced Provisions. Reference to specific provision of Applicable Law (including law and regulations) includes future changes, such as amendments, supplements, restatements, re-codifications or repeal .

c. Permits. Franchisee will obtain and maintain throughout the Term all necessary and Permits (including Permits required under Title 12 of the Mono County Code). Franchisee will show County Permits and demonstrate compliance with Permits promptly upon County request. In particular, Franchisee warrants and represents that it is fully acquainted with the provisions of the Mono County Code. Where County is the permitting agency, it shall cooperate with Franchisee in issuing such permits in accordance with law.

d. Fines and Penalties. Franchisee is responsible for payment of governmental fines and penalties imposed on Franchisee and shall have the right to contest such imposition. Franchisee will not seek reimbursement from the County or Customers for any fines or penalties.

If Franchisee believes that compliance with a Franchise Obligation would violate Applicable Law thus exposing Franchisee to fines and/or penalties, Franchisee shall Notify County. If County concurs that compliance would violate Applicable Law, Franchisee shall be excused from the performance of that Franchise Obligation. County shall provide Franchisee with Notice that performance is excused.

8.04 Cooperation with Waste Studies.

Franchisee will cooperate with the County on waste composition studies, including modification of routes, separate collection of individual Customer's Solid Waste, and/or delivering targeted loads of Solid Waste to a County-designated location or locations. Franchisee will also cooperate with the County Customer waste assessments, including providing information in its Records on volume and characterization of wastes generated by Customers.

8.05 Service Materials Belong to County

Reports prepared by Franchisee under Article 10, public education and community relations materials prepared under Section 4.06, and all other work products (whether computerized, written, printed or photographic) developed by the County or Franchisee in connection with Franchise Services, whether developed directly or indirectly by the County or Franchisee, are and will remain the property of County. County may use them without limitation or restriction. Franchisee may use them in connection with other contracts or customers, if County consents, which consent shall not be unreasonably withheld, conditioned, or delayed.

8.06 Recycled Materials. Franchisee will use Reasonable Business Efforts to procure supplies with post-consumer recycled content.

8.07 Responsiveness to County

a. Phone Calls. Franchisee will return telephone calls from the County to the person who made that call during County Office Hours no later than the next County Working Day.

b. Meetings. Franchisee will meet with the County during County Office Hours within one week of the County request at County offices or other location directed by the County.

c. E-mails. Franchisee will respond to all e-mails from the County the next County Working Day.

d. Other Correspondence. Franchisee will reply to other correspondence (such as mailed material) from the County:

- (1) within one week of receipt, or
- (2) within such other time specified by County.

8.08 County Review of Printed Materials

No less than 15 County business days prior to distribution (or shorter period of time specified in this Agreement), Franchisee will give final drafts of all printed materials that it intends to distribute by any means (including written and electronic) to either or both (1) Customers or (2) the public, for County review and acceptance or rejection, including:

- (1) community relations materials,
- (2) promotional materials, and
- (3) general Customer correspondence unrelated to individual Customer accounts (such as notice of change to Collection schedules, Unpermitted Waste advisements, etc.)

Franchisee will additionally establish a Customer account for the County without charge, using the address for Notice under Section 18.01, so that the County will automatically receive copies of all of Franchisee's general communications with Customers.

8.09 News Media Relations.

a. Inquiries or Requests for Interviews. Franchisee will inform the Director by telephone followed by printed copy of all requests for interviews, comment, statements or information related to the scope of Franchise Services within 24 hours of Franchisee's receipt of the request. Before responding to such requests *other* than the scope Franchise Services, Franchisee will discuss Franchisee's proposed response with County. Franchisee will inform the Director by telephone followed by printed copy of all requests for interviews, comment, statements or information related to the Franchise Services within 24 hours of Franchisee's receipt of the request. Franchisee will give the County copies of articles resulting from media interviews or news releases within 7 days of publication.

b. News Releases. Franchisee will submit copies of Franchisee's draft news releases or proposed trade journal articles to the County for prior review and approval at least 5 County Working Days in advance of release and County's review and approval shall be deemed given unless County notifies Franchisee by e-mail, phone, or in writing, within that 5 day period.

8.10 Changes in Scope or Specifications of Franchise Services.

a. Directions and Proposals. The County may direct Franchisee to submit proposals within a time period determined by County for changes in the scope of specifications of Franchise Services or Franchise Obligations, such as mandatory commercial recycling programs under subsection b. If necessary, the Parties will enter into good faith negotiations for 30 days following the date by which the County directs Franchisee to submit a proposal, or such other time period to which the Parties may agree. If the Parties cannot reach agreement within that time period, the Parties may do either of the following:

- the County may contract with another Person, or

- the parties may jointly request binding dispute resolution by an Independent Expert under Article 9.

b. California Mandatory Commercial Recycling Measure. Franchisee acknowledges both of the following:

- that as of the Franchise Date, CalRecycle is developing regulations to implement AB 32 that will require mandatory recycling at commercial premises, which may include some multi-family, condominium and cooperative dwelling units that are Customers under this Agreement.
- County may direct Franchisee under subsection a to submit a proposal to provide mandatory recycling services, such as those described on Exhibit 8.10.

ARTICLE 9. DISPUTE RESOLUTION BY INDEPENDENT EXPERT

9.01 Independent Expert.

a. Selection. Parties will select the Independent Expert, as follows:

(1) **Exchange Lists.** Within 10 days after one Party receives the other Party's request for dispute resolution by an Independent Expert, each Party will prepare a separate list of 5 independent Persons having experience in refuse collection, in numerical order with the first preference at the top, and exchange and compare lists.

(2) **Ranking.** The Person ranking highest on the 2 lists by having the lowest total rank order position on the 2 lists will be the Independent Expert.

- In case of a tie in scores, the Person having the smallest difference between the rankings of the 2 parties is selected; other ties will be determined by a coin toss.
- If no Person appears on both lists, Parties will repeat this procedure.

(3) **Delegation.** If the Parties do not select an Independent Expert after the exchange of 3 lists or the passage of 21 days, whichever comes first, then each Party will select someone having the experience described above and the 2 selected individuals will together select an Independent Expert.

b. Costs. Parties will share the Independent Expert's costs and fees equally.

c. Determination Protocol.

(1) Within 10 days of the selection of the Independent Expert, or within 10 days of Notice by either Party of request for dispute resolution by an Independent Expert if one has already been selected, both Parties will submit to the Independent Expert a detailed description of the dispute together with a written statement of each Party's position thereon.

(2) Parties will simultaneously exchange copies thereof.

(3) Both Parties will, in good faith and in writing, promptly give the Independent Expert additional information and documentation the Independent Expert requires or requests in order to make its determination and simultaneously give the other Party copies thereof.

(4) Neither Party will communicate orally with the Independent Expert unless the other Party is privy thereto. Neither Party will communicate in writing with the Independent Expert unless it simultaneously sends copies of the communication to the other Party, in the same manner that it sends the communication to the Independent Expert.

(5) The Independent Expert will make its determination based on the submissions of the Parties, the provisions of this Agreement, its experience with similar services and disputes, and other factual determinations it may make regarding the matter in dispute.

(6) Disputes subject to binding determination by the Independent Expert include:

- fee disputes under Section 13.01d or 13.04c.
- Changes in scope of Franchise Services or Franchise Obligations under Section 8.10, and
- Any other dispute agreed to by the Parties.

Disputes subject to non-binding determination by the Independent Expert include:

- (1) the occurrence and extent of Uncontrollable Circumstances, and
- (2) other disputes agreed to by the Parties.

ARTICLE 10. RECORDS AND REPORTING

Franchisee acknowledges that the County entered into this Agreement, among other reasons, to provide Customers and the County with improved Collection Services. Franchisee further acknowledges that, in order that the County may better evaluate Franchisee's performance under this Agreement, Franchisee has obligated itself to maintain Records and timely submit reports under this Article.

10.01 Records.

a. Maintenance. Franchisee will prospectively keep accurate Records in electronic form.

"Records" means information relating to performance of the material obligations of Franchisee under this Agreement in a manner consistent with industry practices and the providing of Franchise Services and meeting Franchise Obligations, such as ledgers, books of account, invoices, Customer lists, billing records, route maps, Customer complaints, canceled checks, logs, correspondence, Customer receipts, rates, Franchise Consideration, Capacity Payment, Solid Waste Parcel Fee, Customers' Franchise Services subscriptions, costs, events

subject to damages payable under Section 14.01, other documentation that County may request to determine compliance with the Mono County Code, and information listed in Exhibit 10.01a.

Franchisee will maintain Records for the Term plus 3 years, or any longer period required by Applicable Law. Franchisee will use Reasonable Business Efforts to promptly give the County any additional information relevant to this Agreement that is not specified in this Subsection.

b. County Inspection and Audit. Franchisee will use Reasonable Business Efforts to give printed copies of Records to the County or County's designee(s) for inspection or audit at the County Administrative Office or County Auditor-Controller Office. Otherwise, Franchisee will make Records available to the County or County's designee(s) for inspection or audit at Franchisee's Office during Office Hours. County may, at its own expense, use a consultant of its choosing, Franchisee must give or make available to the County Records promptly, or with respect to audits of Franchise Consideration, within 2 weeks of the County's request.

If the County's audit demonstrates that the Franchise Consideration or other amounts (including the Parcel Fee) paid by Franchisee to the County was understated, then Franchisee will pay the County

- (1) the amount of the under-statement plus the late payment charges provided in subsection 13.02 a3 within 30 days following the County's submission of the results of the audit to Franchisee, and
- (2) if the County's audit demonstrates that the Franchisee's payment was understated by more than 5%, the County's Reimbursement Cost to conduct the audit.

c. Custody. Franchisee will give the County custody of any or all Records promptly upon County request, if the County believes that Records may be lost or discarded for any reason, including dissolution, disbandment or termination of Franchisee's business. In that event, access to those Records will be granted to anyone upon by Franchisee request.

10.02 Reporting

a. Quarterly. Franchisee will submit Quarterly Reports to the County no later than the first day of the second month immediately following the end of each quarter described in Exhibit 10.02a (for example, for the Quarter ending on March 31, the Quarterly Report is due no later than May 1). Quarterly Reports must be in the form directed by or satisfactory to the County and contain, at a minimum, the information listed in Exhibit 10.02a, including information needed for the County to prepare Quarterly Reports required under Applicable Law with respect to recycling and Diversion of Solid Waste in the County, the County's compliance with its solid waste facility permits, and quarterly taxes due and payable to the California Board of Equalization.

b. Annual. Franchisee will submit Annual Reports to the County on or before February 15 of each Contract Year in the form directed by or satisfactory to the County, totaling the information contained in the Quarterly Reports for the previous Contract Year and containing, at a minimum, the information listed in Exhibit 10.02b. The Franchisee obligation to submit the annual report survives the franchise term for a period of 12 months.

c. Submission and Correction,. Franchisee will do the following:

1. provide complete and accurate reports by required submission dates,
2. incorporate County comments on, and corrections in, reports within 5 days of receiving them,
3. submit corrected reports or additional information submitted to any Regulatory Authority (such as tonnage information to the State DRS) as soon as possible, and no later than 5 days,
4. provide additional complete and accurate information requested by County by the date specified by County.

d. Annual Review by CPA; Actual Payments. Within 120 days following the close of each Contract Year, Franchisee will furnish County with a statement showing and substantiating the amount of payments including Franchise Consideration, Capacity Payment, and Solid Waste Parcel Fee, both owed and paid, together with the representation and warranties under Section 12.10.022 of the Mono County Code and section 13.02a2. Franchisee will cause that statement to be audited by an independent certified public accountant, acceptable to the County, in accordance with generally accepted auditing principles, and including the accountant's statement relative to his or her review. That statement shall be paid for by Franchisee. Notwithstanding the foregoing, should Franchisee be a publicly traded, NYSE listed entity required by the Securities and Exchange Commission to provide financial statements (hereinafter "**Publicly-traded Franchisee**") and the listed company is the signatory Franchisee or its Guarantor, Franchisee shall be deemed to have met its obligation hereunder by providing internally generated financial statements providing essentially the same information as would have been provided if compliance with the foregoing had been met.

10.03 Financial Statements

a. Maintenance of Accounting Records.

Form and Content. Franchisee will maintain in its Office accurate and complete accounting records containing financial and operational data relating to all costs associated with providing Franchise Services, whether by Franchisee or Subcontractor or Affiliate providing goods or services related to the provision of Franchise Services.

Franchisee may maintain Records of costs associated with goods or services provided by an Affiliate that is a Subcontractor in the office of the Affiliate but will give the County a printed copy (other than electronic) of them within 10 days of County's request.

b. Financial Statements. Promptly upon County request, Franchisee will deliver to the County up to 3 copies of Franchisee's most recent financial statements, including an accompanying statement or opinion by the independent certified public accountant who prepared them respecting that accountant's compilation, review or audit, as the case may be. Franchisee will cause the accountant to prepare financial statements on an accrual basis showing (1) the results of Franchisee's operations under this Agreement separately from operations in other locations, as if Franchisee were an independent entity providing service only to the County, as well as (2) the results of Franchisee's operations in all locations, as a corporate entity. Notwithstanding the foregoing, should Franchisee be a **Publicly-traded Franchisee**, Franchisee shall be deemed to have met its obligation hereunder by providing internally generated financial statement providing essentially the same information as would have been provided if compliance with the foregoing had been met, together with the statement described in paragraph (3) below.

A Franchisee that is not a Publicly-traded Franchisee will attach to the financial statement the following:

- (1) The accountant's representation whether he has audited either or both Franchisee's and Guarantor's financial statements in accordance with Generally Accepted Auditing Principles of the United States, and
- (2) The accountant's following opinion:
 - that the statements have been prepared in accordance with Generally Accepted Accounting Principles consistently applied, and
 - the statements fairly present the financial position, the results of operations and the cash flows of either or both the Franchisee and Guarantor, and
- (3) The following statement of Franchisee's Chief Financial Officer:
 - that no events subsequent of the preparation of the last financial statement submitted under this Agreement have materially changed Franchisee's financial status or condition, or
 - describing any material changes in Franchisee's financial status or condition since the preparation of the last financial statement.

c. Affiliated Companies. If Franchisee enters into any Subcontracts with Affiliates, Franchisee will disclose them in Franchisee's financial statements. The County's inspection rights described in Subsection a extends to an Affiliate or Affiliates.

d. County Review of Financial Statements. County and/or its agents and consultants may review the audit work plans and work papers of any of the accountants who provide opinions on Franchisee's financial statements. If that review gives rise to any questions or differences of opinion regarding Franchisee's compliance with this Agreement, Franchisee and its accountant(s) will meet with the County and its consultant, if any, to discuss concerns and answer question within 14 days of County's request.

10.04 Inspections, Reviews, and Audits. The County and its auditors and other agents selected by the County may conduct on-site audits, reviews and inspections of Records at

Franchisee's Office during Office Hours and make copies of any Records or supporting documentation relevant to this Agreement, including Customer account and billing information, Customer receipts, and Franchise Consideration payments.

The County may, at its own expense and using a consultant of its choosing, audit Records. Franchisee must give the County copies of Records within 2 weeks of the County's request, or earlier time under other provision of this Agreement. If the County's audit demonstrates to the satisfaction of the County that the any fee paid by Franchisee to the County (including the Franchise Consideration, Capacity Payment or Solid Waste Parcel Fee) or any other amount reported to the County (such as tonnage of Solid Waste that Franchisee redirects from the Designated Disposal Facility) was understated, then Franchisee will pay the County the following amounts:

- (1) the understated amount of money *plus* any late payment charges (such as those under Section 13.02a3) within 30 days following the County's submission of the results of the audit to Franchisee, and
- (2) if the County's audit demonstrates that the fees paid by Franchisee or amount reported by Franchisee was understated by more than \$10,000 or 5%, whichever is less, the County's Reimbursement Cost to conduct the audit.

Franchisee will retain Records for the Term plus 3 years.

10.05 Proprietary records and reports

a. Notice of Request. If County receives a request from a third person to review or copy material which Franchisee has marked "confidential," County will inform Franchisee and allow Franchisee to present arguments and facts to County in support of Franchisee's position that the material is entitled to an exemption from disclosure under the California Public Records Act and should not be released.

b. Notice of Release. If County determines that the material is *not* entitled to an exemption and that it must be released, County will inform Franchisee before releasing that material so that Franchisee may seek a court order enjoining that release.

c. Notice of Legal Action. If County determines that the material is entitled to an exemption, and the person who requested the information files a legal action seeking its release, County will inform Franchisee and will not oppose a motion by Franchisee to intervene in the action. Franchisee must either intervene or accept the release of the material. County is not obligated to defend the action and may release the material sought without any liability.

ARTICLE 11. INSURANCE, INDEMNIFICATION AND PERFORMANCE ASSURANCES

11.01 Insurance

a. Franchisee will carry (obtain and maintain) the programs of insurance described in Exhibit 11.01a solely at its own expense, including, requirements for insurers' ratings, types, coverage, amounts, effective and expiration dates, and limits. Franchisee will pay as they become due all premiums for the insurance required to be carried by it by this Section, and will timely renew or replace each policy. County makes no warranty that the insurance programs are sufficient to protect the Franchisee for liabilities that may arise from or in relation to this Agreement.

b. Franchisee will secure insurance provided by an insurer meeting the following qualifications:

1. is acceptable to County,
2. is an admitted company in California,
3. has a size category of VII or larger by A.M. Best Company, Inc., and
4. has a rating of A or better by A.M. Best Company, Inc.

c. Delivery of Proof of Coverage. As of the Franchise Date, Franchisee give the County all required endorsements, signature verifications, and a certificate of insurance ("COI") evidencing Franchisee's coverage, which COI is satisfactory to the County in substantially the form attached as Exhibit 11.01b. If the County requests, Franchisee will promptly deliver copies of each policy.

Franchisee will furnish additional COIs within one week of a policy's renewal and 10 days of County request.

Neither County failure to obtain, nor County receipt of, or failure to object to a non-complying insurance certificate or endorsement or any other insurance documentation or information provided by Franchisee, Franchisee insurance broker(s) and/or insurer(s), will be construed as a waiver of any obligation under this attachment.

c. Other Insurance Requirements

1. Subcontractors. Franchisee will require any Subcontractor to provide statutory workers' compensation insurance and employer's liability insurance for all of the Subcontractor's employees engaged in the Franchise Services. The general liability insurance required by this Section must cover Franchisee's liability for acts of its Subcontractors or each Subcontractor must furnish evidence of insurance provided by it meeting all of the requirements of this Section.

2. Compliance with Policies. Franchisee will comply with all requirements of the insurers issuing policies and will require its Subcontractors to do so. Carrying insurance does not relieve Franchisee from any Performance Obligation, including those imposed by this Article.

3. Amendments. If requested by the County, and without charge to the County, Franchisee will promptly amend any liability policy and by endorsement, add the trustee of any

bonds or Certificates of Participation, which were, or may be in the future, issued by the County to finance the County's Solid Waste facilities, including transfer stations and landfills, as an additional insured.

4. Notification of Incidents, Claims, or Suits. Franchisee shall report the following in writing to the Director, as soon as possible, but no longer than 10 days:

- (1) Any accident or incident relating to the operations under this Agreement involving injury or property damage that may result in the filing of an insurance claim, its legal claim, or lawsuit against Franchisee and/or County;
- (2) Any third-party claim or lawsuit filed against Franchisee arising from or related to operations under this Agreement;
- (3) Any injury to a Franchisee employee that occurs on County property,
- (4) Any loss, disappearance, destruction, misuse or theft of County money collected or held by Franchisee.

5. Report Claims. Franchisee will promptly report the facts of all claims against Franchisee or any Subcontractor on account of any occurrence related to this Agreement, in writing to the insurance carrier and to the County. Franchisee will inform County of all claims against either or both of: Franchisee or any Subcontractor, which claim exceeds the amount of any deductibles or self-insured retentions, within one week of Franchisee's learning of the claim.

6. Report Claims Paid and Reserved. Franchisee will immediately inform the County in writing if claims totals (both paid and reserved) are within \$1 million of any policy (except Workers' Compensation) limits. In that event, Franchisee will obtain additional coverage or provide County with financial assurance acceptable to County in order to maintain available coverage at the limits provided in this Section.

7. County Right. If Franchisee does not carry any insurance required by this Agreement, then the County may take out and maintain such insurance as is required hereunder and Franchisee will reimburse the County for the County's Reimbursement Costs thereof.

11.02 Franchisee Indemnification, Release/Hold Harmless and Defense .

a. Coverage

(1) Franchisee's Mono County Operations

(i) Indemnification. Franchisee will indemnify County from and against all Liabilities to the extent arising out of or in any way connected to Franchisee's Mono County Operations, including reimbursing County for County Liabilities to someone other than Franchisee (*such as damages resulting from a suit against County by Franchisee's Customer*).

(ii) Release and Hold Harmless. *Except as otherwise expressly provided herein or prohibited by Applicable Law*, Franchisee will release and hold harmless

County from and against all Liabilities arising out of or in any way connected to Franchisee's Mono County Operations, including refraining from seeking reimbursement from County for Franchisee's liability to someone else (*such as damages suffered by Franchisee resulting from a suit against Franchisee by a Customer*).

(iii) **Defense.** Immediately upon commencement of any lawsuit, claim, complaint, causes of action or other demand brought against County for Liabilities arising out of or in any way connected to Franchisee's Mono County Operations, Franchisee will do either of the following:

1. defend County with counsel approved by County, or
2. fund County Reimbursement Costs of defense.

County may retain co-counsel at its own cost and expense and Franchisee will direct Franchisee's counsel to assist and cooperate with County co-counsel.

(2) Unpermitted Waste

(i) Franchisee's indemnification, release, hold harmless and defense of County under subsection a(1) *includes* Liabilities to the extent arising out of or in any way connected with the following:

1. **What:** the presence, disposal, escape, migration, leakage, spillage, discharge, release or emission of Unpermitted Waste or petroleum products
2. **Where:** to, in, on, at, or under any place, site or facility where Franchisee delivers, stores, processes, recycles, composts or disposes of Solid Waste,
3. Whether:
 - in one or more instance,
 - threatened or transpired,
 - Franchisee is negligent or otherwise culpable, or
 - those Liabilities are litigated, settled or reduced to judgment.
4. to the extent that the Liabilities are caused or alleged to be caused by the following:
 - **Franchisee Negligence or Misconduct:** the wrongful, willful or negligent act, error or omission, or the misconduct of the Franchisee;
 - **Non-Customer Materials:** the collection, delivery, handling, recycling, processing, composting or disposal by the Franchisee of any materials or waste, including Unpermitted Waste, which are generated by Persons other than Customers collected from premises other than Customers' premises;
 - **Failure to Comply with Unpermitted Waste Protocol:** the failure of Franchisee to undertake Hazardous Waste training procedures required by Applicable Law or the Unpermitted Waste Screening Protocol, whichever is more stringent;
 - **Franchisee-Identified Unpermitted Waste:** the improper or negligent collection, handling, delivery, processing, recycling,

composting or disposal by Franchisee of Unpermitted Waste that Franchisee inadvertently collects from Customers and that Franchisee identifies as Unpermitted Waste prior to its delivery, processing, recycling, composting or disposal,

(ii) Household Hazardous Waste. The mere presence of Household Hazardous Waste in Solid Waste that is Collected under this Agreement will not constitute negligence in and of itself nor create any liability on the part of the Franchisee absent any of the circumstances described in items listed in item 4 of the previous paragraph.

(iii) Waiver. The indemnification, release, hold harmless and defense in this section is intended to operate as an agreement pursuant to 42 U.S.C. Section 9607(e) and California Health and Safety Code Section 25364, to insure, protect, hold harmless and indemnify the County from liability under this Section except to the extent Franchisee acts at the direction of the County, following Notice to County that Franchisee believes that compliance with the County's direction will result in liability under this section and County's confirmation of such direction.

(3) Challenges to Agreement: Franchisee indemnifies, releases, holds harmless and defends County under subsection a(1) from and against all Liabilities arising out of or in any way connected to legal challenge with respect to all of the following:

1. procurement of this Agreement, and
2. Parties' execution of this Agreement, and
3. County's authority to contract out Franchise Services, and
4. any alleged failure of the County to enforce provisions of this Agreement or of Applicable Law as permitted under Section 8.03, and
5. any provision contained within the Agreement

regardless of the legal theory advanced or relied upon by any interested third party, including any appeals necessary to validate that authority or the Agreement; or

b. County Sole Negligence Excluded. Franchisee is not obligated to indemnify, release, hold harmless or defend County if County is found solely negligent by a court of competent jurisdiction after County has exhausted all appeals.

c. Definitions

In this Section, "**County**" includes everyone described in the definition of "County", and "**Franchisee**" includes everyone described in the definition of "Franchisee".

"**liabilities**" includes:

1. lawsuits, claims, complaints, cause of actions and other demands,
2. citations, fine and other penalties,

3. investigations, such as costs of audits, related to another type of Liability (such as a fine),
4. judgments, liens, cleanup orders, and damages in contract or tort, including the following:
 - personal injury or death, and
 - property damage,
5. losses, injuries, costs and expenses (including all costs and expenses of litigation, mediation or arbitration, such as any or all of the following fees and court costs:
 - attorneys' fees, whether County Counsel or Franchisee's staff attorneys or outside attorneys,
 - accountants fees, whether County Finance Director or outside accounts,
 - appraisers fees, and
 - expert witness fees, and
 - other detriments of every nature and description whatsoever, whether under State of California or federal law.

In this Section, "**Franchisee's Mono County Operations**" includes the following:

- this Agreement,
- Franchise Services,
- Franchise Obligations, and
- Franchisee's permit under Chapter 12.08 of the Mono County Code.

11.03 Letter of Credit.

a. Draws. Franchisee will give County an irrevocable direct pay letter of credit by a bank satisfactory to the County for the benefit of the County, under which the County can draw, in one or more drawings, an aggregate amount of \$15,000 upon any of the following occurrences:

- (1) an Event of Default,
- (2) Franchisee does not pay a County Payment Obligation.

b. Term. The expiration date of the Letter of Credit must be no less than the Term plus 180 days, or if subject to renewal, give the County 90 days advance notice of non-renewal. The issuing bank may release the Letter of Credit when it receives a certificate from the County stating the following:

- (1) Franchisee has substituted an alternative letter of credit or other financial assurance satisfactory to County in County's sole discretion, or
- (2) that this Agreement has expired or been terminated for a period of 180 days or other preference period under law with respect to bankruptcy or insolvency of Franchisee, and
- (3) Franchisee does not owe County any money under this Agreement,.

c. Form. The form of the Letter of Credit, including the procedures for and place of demand for payment and drawing certificate attached thereto, is subject to approval of County in its sole discretion.

d. Transferable. The Letter of Credit must be transferable to any successor or assign of the County.

ARTICLE 12. CRIMINAL ACTIVITY

12.01 Criminal Activity

a. Notice.

(1) Franchisee Representative, etc. Franchisee will immediately inform the County of any Convictions or Pleas with respect to Criminal Activity by any Franchisee or any of its Contract Managers except the Franchisee Managers described in item (4) of the definition of "Franchisee Managers" below.

(2) Other Franchise Managers. Franchisee will use Reasonable Business Efforts to immediately inform County of any Convictions or Pleas with respect to Criminal Activity by any Franchise Manager described in Item 4 of the definition of "Franchise Managers" in subsection d.

b. Cure. Upon the occurrence of any Convictions or Pleas with respect to Criminal Activity by any Franchise Manager, Franchisee must do both of the following:

(1) terminate from employment or remove from office the offending Franchise Manager who is an individual (or, with respect to a Franchise Manager that is Franchisee or an affiliate, the individual or individuals responsible for the Criminal Conduct), *unless*:

- otherwise directed or ordered by Regulatory Authority of competent jurisdiction and/or authority, or
- termination would subject Franchisee, an affiliate or any of its Franchise Managers to substantial liability for breach of any labor agreement entered into after the franchise date, and

(2) eliminate the participation by that Franchise Manager who is an individual (or with respect to a Franchise Manager that is Franchisee or an affiliate, the individual or individuals responsible for the Criminal Conduct), holding a Position of Influence.

Franchisee will not allow or cause to be allowed any employee, officer or director of an Affiliate who is the subject of any Criminal Activity to be hired or transferred from any Affiliate to a position as a Contract Manager.

c. County Remedy. County in its sole discretion may terminate the Agreement upon 30 days Notice to Franchisee, or may impose other sanctions (such as financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination), in either of the following events:

(1) Cure: Franchisee or any affiliate fails to implement the preceding cure in Subsection b, or

(2) Felony Related to this Agreement. the Criminal Conduct (other than Criminal Conduct described in Item 4 of the definition of "Criminal Conduct," with respect to

Hazardous Waste, which Franchisee did not have actual knowledge) is both of the following:

- a felony, and
- is related to this Agreement.

Franchisee must be given the opportunity to present evidence in mitigation during the preceding notice period, for County consideration.

d. Definitions.

“Criminal Activity” means any of the following:

- (1) fraud or other criminal offense, other than offenses constituting infractions, in connection with obtaining, attempting to obtain, procuring or performing a public or private agreement related to Recyclables or Solid Waste services of any kind (including collection, hauling, transfer, processing, composting or disposal), including this Agreement; or
- (2) bribery or attempting to bribe a public officer or employee of a local, state, or federal agency; or
- (3) embezzlement, extortion, racketeering, false claims, false statements, forgery, falsification or destruction of records, obstruction of justice, knowingly receiving stolen property, theft, or misprision (failure to disclose) of a felony; or
- (4) unlawful disposal of hazardous, designated or other waste; or
- (5) violation of securities laws or antitrust laws, including laws relating to price-fixing, bid-rigging and sales and market allocation, and of unfair and anti-competitive trade practice laws, including with respect to inflation of waste collection, hauling or disposal fees; or

“Contract Managers” means all of the following:

- (1) Franchisee and its officers and directors,
- (2) the officers and directors of Franchisee’s parent corporation and of each successive parent corporation’s parent corporation identified in Exhibit 12.01e(2),
- (3) the Franchisee Representative, and
- (4) anyone else, including Affiliates and Franchisees’ or Affiliates’ employees, officers or directors, who have the authority or responsibility to directly or indirectly administer, manage, direct, supervise or oversee Franchise Services or this Agreement, *including* the following: supplying goods or services; serving as director of the board of directors of Franchisee or an Affiliate; serving as an officer or employee of Franchisee or an Affiliate; reviewing or negotiating Franchisee’s contracts (including this Agreement); providing in-house legal services; providing insurance or other performance security; and providing

processing or disposal, but *excluding* the following: monitoring Franchisee's performance, supervising Franchisee's finance and capital budget decisions and articulating general policies and procedures not related to Criminal Activity. This authority and responsibility is defined as "**Position of Influence.**"

"**Conviction**" means any of the following:

1. a criminal conviction,
 2. a permanent mandatory or prohibitory injunction, or
 3. a final judgment or order
- from a Regulatory Authority of competent jurisdiction with respect to any Criminal Activity.

"**Pleas**" means either of the following,

1. pleading "guilty", or
 2. entering a plea of "nolo contendere" or "no contest" to Criminal Activity occurring
1. within County, or
 2. relating to this Agreement

ARTICLE 13. SERVICE FEES

13.01 Service Fees. Franchisee understands and acknowledges, as follows:

- (1) Pursuant to Chapter 12.10 of the Mono County Code, up to 2 solid waste enterprises will be granted exclusive franchises in the form of this Agreement to provide Franchise Services as Primary Franchisees within the Service Area.
- (2) In authorizing up to 2 Franchisees within the same Service Area, it is County's intention to allow for competition and thereby avoid the need to determine Service Fees, other than Service Fee Floors designed for the purpose of preventing predatory pricing, for the provision of Franchise Services pursuant to this Agreement.
- (3) Notwithstanding the above, the County shall have the limited right to determine Service Fee caps or specific Service Fees under Subsection c.

a. Service Fee Floors. Franchisee will not charge Service Fees for the Franchise Services under this Agreement that are less than those Service Fees listed in Exhibit 13.01a. except as set forth below.

1. **Senior Rates.** Franchisee may charge Service Fees up to 20% below those under Exhibit 13.01a to Residential Customers over the age of 62, if Franchisee charges those Service Fees uniformly to all those Customers.

2. **Multiple-service Bins.** Franchisee may charge Service Fees up to 20% below those for Bins under Exhibit 13.01a to Commercial Customers who require multiple Collections

each week, if (1) Franchisee charges the reduced rates uniformly, countywide and (2) if on the Franchise Date, Franchisee furnishes the Customer with the largest Bin that Franchisee has in its Service Asset Inventory.

b. Service Fee Floor Adjustments. The Board of Supervisors may, in its sole discretion, adjust Service Fee Floors upward or downward, annually, effective January 1st of the new Contract Year or at such other time as may be designated by the Board, in the manner set forth Subsection d1 below, or in some other manner as determined by the Board,:

1. following request by a Franchisee for a Service Fee Floor adjustment submitted no earlier than July 1st and no later than October 1st prior to the commencement of each new Contract Year, or
2. acting on the Board's own initiative.

Franchisee will inform each Customer in writing, in a form satisfactory to the County, of any changes in Service Fees resulting from an adjustment to Service Fee Floors, or made unilaterally by Franchisee where applicable, in advance of implementing such changes.

c. Service Fee Caps and Service Fees. The County may implement Service Fee Caps or Service Fees for the provision of the Franchise Services if either of the following events occurs:

1. Franchisee Becomes Sole Provider. If Franchisee becomes the only Franchisee, as defined in Section 12.02.11 of the Mono County Code, then subject to subsequent Service Fee adjustment under Subsection d, Franchisee will charge Service Fees no greater than the Service Fees it charged on the date that Franchisee became the sole Franchisee, as determined by the County. If, however, Franchisee's Service Fees increased by more than 5% in the 12-month period immediately preceding its becoming the only primary franchisee, then Franchisee will submit to the County a written explanation of the basis for the increase(s) made during that 12-month period. Franchisee will give the County documentation or other information related to those increases within 10 days of the County's request. Based upon its review of that documentation and other information, the Board of Supervisors may:

- (1) set Franchisee's Service Fees at the level existing as of the date Franchisee became the sole Franchisee; or
- (2) set Franchisee's Service Fees at a level that is less than that existing on that date.

2. Unjustified Service Fee Increase Exceeding 5%. If, notwithstanding the existence of competition within the Service Area, any Service Fee or Fees charged by Franchisee increase by more than 5% in any 12-month period then, within 10 calendar days of the County's request Franchisee will give the County a written explanation of those increase(s), together with any financial and other records justifying the increase(s). If the County determines, in its sole discretion, that the increase(s) are not justified by the information that Franchisee gives County, then the County may set Service Fees or Service fee Caps under Subsection c1.

d. Service Fee Adjustments. If Service Fees are set pursuant to Subsection c1 or c2, then those Service Fees may be adjusted as follows. Upon written request by Franchisee to the Board of Supervisors for a Service Fee adjustment submitted no earlier than July 1st and no later than October 1st prior to the commencement of each new Contract Year, Franchisee's Service Fees for Franchise Services will be adjusted, upward or downward, annually, effective January 1st of each Contract Year, in the manner described below. The Board of Supervisors may also (but is not obligated to) act on its own initiative in the event Franchisee declines to request an adjustment to its Service Fees, and adjust Franchisee's Service Fees in the manner described below. Franchisee will give written notice to each Customer in a form satisfactory to the County, of annual increases, whether initiated by Franchisee or by the Board of Supervisors, at least 6 weeks prior to their implementation.

1. Annual Adjustments.

(i) CPI Adjustment. 75% of Franchisee's Service Fees are subject to adjustment under the Consumer Price Index – Not Seasonally Adjusted, U.S. City Average for Garbage and Trash Collection ("CPI"), as published by the United States Department of Labor, Bureau of Labor Statistics, for the preceding 12-month period beginning in September of the prior year and ending August 31 of the current year. Thus, if the CPI experienced an average monthly net increase of 3% from September 1, 2010, to August 1, 2011, then 75% of Franchisee's Service Fees would be subject to a 3% increase effective as of January 1, 2012.

(ii) PPI Adjustment. 5% of Franchisee's Service Fees will be subject to adjustment as described below under the Producer Price Index – Not Seasonally Adjusted, U.S. City Average for #2 Diesel all items ("PPI"), as published by the United States Department of Labor, Bureau of Labor Statistics, for the preceding 12-month period as described in subsection d1(i)

(iii) Gate Fee Adjustment. 20% of Franchisee's Service Fees will be subject to adjustment to reflect increases or decreases in the gate fees charged at the Designated Disposal Site. This portion of Franchisee's Service Fees will apply either generally to the gate fees for solid waste, or for the specific category of waste for which the Franchisee has established a Service Fee such as white goods, tires, C&D Waste, or others that may be applicable.

The total adjustment of Service Fees, in the event that the County sets Service Fees, under this Subsection shall be made automatically once per year, whether upward or downward, and may not exceed 5% in any one Contract Year. There shall be no automatic adjustment of Service Fee Floors.

If either the CPI or PPI category specified above is discontinued or revised during the Term by the United States Department of Labor, Bureau of Labor Statistics, such other government index or computation with which it is replaced will be used in order to obtain substantially the same result as would be obtained if the category had not been discontinued or revised. The County will specify any replacement index to the CPI or PPI category at its sole discretion.

2. Change in Law Adjustments. In addition to the adjustments under Subsection c1, Franchisee may request an adjustment to Service Fees or Service Fee Caps where a Change in Law, other than a change to the gate fees charged at the Designated Disposal Facility, results in an increase in Franchisee's Direct costs. Franchisee may request adjustments made under this Subsection at any time during the course of a Contract Year, but may request an adjustment due to changes in law only once per Operating Year. "**Operating Year**" means the 12-month period immediately preceding or following the requested adjustment.

(1) In its application for a Service Fee adjustment based on a change in Applicable Law Franchisee must include a statement of the amount of the requested adjustment, the basis therefore, and all financial and other records on which Franchisee relies for its claim that Franchisee's Direct Costs have increased.

(2) The Director will review Franchisee's Service Fee application and notify Franchisee if it is complete or whether the Director wishes to review and/or audit any additional documents or information reasonably related to the requested increase before submitting the matter to the Board of Supervisors for their consideration.

(3) The Board will review and consider the requests within a reasonable period of time after the complete submittal by Franchisee and after the County has had a reasonable period of time to request, review, and audit any applicable financial records of Franchisee and/or its Affiliates. The Board may grant Franchisee's requested Service Fee adjustment or, based on the information presented, may increase or decrease Franchisee's Service Fees in amounts different from Franchisee's request.

(4) The adjusted Service Fees, if approved, will go into effect 30 days after Board approval or at such other time established by the Board or provided by applicable law (e.g., if subject to voter approval or protest, following the time provided therefor.)

"Change in Law" means any of the following:

1. The adoption, promulgation, modification, or change in law (including County's change in or addition of Franchisee Fees or Solid Waste Program Fees) or in judicial or administrative interpretation of the law occurring after the Franchise Date, except with respect to the following:
 - Income or business taxes,
 - Employment or payroll taxes, or
 - Franchise Consideration (other than Franchise Consideration paid to County); or
2. Any order or judgment of any Regulatory Agency issued after the Execution Date if both of the following conditions are met:
 - The order or judgment is not also the result of the willful misconduct or negligent action or inaction of either of the following:
 - The party relying thereon, or
 - Anyone for whom that party is directly responsible; and
 - The party relying on the order or judgment makes Reasonable Business Efforts to contest that order or judgment, unless the other party excuses it from contest; or
3. A Regulatory Agency imposes any new or different material conditions in connection with the issuance, renewal, or modification of any permit after the Franchise Date; or
4. A Regulatory Agency does any of the following after the Franchise Date:
 - Fails to issue or renew permit,
 - Suspends, interrupts or terminates any permit

and the Regulatory Agency's actions is not also the result of the willful misconduct or negligent action or inaction of either of the following:

- The party relying thereon, or
- Anyone for whom that party is directly responsible

d. Resolution of Issues Regarding Service Fee Adjustments. Any issue regarding Service Fee adjustments will be decided by the Board of Supervisors. The Service Fees in effect at the time any issue or dispute is submitted to the Board will remain in effect pending resolution of any issue or dispute. The effective date of any dispute resolution, whether retroactive or prospective, will reasonably be determined by the Board. In the event that Franchisee and the County are unable to reach agreement regarding the adjustment of Service Fees, then the parties may agree to submit the matter for binding resolution by an Independent Expert under Article 9.

13.02 Amounts Payable by Franchisee.

a. Franchise Consideration.

1. Amount. In consideration for County's granting Franchisee the franchise described in Section 4.01, Franchisee will pay the County the Franchise Consideration established from time to time by the County. As of the Franchise Date, the Franchise Consideration is equal to 4% of the Gross Revenues actually received from providing the Franchise Services. Franchisee acknowledges all of the following

- (1) The Franchise Consideration is an obligation of Franchisee and not Customers.
- (2) Franchisee pays County the Franchise Consideration as consideration for County's granting Franchisee this oligopoly.
- (3) The Franchise Consideration is one of Franchisee's many costs of doing business, just like fuel, labor, capital investment, etc.

2. Payment. Franchisee will pay the Franchise Consideration under Section 12.10.022 of the Mono County Code, and give County related documentation, and the representations and warranties below. As of the Franchise Date, the Code requires that Franchisee pay the Franchise Consideration quarterly no later than the first day of the second month immediately following the Quarter in which Franchisee rendered Franchise Services (*for example, for the quarter ending on March 31, payment is due no later than May 1*).

Representation and warranties. "I represent and warrant, under penalty of perjury of the laws of the State of California, that I am familiar with the financial transactions of [INSERT NAME OF FRANCHISEE] and am responsible for keeping and maintaining its financial records, including gross receipts thereof, and I have reviewed the [INSERT DATE AND DESCRIPTION OF ACCOMPANYING PAYMENT ACCOUNTING STATEMENT]. To the best of my knowledge and belief, the statement is true, correct and complete."

Documentation, representations and warranties filed by Franchisee are not deemed conclusive as to the information presented or statements made therein. Franchisee's submission

of documentation and representations and warranties does not preclude the County from taking additional measures and actions to collect Franchise Consideration actually due and payable.

3. Late Payment Charges. If Franchisee does not pay its Franchise Consideration under Subsection a2, then Franchisee will pay a basic penalty of 10% of the amount of the unpaid Franchise Consideration plus interest equal to 1½ % of the total of (1) the unpaid monthly charges and (2) the basic penalty, for each month, or part of a month, that the monthly Franchise Consideration has not been paid.

b. Solid Waste Permit Fee. Franchisee will pay the County any fee for Permits issued by the County in the time, manner and amount required by the Mono County Code or by resolution of the Board of Supervisors.

c. Solid Waste Fee.

1. Payment. Where directed by County, Franchisee will pay County the Solid Waste Fee in Resolution R11-39 of the Mono County Board of Supervisors, or any subsequent enactment of the Board modifying, extending, or replacing that Fee, for any Solid Waste generated by Franchisee's Customer which is an agency, department, or instrumentality of the federal government (hereinafter "Federal Customer"), as listed in Exhibit 13.02c, *except* under Subsections c2.

2. Recoupment. Where County has directed Franchisee to pay the Solid Waste Fee, Franchisee will bill and collect the Fee from a Federal Customer in a lump-sum annual payment, *unless* Franchisee demonstrates to County's satisfaction that the term of a contract for solid waste handling services between the Franchisee and the Federal Customer extends beyond the Franchise Date, and Franchisee cannot amend the contract to provide for recoupment of the fee from the Federal Customer, in which case the provisions of this section and section 1 shall not be applicable for the remaining term of that contract.

3. Effect on Service Fee Floors. The Service Fee Floor does not include a Federal Customer's Solid Waste Fee.

4. Recording County Money. When Franchisee receives payment from a Federal Customer, Franchisee will record receipt of Solid Waste Fees (which belong to County and not Franchisee) in a separate account within Franchisee's detailed general ledger titled "Mono County Solid Waste Fee," before recording the remaining receipts as Franchisee's income.

5. Remitting County Money. Together with payment of Franchise Consideration, Franchisee will pay County the aggregate of any Solid Waste Fees received during that quarter, and give County documentation satisfactory to County supporting the calculation of those Fees.

13.03 Payment of Moneys Due County.

Franchisee will pay all County Payment Obligations

- (1) on the date they are due under this Agreement or,
- (2) if this Agreement provides no date, within 20 days of County demand.

If Franchisee has not fully and timely paid a County Payment Obligation within 20 days of their due date, then County may draw on Franchisee's Letter of Credit under Section 11.04 for the amount of

- (1) the Payment Obligation, plus
- (2) the Overdue Rate or, with respect to Franchise Consideration, the late-payment charge under Section 13.02.

13.04 Fee Disputes.

a. County's Notice of Dispute. If the County disputes any amount calculated by Franchisee under Section 13.02a, the County will give Franchisee Notice of its dispute together with any request for additional information, identified with reasonable specificity, with respect thereto.

b. Franchisee's Response. Within 7 days of receiving the County's Notice, Franchisee will respond to the County's dispute and supply any requested information. If Franchisee does not respond within said time, it will be deemed to concur with the County. If Franchisee concurs or is deemed to concur, it will promptly amend the disputed invoice.

c. Dispute Resolution. If the County disagrees with Franchisee's response and the County and Franchisee cannot reach agreement during an ensuing 15-day period following the Franchisee's response, the Parties may agree to submit the matter for binding resolution by the Independent Expert under Article 9.

ARTICLE 14. BREACHES, DEFAULTS, DAMAGES AND OTHER REMEDIES

14.01 Breaches and Damages.

a. Notice and Opportunity to Cure. The County entered into this Agreement with Franchisee in part based on Franchisee's demonstrated abilities, service quality, and responsiveness to Customers' and the County's needs. It is the County's hope to avoid exercising remedies under this Agreement whenever possible by working with Franchisee informally to cure Events of Default and breaches under this Agreement. Thus, the County may, in its sole discretion, give Franchisee verbal notice of any Event of Default or breach of which the County becomes aware before exercising County's remedies under this Agreement. If Franchisee cures the Event of Default or breach to the Director's satisfaction within the number of days provided then the County will not pursue additional remedies for that Event of Default or breach. In addition, Franchisee shall have each of the opportunities to cure and/or correct Events

of Default or other failures to satisfy the obligations of this Agreement set forth in Mono County Code section 12.10.023 E.

b. Franchisee Reports. In each Quarterly Report, Franchisee will certify to the County that to the best of its knowledge it has fully and timely met its Franchise Obligations during the preceding Quarter. If Franchisee cannot so certify, then Franchisee will note those failures in its Quarterly Report and within 30 days of submitting its Quarterly Report, pay damages listed in Exhibit 14.01 for each failure.

c. County Notice. If the County becomes aware at any time that Franchisee has not fully and timely met its Franchise Obligations then the County may give Franchisee a Notice of that failure specifying any damages that Franchisee must pay the County under Exhibit 14.01 within 10 days of Notice *unless* Franchisee contests payment of damages under Subsection d. County may draw on the Letter of Credit for payment of damages.

d. Procedure for Review of Damage Obligations. Within 10 days of the date of the Notice by County described in Subsection c, Franchisee may contest imposition of damages by submitting documentary evidence to the County demonstrating why Franchisee does not owe damages. The County will use Reasonable Business Efforts to review Franchisee's evidence and render a written decision to Franchisee confirming or reversing the imposition of damages as soon as reasonably possible. The County's decision is final and binding and constitutes final Notice for the purposes of Subsection c.

e. Acknowledgements. Franchisee acknowledges the following:

(1) The County incurred considerable time and expense procuring this Agreement in order to secure an improved level of Collection service quality, accountability, and increased Customer satisfaction. Therefore consistent and reliable Franchise Service and accountability is of utmost importance to the County.

(2) The County has considered and relied on Franchisee's representations as to its quality of service commitment in entering into this Agreement, and Franchisee's breach of its Franchise Obligations represents a loss of bargain to the County and Customers.

(3) Quantified standards of performance and regular reporting to the County regarding that performance are necessary and appropriate to ensure consistent and reliable Solid Waste Handling Services, and if Franchisee fails to meet its Franchise Obligations then the County will suffer unquantifiable damages, including the following:

- Customers' inconvenience, anxiety, and frustration,
- potential political pressure, criticism and complaint by Customers;
- lost County Board and staff time; and
- loss of bargain secured through time-consuming and expensive procurement)

(4) In addition, if Franchisee fails to fully and timely satisfy its Franchise Obligations applicable to public, health, safety and welfare,, the urgency of protecting public health and safety may necessitate that the County, after prior notice to Franchisee and determination that Franchisee is unwilling or unable to address County's concerns, enter into emergency or short term arrangements for services without competitive procurement at prices substantially greater than hereunder, and the monetary loss resulting there from is impossible to precisely quantify.

(5) Lastly, termination of this Agreement for Franchisee Default and other remedies under this Agreement are, at best, a means of future correction and not remedies that make the County whole for past Breaches and Franchisee Defaults.

f. Reasonable Estimate. Therefore, the Parties agree that the liquidated damages listed in Exhibit 14.01 represent a reasonable estimate of the amount of County's damages, considering all of the circumstances existing on the Franchise Date, including the following:

- (1) relationship of the sums to the range of harm to the County that reasonably could be anticipated, and
- (2) anticipation that proof of actual damages would be costly or inconvenient.

g. Confirmation. In signing this Agreement, each Party specifically confirms the following:

- (1) the accuracy of the statements made above, and
- (2) it had ample opportunity to consult with legal counsel and obtain an explanation of this liquidated damage provision at the time that this Agreement was made.

14.02 Remedies Upon Event of Default.

a. Remedy Upon Event of Default. Upon the occurrence of an Event of Default the County has the following remedies:

1. Termination. The County may terminate this Agreement or any portion of Franchisee's Franchise Obligations. Prior to termination, the County must give Franchisee a Notice stating the reason for the termination. The County may terminate the Agreement

- (1) 30 days following the date of the Notice, or
- (2) immediately following the date of the Notice if
 - (i) County determines that protection of public health and safety requires immediate termination or
 - (ii) Franchisee fails to maintain insurance, bonds, or other assurances of performance required under this Agreement or
 - (iii) Franchisee Violates law under Subsection E.1.c of Section 10.12.023 of the County Code.

2. Suspension. The County may suspend all or a portion of this Agreement for up to 30 days. During that 30-day period the Franchisee may demonstrate to the sole satisfaction of the County that Franchisee can once again fully perform the Franchise Services. If Franchisee so demonstrates, then the County's right to suspend or terminate the Agreement will cease and Franchisee may resume providing Franchise Services. If Franchisee does not so demonstrate, then the County may terminate the Agreement and exercise any other rights and remedies under this Agreement. Prior to suspending all or a portion of this Agreement, the County must give

Franchisee a Notice stating the reasons for the suspension. The County may suspend the Agreement, effective 15 days after the date of the Notice. If the County determines that the suspension is necessary for the protection public health and safety, the County need not give Franchisee Notice but may give Franchisee oral notice stating the reasons for the suspension, effective immediately. The County will thereafter give Franchisee a Notice confirming oral notice.

3. Damages. The County may exercise its remedies of damages (including damages under Section 14.01) and draw upon the Letter of Credit under Section 11.03.

4. Equitable Relief. The County may exercise any other available remedies at law or in equity (including specific performance and injunctive relief).

Franchisee acknowledges that the County's remedy of damages for a breach of this Agreement by Franchisee may be inadequate for reasons including the following:

(1) the urgency of timely, continuous and high-quality Solid Waste Handling, including collection, transportation and/or transfer for disposal of putrescible wastes which constitute a threat to public health;

(2) Franchisee's failure to transport and deliver solid waste to the Designated Disposal Facility ("**Delivery Default**") may increase County risk of liability for environmental damage due to release or threatened release of hazardous or toxic substances, petroleum products and other materials, including the following:

- water or ground water contamination from those Facilities,
- replacement or restoration of natural resources, and
- repair, cleanup or detoxification of the solid waste management facility and any related removal, remedial, response, closure or other plan, whether under Section 107(e) of CERCLA Section 9607(e). California Health and Safety Code Section 25364 or other law.

(3) a Delivery Default may adversely affect County ability to measure diversion and comply with diversion mandates in the Act;

(4) a Delivery Default is not in the best economic, health and safety interest of customers; and

(5) for all of the reasons under Section 14.01e and Exhibit R-1.

b. Uncontrollable Circumstances.

1. Franchisee. Franchisee breaches will *not* be deemed an Event of Default if all of the following conditions are met:

(i) the breach is *caused* by Uncontrollable Circumstances as defined in Mono County Code section 12.10.023I,

(ii) the breach is related to Collection, and

(iii) Franchisee exerted Reasonable Business Efforts to prevent the occurrence and mitigate the effects of the Uncontrollable Circumstance.

2. **County.** County failure to reimburse Franchisee any amounts under this Agreement shall not be excused by Uncontrollable Circumstances.

14.03 Remedies Not Exclusive.

The County's rights and remedies in the Event of Default are not exclusive. Exercise of one remedy, including seeking damages, is not an election of remedies but is cumulative with any other remedies under this Agreement.

14.04 Waivers.

a. County Waiver of Breach.

(1) **Each Waiver is Discrete.** The County's waiver of any breach or Event of Default will not be deemed to be a waiver of any other breach or Event of Default including those with respect to the same obligations under this Agreement.

(2) **No Demand for Damages.** The County's decision not to demand or delay in demanding payment of damages will not be deemed a waiver of any Franchisee failure to satisfy any Franchise Obligations.

(3) **Acceptance of Damages.** The County's subsequent acceptance of any damages or other money paid by Franchisee, including damages, will not be deemed to be a waiver by the County of any pre-existing or concurrent breach or Event of Default.

b. **Franchisee Waiver of Certain Defenses.** Franchisee acknowledges that it is solely responsible for providing Franchise Services and by this Agreement irrevocably and unconditionally waives defenses to the payment and satisfaction of its Franchise Obligations under this Agreement based upon the following:

- (1) failure of consideration;
- (2) contract of adhesion;
- (3) impossibility or impracticability of performance;
- (4) commercial frustration of purpose; and

However, Franchisee does not waive any defense of Uncontrollable Circumstances.

14.05 Jurisdiction; Venue.

a. **Exclusive State Court Jurisdiction.** The Parties will bring any lawsuits arising out of this Agreement in State courts, which will have exclusive jurisdiction over said lawsuits.

b. **Venue.** Venue will be made and performed in courts sitting in Mono County.

c. **Location.** The site of any other hearing or action, whether arbitration or non-judicial, of whatever nature or kind regarding this Agreement, will be conducted in the County.

d. Service of Process. Franchisee will accept service of process at the address where it receives Notices.

14.06 Costs.

Within two weeks of County request, Franchisee will pay County Reimbursement Costs reasonably incurred to enforce County's rights or exercise County's remedies under this Agreement.

14.07 Assurance of Performance. If the County believes in good faith that Franchisee's ability to timely and fully perform its Franchise Obligations has been placed in substantial jeopardy for any of the following reasons, then the County may demand from Franchisee reasonable assurances of timely and full performance under this Agreement:

- (1) Franchisee is the subject of any labor unrest (including work stoppage or slowdown, sick-out, picketing or other concerted job action); or
- (2) Franchisee appears in the judgment of the County to be unable to regularly pay its bills as they become due; or
- (3) Franchisee is the subject of a civil or criminal judgment or order entered by a federal, state, regional or local agency for violation of an environmental, labor or tax law,

These reasonable assurances are in addition to all other remedies the County may have. Franchisee's failure to give the County reasonable assurances requested by the County, before the date set by County, constitutes an Event of Default under Subsection E.2.b. of Section 12.10.023 of the Mono County Code.

14.08 County Right to Provide Franchise Obligations.

a. Events. The County may perform, or contract for the performance of, any or all of Franchisee's Franchise Obligations in either of the following events:

- (1) County in its sole discretion determines that Franchisee's failure to provide any portion of Franchise Services for a period of 48 consecutive hours constitutes a danger to the public health, safety or welfare; or
- (2) The County suspends any portion of Franchise Obligations or terminates this Agreement under Section 14.02.

The County has no obligation to continue performing Franchise Obligations and may at any time, in its sole discretion, stop providing Franchise Obligations. However, the County's right to provide Franchise Obligations including contracting with another Person, will continue until either of the following times:

- (1) Franchisee can demonstrate to the County's satisfaction that Franchisee is ready, willing and able to timely and fully perform Franchise Obligations; or

(2) County provides Solid Waste Handling Services comparable to Franchise Services in scope and price, which may include contracting with another service provider.

b. Notice. The County may give Franchisee oral notice that the County is exercising its right to perform Franchise Services, effective immediately, but must give Franchisee written notice of confirmation within 24 hours.

c. Service Assets. Upon giving Franchisee oral notice, the County may take possession of any or all of the Service Assets necessary or convenient to perform Franchise Obligations. Franchisee will fully cooperate with the County to transfer possession of Service Assets to the County. The County may use Service Assets to provide all or a portion of Franchise Services. The County will have absolute and exclusive control over Service Assets as though the County were the absolute owner thereof. However, upon County request, Franchisee will keep Service Assets in good repair and condition, including providing Vehicles with fuel, oil and other maintenance. The County will assume complete responsibility for use of Service Assets while they are in its possession and will maintain Service Assets in the same condition as they were in when Franchisee transferred their possession to the County (unless Franchisee maintains them as provided in the preceding sentence), and will return Service Assets to Franchisee in the same condition as received, normal wear and tear excepted.

d. Maintaining Insurance. During the County's possession of Service Assets, Franchisee will maintain in full force and effect all insurance and any Financial Assurances related to self-insured retentions or increased deductibles required under Section 11.01. By granting the County the right to possession and use of Service Assets Franchisee hereby declares as follows:

- (1) The County and Customers are permitted users for purposes of liability insurance policies that Franchisee must procure and maintain under this Agreement, and
- (2) The County's and Customers' use and possession of Service Assets is not intended to be and is not transfer of ownership for purposes of any liability policies.

Furthermore, if the County and Customers have possession and use of Service Assets, Franchisee will execute whatever documentation its liability insurers require in order to ensure that the County and Customers are protected and covered by Franchisee's general and automobile policies, including requesting and executing endorsements to those policies. However, Franchisee is not obligated to pay any additional cost of those endorsements unless the County reimburses Franchisee for those additional costs. The County may pay for any endorsements, additional premiums or other costs. If the County takes use and possession of Service Assets, the County may call and confer with Franchisee's insurance broker to determine what, if any, documentation or actions are necessary to achieve protection satisfactory to the County. By executing this Agreement, Franchisee directs its insurance broker to cooperate with and take direction from the County under those circumstances, which authorization Franchisee may not rescind without the County consent.

The County has no obligation to continue possession and/or use of Service Assets and may at any time, in its sole discretion, cease possession and/or use.

e. Franchisee's Personnel. Immediately upon giving Franchisee oral notice under Subsection b, the County may engage personnel necessary or convenient to providing all or a portion of Franchise Obligations, including Franchisee's current or prior employees. Where County has taken possession of Franchisee's Vehicles under subsection c, County will use its best efforts to utilize Franchisee's personnel prior to utilizing County employees or other Persons to drive such Vehicles. The County will not be obligated to hire Franchisee's employees and may use County employees or other Persons to provide all or a portion of Franchise Services, including driving Vehicles if Franchisee's personnel is not reasonably available to perform that portion of Franchise Services. Promptly upon County request, Franchisee will make available to the County all Franchisee's management and office personnel necessary or convenient for providing Franchise Services, including Customer services and billing, at the cost, if any, provided in subsection h.

f. Records and Reports. Upon County request, Franchisee will promptly give the County immediate access to Franchisee's office and possession of Records, including Records related to routing, customer service subscriptions and billing.

g. Stipulations. Franchisee agrees and stipulates that the County's exercise of rights under this Section:

- (1) is not a taking of private property for which the County must compensate Franchisee;
- (2) will not create any liability on the part of the County to Franchisee, except for rental and costs under Subsection h; and
- (3) does not exempt Franchisee from any Indemnifications, which Parties acknowledge are intended to extend to circumstances arising under this Section, *except* for the following:
 - the negligence of County officers and employees (other than employees of Franchisee at the time the County commenced performing said Franchise Services) and
 - Individuals driving collection Vehicles.

h. Rental and Costs

1. Uncontrollable Circumstances. If the events enumerated in Subsection a are due to Uncontrollable Circumstances, then the County will pay Franchisee the following costs if Franchisee is not then being compensated for providing Franchise Services through charging and collecting Service Fees from Customers:

- (1) rental fees for the County's use and possession of Service Assets equal to fair market value thereof as determined by an independent appraiser selected by the Parties in the same manner as the Independent Expert under Article 9;
- (2) Franchisee's Direct Costs of providing Vehicles with fuel, oil and other maintenance under Subsection c;
- (3) Franchisee's insurance costs under Subsection d, unless County waives the requirements of Subsection d.

- (4) Franchisee's Direct Cost of making available to the County Franchisee's personnel under Subsection e.

2. Franchisee Breach or Event of Default. If the events enumerated in Subsection a are *not* due to Uncontrollable Circumstances, then the County will not be obligated to pay the costs enumerated in subsection h1, and Franchisee will pay the County the County's Reimbursement Costs incurred in taking possession of Service Assets and performing Franchise Obligations within 20 days of County's request. If Franchisee does not pay within 20 days, County may draw upon any letter of credit, guaranty or other security provided under this Agreement.

i. Ownership. Any document, including a lease, financing contract, acquisition over time, mortgage or other instrument establishing a security interest to or by the Franchisee ("**Service Asset Document**") that encumbers or limits the Franchisee's interest in Service Assets, including any replacement or substitute equipment, will allow the County to assume the Franchisee's obligations and to continue use of Service Assets in performing Franchise Obligations.

ARTICLE 15. ASSIGNMENT AND TRANSFER

a. County Assignment. The County may assign this Agreement to a joint powers authority, a sanitation district or other public entity succeeding to the major portion of the County's solid waste management rights and obligations. The County may also assign this Agreement to any other Person, with Franchisee's consent, upon the County's determination that the assignee is financially capable of meeting the County's obligations under this Agreement.

b. Franchise Transfer. Franchisee acknowledges that the experience and expertise of Franchisee were material considerations of the County in entering into this Agreement with Franchisee. Franchisee may not Transfer this Agreement except under Section 12.10.23C of the Mono County Code. Franchisee may not circumvent the County's Transfer consent rights in practical effect by securing goods or services from a Subcontractor that would be itself subject to "transfer," where Subcontractor is substituted for "Franchisee" in the definition of "Transfer".

c. Transfer. "Transfer" means an action (or inaction) that has any of the following direct (or indirect) effects:

1. **Control or Ownership of Franchisee:** changing any or all of the following:
 - the effective control, or
 - ownership interest (actual or constructive) of Franchisee (including buyout, merger, acquisition, consolidation, reorganization, recapitalization, stock (re)issuance, voting trust, pooling agreement, escrow arrangement, dissolution, or liquidation (except to Immediate Family or a trust created primarily to benefit members of the Immediate Family) unless Franchisee proves to satisfaction of County less than 25% of ownership interest has changed;
2. **Control or Ownership of Franchise Service Assets:** changing either of the following:
 - the effective control, or

- the ownership (actual or constructive) of franchise Service Assets (except for sales or transfers to the Immediate Family or a trust created primarily to benefit the Immediate Family) unless Franchisee proves to satisfaction of County that less than 20% of the value of franchise service assets has changed ownership, or
3. resulting in someone other than Franchisee performing franchise services or assuming the obligation to provide franchise services (including substitution of someone else by a surety company providing a performance bond, contract assignment, transfer, conveyance, sublease or licensing).

For purposes of this definition, an action (or inaction) includes assignment by operation of law, such as insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment of an execution levied against this Agreement, appointment of a receiver taking possession of any of Franchisee's tangible or intangible property, or transfer occurring in a probate or other estate proceeding.

“Immediate Family” means parents, grandparents, siblings, children, and grandchildren of individuals having a shareholder or other equity interest in Franchisee as of the Contract.

“Ownership” means the state or fact of being the direct or indirect, actual or constructive owner of property, such as a parent holding corporation owning stock of a subsidiary corporation that in turn owns stock in its own subsidiary corporation or corporations.

d. Franchisee must remain secondarily liable after the transferee for performing Franchise Obligations.

e. The transferee must assume all of Franchisee’s franchise obligations (including obligations precedent).

f. **Payment of County Costs.** Franchisee acknowledges the following:

1. County is concerned that Transfer of this Agreement could result in significant Rate increases, decline in quality of franchise service (especially during transition to new key personnel and management) and threat to public health and safety.
2. County might incur significant but presently unknown expenses to investigate whether Transfer of this Agreement is in the best interest of public health and safety. Therefore Franchisee will pay County the following expenses.

(i) ***Transfer Fee and Deposit.*** Franchisee must make any request for County consent to a Transfer in the manner prescribed by County. Franchisee will pay County a non-reimbursable fee of \$10,000 plus a refundable Transfer Deposit before County consideration of Franchisee's request. County will return to Franchisee any Transfer Deposit paid in excess of the transfer costs incurred. ***“Transfer Deposit”*** means County estimate of the amount of County anticipated Transfer Costs not to exceed \$35,000 and actual costs shall be substantiated.

(ii) **Additional Transfer Costs.** In the course of County processing Franchisee's request for transfer, Franchisee will further pay County its additional Transfer costs in excess of the Transfer cost within 30 days of County request therefor, whether or not County consents to the Transfer. At Franchisee's request, County will provide Franchisee access to all records evidencing the Transfer costs incurred. *"Transfer Costs" means County Reimbursement Costs of considering and reviewing Franchisee request for Transfer, investigating the suitability of the transferee, and determining whether or not to give consent to the Transfer, including fees of consultants and attorneys necessary to analyze the application and to prepare documents to effectuate the Transfer as well as County staff costs.*

(iii) **County Reimbursement Costs of Enforcement.** In addition, Franchisee will pay County Reimbursement Costs for fees and investigation costs that County deems necessary to enjoin the Transfer or to otherwise enforce this provision within 30 days of County request.

ARTICLE 16. THE PARTIES

16.01 Franchisee is Independent Contractor.

Franchisee will perform Franchise Services as an independent contractor engaged by the County and not as officer, agent, servant, employee or partner of the County nor as a joint venture with the County. No employee or agent of Franchisee is deemed to be an employee or agent of the County. Franchisee will have the exclusive control over the manner and means of performing Franchise Services and meeting its Franchise Obligations and over all Persons performing Franchise Services. Use of the word "direct" in this Agreement signifies County's right to require Franchisee's compliance with County requests, but will not be construed to signify County control over the manner and means of performing Franchise Services. Franchisee is solely responsible for the acts and omissions of its officers, employees, contractors, subcontractors and agents, none of which is deemed to be an officer, agent, servant or employee of the County. Neither Franchisee nor its officers, employees, contractors, subcontractors and agents will obtain any rights to retirement benefits, workers compensation benefits, or any other benefits which accrue to County employees and Franchisee expressly waives any claim it may have or acquire to said benefits.

16.02 Parties in Interest. Nothing in this Agreement, whether express or implied, is intended to confer any rights on anyone other than the Parties and their representatives, successors and permitted assigns.

16.03 Binding on Successors. The provisions of this Agreement will inure to the benefit of and be binding on the successors and permitted assigns of the Parties.

16.04 Further Assurances. Each Party agrees to execute and deliver any instruments and to perform any acts as may be necessary or reasonably requested by the other in order to give full effect to this Agreement.

16.05 Actions of the County in Its Governmental Capacity. Nothing in this Agreement is interpreted as limiting the rights and obligations of the County in its governmental or regulatory capacity. However, Franchisee acknowledges that County designation of the Designated Disposal Facility is an exercise of County contractual rights and not a governmental or regulatory action.

16.06 Franchisee's Obligations Performed at Its Sole Expense. Franchisee will provide Franchise Services and perform Franchise Obligations solely for the compensation expressly stated in this Agreement. Franchisee acknowledges that it will not receive any form of payment or other consideration from the County for its performance under this Agreement except for the grant of the franchise under this Agreement. Franchisee will instead look solely to its Customers to compensate Franchisee for providing all Franchise Services and performing its Franchise Obligations.

16.07 Parties' Representatives.

a. County Representative.

(1) Named. The County Representative is the Director unless otherwise named by the Board from time to time upon Notice of County Representative to Franchisee.

(2) Delegation. By signing this Agreement, County delegates to County Representative the authority to act on behalf of the County in the administration and enforcement of this Agreement and to exercise County rights, remedies and options under this Agreement, *except* with respect to:

1. extending the Term,
2. suspending or terminating the Agreement,
3. approving or disapproving transfer of this Agreement,
4. modifying any rate, fee, or charge provided in this Agreement; and
5. exercising any delegation of authority contrary to law.

b. Franchisee Representative. The Franchisee Representatives are [XXXXXX], as may be changed from time to time upon Notice of Franchisee Representative to the County. Franchisee represents and warrants that the Franchisee Representative is authorized to act on behalf of Franchisee in the performance under this Agreement.

16.08 Due Diligence. Franchisee acknowledges that the County may be subject to statutory fines or penalties for failure to achieve mandated waste diversion levels and that waste management is a public health and safety concern. Franchisee will exercise due diligence in performing Franchise Services.

16.09 Subcontracting. Franchisee may not Subcontract any portion of the Franchise Services, including the provision of Bins and Containers, under this Agreement. Franchisee may engage any number of Subcontractors providing goods or services that do not comprise Franchise Services or the provision of Bins and Containers (such as, billing services, equipment maintenance). Franchisee will not Subcontract in a manner that effectuates a Transfer or assignment of this Agreement, unless it complies with Section 12.10.023 of the Mono County Code and this Agreement (including Article 15).

Franchisee must direct the work of Franchisee's Subcontractors. Franchisee is solely responsible for paying any compensation due or payable to Franchisee's Subcontractors. The County may require Franchisee to remove any Subcontractor for good cause. Subcontractors' failure to satisfy its subcontracted obligations (including violation of Applicable Law) is a failure by Franchisee and the County may exercise any or all of the rights and remedies available to the County under this Agreement with respect to Franchisee.

"**Subcontractor**" includes anyone, including Affiliates, that provides goods or services that do not comprise Franchise Services or related to providing Franchise Services or performing Franchise Obligations, whether pursuant to formal, written agreement or merely in fact, *except for* the provision of Bins and Containers. "**Subcontract**" means any arrangement, formal or informal, written or otherwise, between Franchisee and a Subcontractor for providing goods or services related to providing those Franchise Services.

In its Annual Report, Franchisee will disclose all of the following:

- (1) the name of all Subcontractors,
- (2) the amount goods or services related to the provision of Franchise Services that each Subcontractor provides to Franchisee, and
- (3) a description of Franchisee's relationships to each Subcontractor (including ownership interests).

16.10 No Use of County Name. Franchisee will not do business as or use a corporate, partnership, venture or other formal name, containing the words "Mono" or "County" or implying County ownership *although* upon County request, Franchisee will use the County's name in its public relations signage.

ARTICLE 17. AMENDMENTS

a. Director

(1) Changes to Franchisee's Exhibits. Director may amend Exhibits with attachments provided by Franchisee where specified in this Agreement.

(2) Mutual Consent. The following changes in the Agreement are effective upon mutual consent of Director and Franchisee,

1. Changes in Franchise Obligations that do not result in the adjustment of any fee, charge, cost, or other payment,
2. Immaterial changes in Franchise Obligations (such as changing the date that a report is due), and
3. Changing Franchisee Representative.

b. County Board Amendments. Material changes in Franchise Obligations or Parties' rights (such as changes in County remedies for breach of this Agreement) are effective only upon execution of a written amendment to this Agreement.

c. Written. The Parties may amend this Agreement only upon written agreement duly authorized and executed by both Parties.

However, the Parties' dated signatures on Exhibits is deemed evidence that the Exhibit was duly amended following either or both Notice or consent, as the Exhibit requires. Amended Exhibits supersede the prior Exhibits as of the last dated signature of County Representative or Franchisee Representative.

d. "Amend" includes additions and deletions, but *not* adjustment of any fees, including Service Fees or Service Fee Floors, Franchise Consideration, Capacity Payment and Solid Waste Fees under existing provisions of this Agreement (such as annual adjustments).

ARTICLE 18. NOTICES, WRITING, EXERCISE OF OPTIONS

18.01 Notices.

a. Manner. The Parties must give Notices at the address under Subsection b, in any of the following manners:

- (1) by e-mail or facsimile promptly followed by delivery described in following items (2), (3) or (4),
- (2) personal delivery to a representative of the Parties, with signed receipt,
- (3) deposit in the United States mail, first class postage prepaid (certified mail, return receipt requested), or
- (4) deposit with a commercial delivery service that provides delivery verification.

b. Address.

County: Matt Carter, Solid Waste Superintendent
Mono County Department of Public Works

P.O. Box 457 (or, 74 North School Street)
Bridgeport, California 93517

Telephone: (760) 932-5440
Facsimile: (760) 932-5441
e-mail: mcarter@mono.ca.gov

Franchisee: D & S Waste Removal, Inc.
Darrol J. Brown, President
P.O. Box 834
Yerington, NV 89447

Telephone: (775) 463-3090
Facsimile: (775) 463-3090
e-mail: dwaste@hughes.net

Parties may change their contact information above upon Notice to the other Party.

18.02 Writing. Each Party must communicate with each other under this Agreement in writing (including electronic media), such as the following:

- (1) reports,
- (2) requests, proposals,
- (3) reviews, comments,
- (4) directions, demands, orders,
- (5) selections, option exercises, approvals, waivers,
- (6) acknowledgments, and certifications.

18.03 Exercise of Options

Recognizing the essential public health and safety protections this Agreement serves, where this Agreement specifically states that the exercise of any discretionary action (such as requests, proposals, directions, demands, orders, selections, options exercises, approvals and waivers) is in the County's, sole, exclusive or absolute discretion, control or judgment, that exercise of discretion is deemed reasonable *unless* this Agreement specifically provides otherwise.

Discretionary actions must be in writing *unless* this Agreement explicitly allows oral communication. Explicit reference to "written" or "writing" with respect to any one communication does not imply that other communications without explicit reference to writing may be oral.

ARTICLE 19. EXECUTION OF AGREEMENT

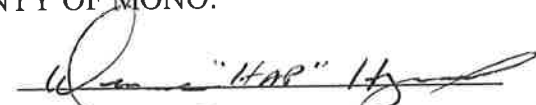
Authority to Execute.


a. County. The County warrants that the officers listed below have been duly authorized by the County to execute this Agreement on behalf of the County.

b. Franchisee. Franchisee warrants that the individuals listed below have been duly authorized by the Franchisee to execute this Agreement on behalf of the Franchisee.


COUNTY OF MONO:

FRANCHISEE:

By: 
Title: Chair, Board of Supervisors
Date: 6-21-11

By: 
Title: President
Date: 6/20/11

Approved as to Form (County Counsel):

By: 
Title: County Counsel
Date: 6-21-11

Approved by Risk Management:

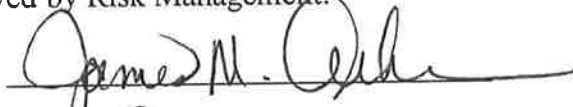
By: 
Title: CAO
Date: 6/23/2011

EXHIBIT R-1: FINDINGS REGARDING DESIGNATED DISPOSAL FACILITY

In view of the following findings and facts, the County has determined that in order to sustain its solid waste program, protect itself from liability for waste generated within its borders, and continue to provide beneficial solid waste services such as education and recycling to its residents and to visitors to the area, it is necessary to require that solid waste collected by franchisees be delivered to a solid waste facility owned by the County unless specifically exempted under this Agreement:

a. Local Interests.

(i) The County currently operates a comprehensive Solid Waste program which includes six Solid Waste transfer stations, some of which additionally serve as landfills for C&D Waste, and one regional Class III Municipal Solid Waste Landfill.

(ii) At these facilities, the County offers recycling services for cardboard, beverage containers, scrap metal, white goods, wood waste, waste tires, used oil and filters, and batteries. In addition, the County accepts and processes hazardous materials such as household hazardous waste and universal wastes. The County provides these services for free or at a low cost (for tires and white goods) to the public in order to encourage participation and minimize illegal disposal.

(iii) Also as a part of its solid waste program, the County has implemented an aggressive load-checking system at its landfill and transfer stations in order to prevent the improper disposal of liquids and hazardous materials and to help identify and separate recyclables. As a part of this program, the County gives the public and waste haulers information about recycling and disposal of hazardous and other special wastes.

(iv) A combination of the above services offered by the County has resulted in impressive results with respect to recycling, reduction in illegal dumping and disposal, and the safe handling and proper disposal of hazardous materials. For example, in 2010 the County accumulated more than 280 tons of scrap metal and white goods at its regional landfill which were then recycled. In 2010 the County also collected 5,247 of inert waste and 3,263 tons of organic material (wood waste, leaves, manure, etc.) were diverted from the County's regional landfill, amounting to a combined 30% of all Solid Waste received.

(v) The diversion of recyclable materials through the County's solid waste program, and its regional landfill specifically, has enabled the County to meet the California Integrated Waste Management Act's mandate that local jurisdictions divert for reuse or recycling 50% of the waste generated within their borders annually or face penalties of up to \$10,000 per day. Also pursuant to the Integrated Waste Management Act, the County has drafted and adopted an Integrated Waste Management Plan which sets forth the County's goals with respect to source reduction and recycling and the means to accomplish those goals, of which the programs described above are a critical component.

(vi) The County has developed plans and taken aggressive actions to minimize the risk of environmental harm from the County's landfill operations which could potentially result from the generation and migration of landfill gases or leachate. These measures pertain not only to the current operation of the landfill but also to its proper closure and maintenance after closure. For example, the County has installed groundwater monitoring wells, conducts quarterly monitoring of landfill gas to identify potential subsurface migration, and sets aside funds each year to pay for closure activities consisting of the permanent sealing of the landfill. Additionally, under California law, the County will monitor and maintain its landfills for a minimum of 30 years after closure.

(vii) All of the above programs are paid for largely through gate fees generated at the County's landfill and transfer stations. The loss of gate fee revenue caused by the transport of Solid Waste to facilities other than those operated by the County threatens the County's entire Solid Waste program and could affect the County's compliance with the Integrated Waste Management Act, causing the increased landfilling of recyclable materials and the improper disposal of Unpermitted Waste as well as exposing the County to significant fines and penalties.

(viii) Moreover, the County has no power or authority to regulate the handling or disposal of Solid Waste outside of its borders to ensure that such waste is properly managed. Yet it remains potentially liable for contamination caused by that waste under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"). Again, there is no way for the County to control this risk if it has no power or authority to regulate how the waste is managed. The County desires to minimize this exposure to CERCLA liability to the maximum extent feasible.

(ix) The County's concerns about liability resulting from the disposal of County-generated waste at facilities not operated by the County are real: 3 of the 4 regional landfills located in the eastern Sierra within a 200-mile radius of Mono County (and the only 3 which have accepted waste or indicated the willingness to accept waste generated in Mono County in the past) do not have any groundwater or landfill gas monitoring systems in place and lack many of the other basic regulatory and environmental controls that have been implemented at the County's facilities.

(x) For all of the above reasons, the County has determined that it is necessary that Solid Waste collected by Franchisees be delivered to a Solid Waste facility owned or operated by the County except as otherwise authorized by this Agreement.

b. No Viable Alternatives.

The County has considered alternatives to requiring Franchisees to deliver Solid Waste to a Solid Waste facility owned by County or, alternatively, paying the Capacity Payment for limited out-of-county hauling, but has found that there are no viable alternatives.

(i) The County's ability to subsidize solid waste management through additional taxes or property-based fees is constrained practically and under the State constitution.

(ii) The County has the power, authority and direction to establish diversion performance standards at its own Solid Waste facility or facilities. It cannot establish, implement or enforce those standards at facilities it does not own, including landfills where some Solid Waste generated in the County is presently being disposed.

(iii) Due to its rural character and remote location, it is impractical or impossible to require mandatory collection within the County and many County residents continue to self-haul to the County's landfill or transfer stations. If those facilities ceased operation as a result of the failure to collect sufficient gate fee revenues to maintain them, then County residents and businesses would be faced with, in many cases, more than a 100-mile drive to dispose of their waste or would be forced to subscribe to Solid Waste Collection services to haul that waste for them. This would likely increase instances of illegal dumping, as well as be impractical for the reasons described in Subsection b.(v) below. In addition, it would deprive those residents and businesses of the recycling and Unpermitted Waste processing services which are now available at the County's facilities.

(iv) User generation fees are not an alternative source of County funding. The County has many rural areas, resulting in routing and collection inefficiencies for commercial waste haulers that can make collection cost at many remote residences prohibitively expensive for residents of limited financial means. If the County required private haulers to collect user generation fees on behalf of the County from private customers/subscribers absent mandatory subscription, those customers would unfairly and inequitably bear Solid Waste management costs of all County residents, those who subscribe and those who do not. As subscription rates increased, customers might drop service, thereby triggering an increasing spiral of costs spread over fewer customers/subscribers, and an increase in illegal dumping. Therefore, the County faces the practical and political inability to implement user fees in lieu of gate fees at County facilities.

EXHIBIT 1.01: DEFINITIONS

AB 939 or the **Act** means the California Integrated Waste Management Act under California Public Resources Code at Sections 40000 *et seq.*

Affiliate or Affiliates means all businesses (including corporations, limited and general partnerships and sole proprietorships) which are directly or indirectly related to Franchisee by virtue of direct or indirect ownership interests or common management, including any or all of the following:

- (1) **Subsidiaries:** a business in which Franchisee has a direct or indirect ownership interest,
- (2) **Parent:** a business which has a direct or indirect ownership interest in Franchisee, and
- (3) **Sibling:** a business which is also owned, controlled or managed by any business or individual which has a direct or indirect ownership interest in Franchisee.

Agreement means this Agreement, including all exhibits and attachments, as may be amended.

Annual Report means the report described in Section/ Exhibit 10.02b.

Applicable Law means any or all of the following enacted, adopted, promulgated, issued, ruled, ordered, determined or otherwise made by any Regulatory Authority with respect to Franchise Services or the Parties' obligations under this Agreement:

- (1) laws, statutes,
- (2) rules, regulations,
- (3) guidelines,
- (4) Permits,
- (5) actions, determinations, judgments, orders, or
- (6) other requirements.

Examples of Applicable Law are listed in Exhibit 8.03.

Bins means metal containers for Collection Solid Waste with front-end loading vehicles, such as 3 yard dumpsters.

Board or County Board means the County Board of Supervisors.

Bulky Waste means Solid Waste that cannot be contained within a Cart, but can be lifted by 2 people using a dolly, including the following:

- (1) furniture (such as chairs, sofas, mattresses and rugs);
- (2) appliances (such as refrigerators, ranges, washers, dryers, water heaters, dishwashers, small household appliances and other similar items commonly known as "**white goods**");
- (3) Yard Wastes (such as tree branches, scrap wood); and
- (4) up to 2 tires for automobiles or pick-up trucks, per set-out..

Bulky Waste does *not* include Construction and Demolition Waste

CalRecycle means California Department of Resources, Recycling and Recovery

Capacity Payment means payment under Exhibit 7.01b.

Carts means wheeled containers for storing discarded Solid Waste that are collected by either semi or fully automated vehicles having a capacity of up to 96 gallons supplied by Franchisee for Collection of Customers' Solid Waste.

C&D Waste means "construction and demolition waste" defined under Section 12.02.010 of the Mono County Code.

CERCLA means the Comprehensive Environmental Response, Compensation and Liability Act of 1982 (42 U.S.C. § 9601 *et seq.*).

Collect, Collection or other form thereof refers to Solid Waste pickups made by Franchisee under this Agreement.

Franchise Date means the date on the cover of this Agreement.

Commercial or **Commercial Premises** is defined in Mono County Code Section 12.02.020. Commercial Collection Services are described in Section 4.01c(2).

Commercial Set-out Site is defined in Section 4.01c(2)(i).

Containers means the receptacles for discard of Solid Waste pending Collection, including the following:

- (1) Carts,
- (2) Bins,
- (3) Roll-Offs, and
- (4) compactors..

Contract Year means the calendar year, commencing January 1 and ending December 31.

County means all of the following:

- (1) the County of Mono, a political subdivision of the State of California,
- (2) any governmental entity which may assume waste management obligations of the County after the Franchise Date, including any joint exercise of powers authority or other similar public entity with which the County participates or contracts with, established to provide solid waste management services or meet Solid Waste diversion requirements under Applicable Law.

For the purposes of Indemnifications, "County" also means its officers, employees, agents, franchisees, attorneys, administrators, affiliates, representatives, insurers, assigns and any successor or successors to the County's interest.

County Code or **Code** means the Mono County Code, including Title 12.

County Office Hours means 8 a.m. to 5 p.m. on County Working Days.

County Payment Obligations means monetary amounts due and payable to County, or claims by County for those amounts, including the following:

- (1) under Section 13.02,
- (2) under Section 14.01,
- (3) any County Reimbursement Costs, and
- (4) any amounts accrued and payable upon termination of this Agreement under Section 15.01.

County Reimbursement Costs means Direct Costs incurred by the County plus 10%.

County Working Days means days on which the County administrative offices are open to the public.

Customer(s) means anyone to whom Franchisee is required to provide Franchise Services, such as owners, managers, tenants, occupants and other individuals persons having the care or control of any premises within the County.

Day means calendar day.

Delivery Obligations means Franchisee's obligation to deliver Solid Waste to the Designated Disposal Facility under Section 7.01.

Designated Disposal Facility means the Benton Crossing Landfill, located at 899 Pit Road in Mono County, or such other Disposal Facility or Transfer Station as County may designate under Section 7.01.

Direct Costs are actual costs incurred, including staff, equipment, materials, overhead, and other costs reasonably expended in the performance of an activity, certified by an authorized financial officer of the Party submitting a payment demand therefor.

Director means the Director of County Department of Public Works or his or her designee.

Diversion Facility is defined in Section 6.01a.

Divert, Diverted, Diversion or other form thereof is defined in Section 6.01a.

Diverted Recyclables is defined in Section 6.01a.

E-waste means waste that is powered by batteries or electricity (*such as computers, telephones, answering machines, radios, stereo equipment, tape players/recorders, phonographs, videocassette players/recorders, compact disc players/recorders, and calculators*), including CEDs (a covered electronic device as defined in California Public Resources Code Section 42463) *such as the following:*

1. *cathode ray tube (CRT) device (including television and computer monitor),*
2. *LCD desktop monitor, laptop computer with LCD display, LCD television,*
3. *plasma television, and*
4. *any other covered electronic devices listed in the regulations adopted by the California Department of Toxic Substances Control pursuant to California Health and Safety Code Section 25214.10.1(b).*

Event of Default means an Event of Default listed in Subsection (E) of Section 12.10.023 of the Mono County Code, or failure by the Franchisee to deliver solid waste to the Designated Disposal Facility, under Section 7.01 of this Agreement.

Franchise Consideration means the consideration described in Section 13.02a.

Franchise Obligations means Franchisee's liabilities and obligations under this Agreement, including providing Franchise Services.

Franchise Services means all Franchise Obligations of Franchisee to Customer under Article 4.

Franchise Area means the unincorporated area of the County of Mono, excluding that portion of the County known as "Oasis" and described in Exhibit 4.01.

Franchisee means the following:

- (1) the signatory named and signing the execution page of this Agreement, and
- (2) any successor to Franchisee's rights or obligations under this Agreement, including anyone to who Franchisee Transfers this Agreement.

For purposes of Indemnifications, Franchisee also means Franchisee's employees, officers, agents, Subcontractors and consultants performing or responsible for performing Franchise Services; although only the signatory to this Agreement, is obligated to provide Indemnifications and those employees, officers, agents, Subcontractors and consultants will not be liable for Indemnifications as individuals.

Franchisee's Reimbursement Costs means the rate listed on Franchisee's current fee schedule or, if not listed on the fee schedule, then Franchisee's Direct Costs plus 10%.

Gross Revenues means revenue or compensation in any form derived directly or indirectly by Franchisee, its Affiliates, subsidiaries, parents or any other entity in which Franchisee has a financial interest in collecting, transporting, arranging, handling and/or disposing of franchised Solid Waste generated in the Franchise Area. Gross Revenues does not include revenue from the sale of Recyclable Materials.

Hazardous Waste means "hazardous waste" as defined in Section 12.02.020 of the Mono County Code under "Unpermitted Waste".

Holidays means the following:

- (1) days when the Designated Disposal Site is closed, and

(2) any other days designated by Franchisee as Holidays, satisfactory to the County.

Household Hazardous Waste means any Unpermitted Waste generated in small quantities at Residential premises, excluding any Unpermitted Waste generated in the course of operation of a business concern at a residence, under Section 25218.1 of the California Health and Safety Code.

Indemnifications means all indemnifications, releases, hold harmless and defenses and under this Agreement.

Including (not capitalized) means “including, without limitation”, “including, but not limited to”

Independent Expert is the Person selected under Section 9.01a.

Liabilities is defined in Section 11.02.

Non-Collection Notice means either:

- (1) Verbal notice by Franchisee to Customer given within 24 hours of the non-collection of Solid Waste from a Customer’s Set-out Site on the Regularly-Scheduled Collection Day informing the Customer of the reason for the non-collection and notifying the Customer of how the non-collection will be remedied (the manner in which Customer should discard materials);

or, if directed by County

- (2) a printed card left by Franchisee for Customers at the times, in the events and in the manner described in Section 4.04, satisfactory to County, which contains, at a minimum:
 - a. the date and time it is given,
 - b. the complete address of the premises,
 - c. the reason for the non-collection,
 - d. the name of Franchisee’s employee who prepared the notice, and
 - e. the manner in which materials should be prepared for collection,
 - f. printed in English and Spanish. Franchisee will leave a hard (cardstock) copy with the Customer, will retain one copy, and will transmit one copy to the Director on the next weekday which is not a Holiday.

Notice (or **Notify** or other variation thereof) means notice given under Article 18.

Office or **Franchisee’s Office** means the administrative office of Franchisee and identified by Franchisee to County.

Office Hours or **Franchisee’s Office Hours** means 8 a.m. to 5 p.m., Monday through Friday.

Overdue Rate means 10% per annum.

Own or **Ownership** is defined in Section 15.01.

Party and Parties refers to the County and the Franchisee, individually and together.

Permits means all federal, State, County, other local and any other governmental unit permits, orders, licenses, approvals, authorizations, consents and entitlements that are required under Applicable Law to be obtained or maintained by anyone with respect to Franchise Obligations and Franchisee's operations.

Person includes any individual, firm, limited liability company, association, organization, partnership, industry, public or private corporation, trust, joint venture, the United States, the State, a County (excluding Mono County), a municipality or special purpose district or any other entity whatsoever.

Procurement Proceedings means any memorandums, meetings, correspondence, telephone calls, field trips, draft documents, and County Board sessions with respect to the planning, development, drafting negotiation and execution of this Agreement.

prompt, promptly and variations thereof (not capitalized) mean as soon as possible, but not less than 2 days.

Quarter means any of the 3-month periods identified in Exhibit 10.02a.

Quarterly Reports means reports described in Section 10.02a.

Records are defined in Section 10.01a.

Recyclables is defined in Mono County Code 12.02.020..

Reasonable Business Efforts means those efforts a reasonably prudent business Person would expend under the same or similar circumstances in the exercise of that Person's business judgment, intending in good faith to take steps calculated to satisfy the obligation which that Person has undertaken to satisfy.

Refuse means Solid Waste comprised of rubbish, trash and garbage.

Regularly-Scheduled Collection Day means Regularly-Scheduled Residential Collection Day and Regularly-Scheduled Commercial Collection Day.

Regularly-Scheduled Commercial Collection Day is defined in Section 4.01c2(iv).

Regularly-Scheduled Residential Collection Day is defined in Section 4.01c1(iv).

Regulatory Authority is defined in Mono County Code 12.02.020, plus any federal, state or local governmental unit (whether a separate entity or a department or division of the federal, state or any local government) that does either or both of the following:

1. regulates franchise services or operations of Franchisee, or
2. enforces law applicable to Franchise Obligations or operations of Franchisee,

including:

- CA DOT, CA DMV and other units that regulate transportation or enforce transportation laws,
- CalRecycle, AQMD, water board and other units that regulate operations or enforce environmental laws,
- EDD, U.S. Immigration and Naturalization Services, federal and state departments of labor and other units that regulator operations or enforce labor laws,
- **IRS, CA Franchise Tax Board, SEC, federal and state Departments of Justice, and other unites that regulate taxation or financial affairs of Franchisee,**
- County (or County Public Works Department or other department), and
- the Local Enforcement Agency in the County.

Residential is defined in Mono County Code 12.02.020.

Residential Set-out Site means the edge of the driveway in front of a Residential premise or, if there is no accessible driveway, such other location as agreed to between the Residential Customer and Franchisee and specified in the Subscription Order.

Roll-offs means Containers designed for disposal of Solid Waste loaded onto and discharged from tilt-frame trucks or trailers at the Solid Waste generation site by winch or similar means. Such Containers are also commonly referred to as “debris boxes.”

Service Asset Documents are defined in Section 14.08i.

Service Assets means all property of Franchisee used directly or indirectly in performing Franchise Services, including Vehicles, Containers, maintenance equipment and facilities, administrative equipment and offices and related supplies.

Service Day means weekdays and Saturday, other than Holidays.

Service Fee(s) means those fees charged to Customers by Franchisee for Franchise Services.

Set-out Site means Residential Set-out Site and Commercial Set-out Site.

Solid Waste is defined in Mono County Code 12.02.020.

Solid Waste Handling Services is defined in Section 12.02.020 of the Mono County Code.

Subscription Orders are described in Section 4.10.

Suspect Categories means race, color, religion, national origin, ancestry, age, physical handicap, medical condition, marital status, sex or sexual orientation.

Term is the period beginning on the Franchise Date and ending on the earlier of the expiration of the Agreement under Section 3.01 or termination of the Agreement under Article 14.

Uncontrollable Circumstance(s) is defined in Section 12.10.023(E)(6) of the Mono County Code.

Unpermitted Waste is defined in Section 12.02.020 of the Mono County Code.

Universal Waste means materials that the California Department of Toxic Substances Control considers universal waste, including materials listed in 22 CCR 66261.9, including the following: batteries, aerosol cans, mercury-containing devices, thermostats, lamps, cathode ray tubes, computers, calculators, telephones, answering machines, radios, stereo equipment, tape players/recorders, phonographs, video cassette players/recorders, compact disc players/recorders, and some appliances.

Unpermitted Waste Screening Protocol is prescribed in Section 5.06 and contained in Exhibit 5.06.

Vehicles means all trucks (including trucks providing Residential and Commercial Collection of Solid Waste, Bulky Waste, and litter pickup; and field supervisors' and administrators' vehicles), rolling stock and other vehicles used to provide Franchise Services (including Collection as well as repair and maintenance), whether owned or leased by Franchisee.

Violates or Violation is defined in Section 12.10.023.E.1.c of the County Code.

Yard Waste is defined in Section 12.02.020 of the County Code.

EXHIBIT 2.01: FRANCHISEE'S REPRESENTATIONS AND WARRANTIES

a. Status. Franchisee is a corporation duly organized, validly existing and in good standing under the laws of the State of California and is qualified to do business in the State of California.

b. Authority and Authorization. Franchisee has full legal right, power and authority to execute and deliver this Agreement and perform its obligations under this Agreement. This Agreement has been duly executed and delivered by Franchisee and constitutes a legal, valid and binding obligation of the Franchisee enforceable against the Franchisee under its terms.

c. No conflicts. Neither the execution nor delivery by the Franchisee of this Agreement, the performance by the Franchisee of its Franchise Obligations, nor the fulfillment by the Franchisee of the terms and conditions of this Agreement: (1) conflicts with, violates or results in a breach of any Applicable Law; (2) conflicts with, violates or results in a breach of any term or condition of any judgment, order or decree of any court, administrative agency or other governmental authority, or any agreement or instrument to which the Franchisee or any of its Affiliates is a party or by which the Franchisee or any of its Affiliates' properties or assets are bound, or constitutes a default there under.

d. No approvals required. No approval, authorization, license, permit, order or consent of, or declaration, registration or filing with any governmental or administrative authority, commission, board, agency or instrumentality is required for the valid execution and delivery of this Agreement by the Franchisee, except as has been duly obtained from its Board of Directors or other governing body or Person.

e. No litigation. As of the Franchise Date, there is no action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency or instrumentality pending or, to the best of the Franchisee's knowledge, threatened, against the Franchisee wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by the Franchisee of its Franchise Obligations or in connection with the transactions contemplated by this Agreement, or which, in any way, would adversely affect the validity or enforceability of this Agreement or any other agreement or instrument entered into by the Franchisee in connection with the transactions contemplated by this Agreement.

f. Due Diligence. Franchisee has made an independent investigation, examination and research satisfactory to it of the conditions and circumstances surrounding the Agreement and best and proper method of providing Franchise Services (including Franchise Service types) and labor, equipment and materials for the volume of Franchise Services to be provided. Franchisee agrees that it will make no claim against the County based on any estimates, statements or interpretations made by any officer, employee, agent or consultant of the County in connection with the procurement of this Agreement that proves to be in any respect erroneous.

g. Compliance with Applicable Law. Franchisee has fully complied with all Applicable Law, including without limitation law relating to conflicts of interest, in the course of procuring this Agreement.

EXHIBIT 4.01a: SERVICE AREA

[SEE MAP OR LEGAL DESCRIPTION OF THE SERVICE AREA ATTACHED TO THIS EXHIBIT.]

**EXHIBIT 4.05e: CUSTOMER COMPLAINT AND BILLING DISPUTE RESOLUTION
PROTOCOL**

Franchisee's Customer complaint and billing dispute resolution protocol is attached to this Agreement.

EXHIBIT 5.02g: SERVICE ASSET INVENTORY

Attached to this Exhibit is an inventory of Service Assets, whether new or used, owned or leased by Franchisee, including:

- (1) maintenance yards and facilities; the Office and any other administrative and customer service offices (together with equipment therein),
- (2) Vehicles described by type (i.e., manufacture and model number for cab, chassis and body; and descriptive notation said as front end loader, compactor etc.), number, DMV license number, the age of the chassis and body; type of body (open-top, closed etc.); type of fuel used; feed and practical or net capacity, including bins or compartments, as applicable; weight; the date of acquisition; the maintenance and rebuilt status; lease or installment purchase information; warranty information;
- (3) Containers described by volume, size and specifications; and
- (4) computer hardware and software for billing, required record-keeping, inventory, and maintenance and repair records.

EXHIBIT 5.05: CONTINGENCY PLAN

[To be provided by Franchisee]

EXHIBIT 5.06: UNPERMITTED WASTE SCREENING PROTOCOL

Franchisee will screen all loads of Solid Waste for Unpermitted Waste by causing its drivers to observe, directly or through mirrors or other mechanism(s), the tipping of Containers into Vehicles at the point of Collection. Franchisee will employ direct visual inspection where necessary and appropriate. Franchisee will conduct on-going training of its drivers, mechanics, dispatchers and other support personnel in Unpermitted Waste recognition and safety procedures, including notification of County as described below. Franchisee will carry in its Vehicles literature developed by the County pertaining to the proper handling of Unpermitted Wastes. Such literature will be left by Franchisee with its Customers upon Customer request, upon identification of Unpermitted Waste, or upon request by the County.

Franchisee will additionally comply with the following requirements in handling Unpermitted Waste that is Hazardous Waste:

- (1) Driver will immediately notify its dispatch center (“Dispatch”) and take immediate and appropriate action to contain and isolate said load.
- (2) Dispatch will immediately notify the Franchisee’s field supervisor.
- (3) Dispatch will immediately contact the Environmental Health Division of the County Health Department, or if those offices are closed, the County Emergency Communications Center.
- (4) Depending on the amount and identity of the Hazardous Waste involved, Franchisee will at its option either segregate and containerize the Hazardous Waste in preparation for manifesting and transport, or contact a permitted Hazardous Waste transport company to assist therein. Franchisee will ensure that an authorized official of Franchisee is available in person or by telephone at all times to authorize the expenditure of funds, if necessary, for Hazardous Waste cleanup. Franchisee will transport any Hazardous Waste it chooses to transport under Applicable Law, including:
 - (i) the regulations of the Department of California Highway Patrol (Title 13, Code of California Regulations or “CCR”),
 - (ii) regulations of the federal Department of Transportation (DOT) (Title 49, Code of Federal Regulations),
 - (iii) regulations of the U.S. Environmental Protection Agency (Title 40, Code of Federal Regulations),
 - (iv) the regulations of the California Occupational Health and Safety Administration (Title 8, CCR),
 - (v) the regulations of the California Department of Toxic Substances Control (Title 22, CCR).
- (5) No later than the next County Working Day following its occurrence, Franchisee will orally notify the Director of the incident and its status and/or ultimate disposition. Franchisee will give the Director a written incident report within 14 days, including the following: the date and time of the occurrence, name of driver, description of hazardous

materials, origin of the hazardous material (if identifiable), observations made and actions taken by Driver and/or Field Supervisor, the status and/or ultimate disposition of the material, and any additional relevant comments.

At least once per Contract Year, Franchisee will inform its Customers of the locations where they may deliver Unpermitted Waste for proper management and processing.

Franchisee will make available to the County promptly upon request all Records, including plans and/or other documents maintained by Franchisee with respect to Unpermitted Waste under Applicable Law.

Instead of complying with Unpermitted Waste Screening Protocol described in this Section, Franchisee may give County a copy of an Unpermitted Waste Screening Protocol it has developed containing procedures under applicable law for handling Unpermitted Waste that is hazardous waste that is no less stringent than the Protocol under this Exhibit. Upon approval by the Director, Franchisee's Unpermitted Waste Screening Protocol will replace the Protocol described in this Section.

EXHIBIT 7.01b: CAPACITY PAYMENT

Capacity Payment is as follows:

For loads verified by a weight ticket from the County's Walker or Bridgeport Transfer Station or issued by a certified weigh master from another California or Nevada state-certified truck scale satisfactory to the Director, as required by Section 7.01b, Franchisee shall pay County the amount of the County's solid waste tipping fee, as established by resolution of the Board of Supervisors. The current amount of the solid waste tipping fee is \$68.50 per ton.

EXHIBIT 8.03 EXAMPLES OF APPLICABLE LAW

Examples of applicable law include laws relating to the following:

1. health
2. safety,
3. fire,
4. mitigation monitoring plans,
5. building codes,
6. zoning,
7. non-discrimination,
8. **vehicles**, such as:
 - (i) California Health and Safety Code §43000 *et seq.* with respect to air emissions (smog checks);
 - (ii) California Vehicle Code §27456b with respect to tires;
 - (iii) § 34500 *et seq.* of the California Vehicle Code with respect to documentation through its maintenance log or otherwise of a safety compliance report issued pursuant to Division 14.8 of the California Vehicle Code as applicable to each Vehicle, including bi-annual “BIT” inspections conducted by the California Highway Patrol, documentation through maintenance log or otherwise of a safety compliance report, Vehicle highway lighting, flashing and warning lights, clearance lights, and warning flags, registration, weight limits, cleaning, enclosure / water-tight beds;
 - (iv) rules and regulations of the California Department of Motor Vehicles with respect to Vehicle registration;
 - (v) Vehicle weight limits;
 - (vi) the appropriate class of drivers’ licenses issued by the California Department of Motor Vehicles;
 - (vii) Control Measure for Diesel Particulate Matter from On-Road Heavy-Duty Residential and Commercial Solid Waste Collection Vehicles, 13 CCR 2020 *et seq.*;
 - (viii) 14 CCR 17341, 17342, 17343 and 17344, with respect to equipment construction, safety and parking and identification of operating equipment.
9. **Containers**, such as:
 - (i) 14 CCR 17314 with respect to maintenance and placement of containers for collection;
 - (ii) 14 CCR 17317 with respect to placing identifying name and telephone number on containers.
10. **Labor**, such as:
 - (i) drug and alcohol testing;
 - (ii) the Occupational Safety and Health Act (29 U.S.C. Section 651 *et seq.*), including the Solid Waste Disposal Facility Criteria promulgated by the U.S. EPA on October 9, 1991 (40 CFR, Parts 257 and 258); and the California Occupational Safety and Health Act (California Labor Code, Division 5, Parts 1-10, Section

6300 *et seq.*), and rules and regulations of California Division of Occupational Safety and Health;

- (iii) the Immigration Reform and Control Act of 1986 (PL.99-603);
- (iv) employment taxes, withholding and insurance requirements,;

11. Environmental protection, such as:

- (i) CERCLA;
- (ii) RCRA;
- (iii) Clean Air Act (42 U.S.C. Section 1351 *et seq.*, 42 U.S.C. Section 7401-7642); and the California Clean Air Act (Health & Safety Code Sections 1251 *et seq.* and Health and Safety Code Sections 39000 *et seq.*);
- (iv) California Hazardous Waste Control Act (California Health & Safety Code, Section 25100 *et seq.*);
- (v) California Hazardous Materials Release Response Plan and Inventory Act (California Health & Safety Code, Division 20, Chapter 6.95, Section 25500 *et seq.*);
- (vi) Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health & Safety Code Section 25300 *et seq.*);
- (vii) Emergency Planning and Community Right to Know Act (42 U.S.C. Section 11001 *et seq.*);
- (viii) NPPDES Industrial General Permit law,
- (ix) California Integrated Waste Management Act, and

12. Mono County Code;

13. Civil Rights Act of 1964 (Subchapter VI or Chapter 21 of Title 42);

14. Customer privacy rights,

15. business related laws, such as taxation, anti-trust, securities and reporting.

EXHIBIT 8.10 MANDATORY COMMERCIAL AND MULTI-FAMILY RECYCLING PROGRAMS

[SAMPLE]

1. Refuse and Recycling Audits.

a. Schedule. Franchisee will conduct Commercial and Multi-family Customer waste generation and characterization audits to identify Commercial and Multi-family Customers' potential to Recycle and Divert the Commercial and Multi-family Customer's Refuse. Franchisee will conduct audits of Commercial and Multi-family Customers, as follows:

- (1) all, prior to commencing Franchise Service,
- (2) 15%, during each succeeding Contract Year of the Term, targeting Customers that generate the most tonnage, or are owned or operated by new Persons, as Franchisee determines on its comparison of County business license information with Franchisee's Customer subscription data base.

“Commercial and Multi-family Customer” shall include any person, business, or entity required by State or local law to perform mandatory commercial recycling.

b. Report. Within three weeks of conducting an audit, Franchisee will submit each audit report to County for County's review, comment and approval. Franchisee will include the following information in the report:

- (1) the audit results and
- (2) Recycling and Diversion recommendations for the Commercial and Multi-family Customer.

Within two weeks of County's comments, Franchisee will revise the report to reflect those comments and deliver the report to the Commercial or Multi-family Customer, together with a written description of Recyclables Services and discount Fees for Recycling offered by Franchisee or a third party offering Recycling services within the area.

c. Customer conference. Franchisee will discuss the report with the Commercial or Multi-family Customer, answer the Customer's questions, and explain to the Customer the Customer's rights to recycle under Section 4.01b.

d. Continued monitoring. Following completion of a Refuse and Recycling Audit for a Commercial or Multi-family Customer, Franchisee will inspect contents of Commercial and Multi-Family Customers' Recyclables and Refuse Containers at least quarterly just prior to Collection to evaluate types and quantities of Recyclables that Customers discard and levels of contamination. Based on Franchisee's inspections, Franchisee will recommend to Commercial and Multi-family Customers changes in subscription levels (such as Container size or Service frequency) and implement adaptations in Customer education and outreach, until the Customer's Service level maximizes Diversion to the greatest possible extent.

2. Recycling Education and Outreach.

a. Website. Franchisee will maintain a web site with content satisfactory to County. Franchisee will post all of the following information on its web site:

1. Links to programs or facilities where Customers can legally discard special wastes such as e-waste and Household Hazardous Waste,
2. Summary of commercial recycling required under Applicable Law, Franchisee's or a third party's commercial recycling services, and links to other sites (such as CalRecycle) providing information on the reduction, reuse, and recycling of solid waste, and
3. Other information requested by County.

b. Annual "How-to-Recycle" brochure for tenants of Multi-Family premises. Franchisee will provide residents of each dwelling of Multi-family Premises a "How-To-Recycle" brochure annually, including:

- A welcome statement and Franchisee introduction;
- Identification of Recyclable materials;
- Description of how to use interior Recycling containers in dwelling units and discard them in exterior Bins (or Carts);
- Discussion of "Reduce / Reuse / Recycle" principles and other Solid Waste diversion options available to residents;
- Discussion of benefits of Recycling; and
- additional information requested by County.

Franchisee will submit the brochure to County for review at least two weeks prior to distributing the brochure to residents.

c. Collection point posters for Multi-family premises. Franchisee will use its best efforts to get permission from Multi-family Customers to post laminated copies of "How-To-Recycle" posters at the Collection location next to Bins (or Carts) where residents discard Recyclables Containers (such as on an enclosure wall). Franchisee will post copies at that Collection point and thereafter ensure that its route supervisors check at least monthly (i) to confirm that copies remain in place and (ii) to replace them if they are missing. Franchisee will speak to the owners or managers of the Multi-family Premises and request that he or she post additional copies in other appropriate locations.

d. Recycling Coordinator. Franchisee will staff a Recycling coordinator to implement the Commercial and Multi-family Recycling program, including:

- Contacting owners or managers of Multi-family and Commercial premises at least semi-annually to discuss results of quarterly inspections, and
- answering questions and addressing concerns of Multi-family and Commercial Customers and their residents, such as any real or perceived obstacles to residents' full participation in this Multi-family and Commercial Recycling program.

3. Recycling Program

a. Franchisee acknowledgement. Franchise acknowledges that although Recycling by Multi-family and Commercial premises is required by law, Multi-family and Commercial premises do not have to subscribe to Franchise Services from Franchisee for collection of recyclables, but instead have 4 recycling options:

1. Donating or selling their recyclables (such as paper or cardboard),
2. Self-hauling recyclables to buy back/drop off centers,
3. Subscribing to Recycling services with a third party Recycler, or
4. Subscribing to Recycling Services through Franchisee.

b. Franchise services for recyclables. Franchisee will provide the following Franchisee services to Commercial and Multi-family Customers, and to other Customers as County and Franchisee may mutually agree, for an additional Fee that is no more than ½ of the Fee for the same capacity and frequency of collection of Refuse:

1. **Supply Container(s):** Supply recycling containers in the following type and capacity chosen by Customer: 32, 64 or 96 gallon cart(s) or 1.5, 2, 3 or 4 cubic yard bins that are clearly labeled for Recycling.

If limited exterior Container storage space blocks Commercial or Multi-Family Recycling program implementation, Franchisee will work with Customers to identify locations and means to provide Recycling capacity.

2. **Collect Containers 1-6 times weekly:** Collect the following from 1 to 6 times each week, as requested by Customer (but at least weekly) from, set-out site on Customer's service day(s):
 - container(s) supplied by Franchisee, and
 - any compactor provided by Customer.

Provide interior Multi-Family containers: Franchisee will purchase space-saving Recyclables containers (such as a leak-proof heavy-duty bag that can be hung on a hook anywhere in the kitchen or on a door) approved by the County for use by each resident in each dwelling unit of Multi-family Premises to discard Recyclables in his or her dwelling and take his or her Recyclable Container to a larger Bin (or Cart) for Collection. County will reimburse Franchisee for Franchisee's Direct Costs of purchasing those Recyclable containers from funds that the County receives under The California Department of Conservation's Multi-Family Beverage Container Recycling funding awarded by the California Integrated Waste Management Board, or other source. Franchisee will use best efforts to cooperate with County in securing funding to purchase those Recyclables Containers. Franchisee will distribute those Recyclables containers to Multi-family Customers (or the managers of the Multi-family Premise) at least annually or more frequently as needed, without charge.

If the County does not receive funds to finance purchase of those Recyclables containers from the California Integrated Waste Management Board or other source, Franchisee will either purchase and distribute to Multi-family Customers similar Recyclables containers approved by County or provide Multi-family Customers with written information describing where they can

purchase those Recyclables containers or otherwise participate in their Multi-family Premise's Recycling Program.

EXHIBIT 10.01a: RECORDS

Franchisee will collect, record, and maintain, at a minimum, the following information, indicating the date and the day of the week of the event reported. Franchisee will give the County the following information promptly upon County's written request.

(1) TONNAGE: Tons of:

Residential and Commercial Solid Waste,
Recyclables,
Bulky Waste, and
C&D Waste.

collected and delivered to the Designated Disposal Facility, including:

- ◆ route numbers,
- ◆ truck numbers,
- ◆ Designated Disposal Facility's certified weight ticket number for each load,
- ◆ weight of each load (gross, tare, and net), and
- ◆ source-jurisdiction allocation or ratio

Tons of:

Residential and Commercial Solid Waste,
Recyclables,
Bulky Waste, and
C&D Waste.

collected and redirected from the Designated Disposal Facility under Section 7.01, including:

- ◆ route numbers,
- ◆ truck numbers,
- ◆ Designated Disposal Facility's certified weight ticket number for each load,
- ◆ weight of each load (gross, tare, and net), and
- ◆ source-jurisdiction allocation or ratio

(2) MONETARY AMOUNTS

Service Fees. Service fees charged to and collected from Customers.

Subscription Orders. Each Customer's Subscription Order and account service information (4.10).

Customer Billing. Billing records required by Section 4.09, including Customers' special Service requests for on-call pickup of excess and Bulky Waste.

Franchisee's Reimbursement Costs for emergency clean up.

Fees payable to County.

- (1) Financial records, books, accounts, and warranties corroborating the Franchise Consideration owed to County under Section 13.02, including the all documentation required by Section 13.02; and
- (2) Financial records, books, accounts, and warranties corroborating the Capacity Payment owed to County under Section 7.01, including the all documentation required by Section 7.01; and
- (3) Financial records, books, accounts, and warranties corroborating the Solid Waste Fee owed to County under Section 13.02c, including the all documentation required by Section 13.02c and
- (4) financial records, books, and accounts corroborating any other County Payment Obligations.

(3) CUSTOMER SERVICE

Complaint Records including logged complaints for alleged missed collections; failure to properly replace Containers (401.c1(iii) and c2(iii)), failure to clean up litter (4.03b), discourtesy (4.03a), damaged property, collecting outside permitted hours (4.01d1), all including time, date, and manner of resolving complaint.

Requests for Franchise Services, including record of Customers' telephonic, mailed, faxed or e-mailed requests to commence Franchise Services (4.01c1(i) and c2(i)); discontinue Franchise Services (4.01c1(ii) and c2(ii)); deliver, repair or replace, or pick up Containers (4e); change size or number of Containers; or supply locks (4.01e); and any failure to timely commence or provide any of those Services.

Copies of Notices to Customers, including notice of Holiday or changed schedules enclosed in Customers' bills (4.01d2 and 4.06) and public education and community relations materials (4.06).

(4) OPERATIONS

Routing Specifications (5.01).

Service Asset Inventory, (5.02g) and **Service Asset Documentations** (Exhibit 5.02g).

Compliance with Applicable Law, including copies of all violations, tire invoices and specifications; Vehicle registration, certifications, reports and maintenance logs; drivers' licenses, training records (including Unpermitted Waste identification and handling), and drug and alcohol testing; records showing compliance with Federal Immigration and Control Act of 1986; and approvals, authorizations, and Permits.

Records of Vehicle inspections, including Vehicles' fire extinguisher service records, and warranty and maintenance recommendations.

Records of Criminal Activity (Article 12).

Any documentation with respect to insolvency, bankruptcy or liquidation described in Mono County Code Section 12.10.023.E.2.f, including records with respect to Service Assets, such as any seizures, attachments or levies.

Container maintenance (4.01e).

- (5) **INSURANCE AND OTHER PERFORMANCE ASSURANCES:** Insurance, performance bonds, letter of credit etc. (Article 11).

EXHIBIT 10.02a: QUARTERLY REPORTS

For the purposes of the Quarterly Reports, "quarters" is defined as: First Quarter consisting of January, February and March; Second Quarter consisting of April, May and June; Third Quarter consisting of July, August and September; Fourth Quarter consisting of October, November and December. In the Quarterly Report, Franchisee will include, at a minimum, the following information:

- (1) **Summary of Records.** A summary of the Records for events (including Unpermitted Waste spills or other incidents, Customer complaints, Vehicle inspections, Criminal Activity, or other events) during the previous quarter and a copy of Franchisee's complaint log, including missed pickups, Non-Collection Notices and a description of how each complaint was resolved.
- (2) **Certifications.** A certification that Franchisee has met its Franchise Obligations including Delivery Obligations (Section 7.01) for the quarter or, alternatively, a description of those Franchise Obligations and Delivery Obligations not met during the quarter.
- (3) **Summary of Education Efforts.** A summary of education efforts undertaken in that quarter and copies of all materials distributed to Customers during the Quarter, including community relations materials (4.06a1) and promotional materials (4.06a3).
- (4) **Diversions Information:** any information necessary to meet the reporting requirements of the Act, including Solid Waste Collection and disposal tonnages, Recyclables collection and processing tonnages, and the origin thereof.
- (5) **Operational Report:** a discussion of Service or operational problems and resolution thereof or planned therefore, if requested by County.
- (6) **Collection Fee Summaries:** Fees invoiced and paid, including:
 - a. Service Fees and Franchise Consideration
 - ◆ Service fees charged for each type of service,
 - ◆ Service fees collected from Customers; and
 - ◆ Franchise Consideration paid to County.
 - b. Capacity Payment
 - ◆ Total tonnage redirected under Section 7.01
 - ◆ Source of Solid Waste redirected
 - ◆ Type of Solid Waste redirected
 - ◆ Capacity Payment paid to County
 - c. Solid Waste Fee
 - ◆ Customer
 - ◆ Facility

- ◆ Amount of Fee collected
- ◆ Total Fees paid to County

Quarterly Reports may be made on Form 10.02a which is attached to this Exhibit.

FORM 10.02a

MONO COUNTY FRANCHISEE QUARTERLY REPORT

Submitted by: _____ (Franchisee)

FOR THE YEAR OF 20__

- 1st Quarter (January, February, March) (due by May 1)
- 2nd Quarter (April, May, June) (due by August 1)
- 3rd Quarter (July, August, September) (due by November 1)
- 4th Quarter (October, November, December) (due by February 1)

<p>1. Summary of Records</p>	<p>a. Unpermitted Waste Spills: b. Vehicle Inspections: c. Criminal Activity: d. Other Events: e. Complaint Log:</p>	<p><input type="checkbox"/> None <input type="checkbox"/> See Attached <input type="checkbox"/> None <input type="checkbox"/> See Attached <input type="checkbox"/> None <input type="checkbox"/> See Attached <input type="checkbox"/> None <input type="checkbox"/> See Attached <input type="checkbox"/> None <input type="checkbox"/> See Attached</p>
<p>2. Certifications</p>	<p>I represent and warrant, under penalty of perjury, that [FRANCHISEE] has met its Franchise Obligations, including Delivery Obligations, for the Quarter noted above. OR,</p> <p>_____ Name</p> <p>_____ Title</p> <p>_____ Signature</p>	<p>During the Quarter noted above, [FRANCHISEE] did <u>not</u> meet all of its Franchise Obligations (including Delivery Obligations) and will pay to County liquidated damages for each failure as noted on the attached sheet.</p> <p>_____ Name</p> <p>_____ Title</p> <p>_____ Signature</p>
<p>3. Summary of Education Efforts</p>	<p>Such as inserts, mailers, magnets, flyers, etc.</p>	<p><input type="checkbox"/> None <input type="checkbox"/> See Attached</p>
<p>4. Diversion Information</p>	<p>Information required by the Act, including Solid Waste Collection and disposal tonnages, Recyclables, E-waste, Universal Waste collection and processing tonnages, and origin, under Section 6.01.</p>	<p><input type="checkbox"/> None <input type="checkbox"/> See Attached</p>
<p>5. Collection Fee Summaries (fees invoiced and paid)</p>	<p>a. Service fees charged for each type of service b. Service fees collected from Customers</p>	<p><input type="checkbox"/> See Attached \$ _____</p>

	c. Franchise consideration paid to County	\$ _____
6. Capacity Payment Summaries	a. Total tonnage redirected b. Source(s) of Solid Waste c. Type of Solid Waste d. Capacity Fees paid to County	<input type="checkbox"/> See Attached (a, b, and c) \$ _____
7. Solid Waste Fee Summaries	a. Customer b. Facility c. Amount of Fee charged Customer d. Total Fees paid to the County by Franchisee	<input type="checkbox"/> See Attached (a, b, and c) \$ _____

EXHIBIT 10.02b: ANNUAL REPORTS

In the Annual Report, Franchisee will include, at a minimum, a collated summary of the information contained in Quarterly Reports, including reconciliation of any adjustments from prior Quarterly Reports, and the following information and statements:

- (1) **Service Asset Inventory.** A complete inventory of Service Assets under Section 5.02g.
- (2) **Financial Status Statement.** A statement by Franchisee's Chief Executive Officer either: (i) that in the prior Contract Year there have been no material changes in Franchisee's financial status or condition, or (ii) describing any material changes in Franchisee's financial status or condition during that Contract Year.
- (3) **Pending litigation Statement.** A declaration describing the current status of any criminal or civil litigation pending against Franchisee, Franchisee's parent company, or any subsidiaries of the parent company, if any, which relates to Solid Waste handling, collection, recycling or disposal, including any Criminal Activity defined in Section 12.01a.
- (4) **Subcontractors.** The names of all Subcontractors, the scope and amount of services or goods Subcontractors provide to Franchisee, and a description of Franchisee's relationships to each Subcontractor (including Ownership interests) (16.09).

Parenthetical numbers refer to Sections of the Agreement.

Annual Reports may be made on Form 10.02b which is attached to this Exhibit.

FORM 10.02b

MONO COUNTY FRANCHISEE ANNUAL REPORT FOR 20_____

Submitted by: _____ (Franchisee)

(Due by February 15)

<p>1. Total information contained in Quarterly Reports for the year</p>		<input type="checkbox"/> See Attached
<p>2. Service Asset Inventory</p>		<input type="checkbox"/> See Attached
<p>3. Financial Status Statement</p>	<p>I represent and warrant, under penalty of perjury, that in the prior Contract Year there have been no material changes in [FRANCHISEE]'s financial status or condition.</p> <p>_____</p> <p>Name</p> <p>_____</p> <p>Title (CEO or Principal)</p> <p>_____</p> <p>Signature</p>	<p>I represent and warrant, under penalty of perjury, that in the prior Contract Year, those changes to [FRANCHISEE]'s financial status or condition listed on the attached sheet which is labeled "Material Changes to [FRANCHISEE]'s Financial Status or Condition" have occurred.</p> <p>_____</p> <p>Name</p> <p>_____</p> <p>Title (CEO or Principal)</p> <p>_____</p> <p>Signature</p>
<p>4. Pending Litigation Statement</p>	<p>A declaration describing the current status of any criminal or civil litigation pending against Franchisee, Franchisee's parent company, or any subsidiaries of the parent company which relates to Solid Waste handling, including any Criminal Activity under §12.01a.</p>	<input type="checkbox"/> None <input type="checkbox"/> See Attached
<p>5. Subcontractors</p>	<p>Names of all Subcontractors, the scope and amount of Franchise Services, other services, or goods Subcontractors provide to franchisee, and a description of Franchisee's relationships to each Subcontractor (including Ownership interests) (16.09).</p>	<input type="checkbox"/> None <input type="checkbox"/> See Attached

EXHIBIT 11.01a: INSURANCE

- (1) **Workers' Compensation and Employer's Liability.** Franchisee will maintain workers' compensation insurance covering its employees in statutory amounts and otherwise in compliance with the laws of the State of California. Franchisee will maintain Employer's Liability insurance in an amount not less than \$1,000,000 per accident or disease.

The Workers' Compensation policy will contain endorsements in substantially the following form:

- a. "30 days prior written notice will be given to the County in the event of cancellation of this policy. Such notice will be sent to:
- Mono County Risk Management
Post Office Box 696
Bridgeport, California 93517"
- b. "Insurer waives all right of subrogation against the County and its officers and employees for losses arising from work performed for the County."

- (2) **General Liability and Automobile Liability.** Franchisee will maintain comprehensive Commercial General Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate covering all claims and all legal liability for Personal injury, bodily injury, death, and property damage, including the loss of use thereof, arising out of Franchisee's performance of, or its failure to perform services under this Agreement.

Franchisee will also maintain Automobile Liability Insurance for each of Franchisee's vehicles used in the performance of this Agreement, including owned, non-owned, leased or hired vehicles, in the minimum amount of \$1,000,000 combined single limit per accident.

The Commercial General Liability and Automobile Liability insurance required by this section will be written on an "occurrence" (or in the case of Automobile Liability, on an "accident" basis), rather than a "claims made" basis, if such coverage is readily obtainable for a commercially reasonable premium. If it is not so obtainable, Franchisee must arrange for an extended reporting period ("tail coverage") to protect the County from claims filed within one year after the expiration or termination of this Agreement relating to incidents that occurred prior to such expiration or termination. The policy may not contain a deductible or self-insured retention of more than ten thousand dollars (\$10,000.00) per occurrence without prior written approval of the County. The existence of a self-insured retention or deductible will not affect Franchisee's duty to defend and indemnify the County under this Agreement as to Claims below the self-insured retention or deductible level.

The Commercial General Liability policy will contain endorsements in substantially the following form:

- a. "30 days prior written notice will be given to the County in the event of cancellation of this policy. Such notice will be sent to:

Mono County Risk Management
Post Office Box 696
Bridgeport, California 93517”

- b. “The County, its officers, employees, and agents are additional insureds on this policy.”
- c. “This policy will be considered primary insurance as respects any other valid and collectible insurance maintained by the County, including any self-insured retention or program of self-insurance, and any other such insurance will be considered excess insurance only.”
- d. “Inclusion of the County as an insured will not affect the County’s rights as respects any claim, demand, suit or judgment brought or recovered against Franchisee. This policy will protect Franchisee and the County in the same manner as though a separate policy had been issued to each, but this will not operate to increase the insurer’s liability as set forth in the policy beyond the amount shown or to which the insurer would have been liable if only one party had been named as an insured.”

(3) Pollution Liability. Franchisee will purchase and thereafter maintain, so long as such insurance is available on a commercially reasonable basis, Pollution Liability insurance in the amount of \$1,000,000 covering liability arising from the sudden and accidental release of pollution in the performance of Franchise Services, including pollution caused by transported cargo and waste.

(4) Physical Damage. Franchisee will maintain comprehensive (fire, theft and collision) Physical Damage insurance covering the vehicles and the machinery and equipment that is owned by Franchisee and used in providing service to the County under this Agreement, with a deductible or self-insured retention of not greater than \$50,000.

The Physical Damage policy will contain the following endorsements:

- a. Notice of cancellation, as provided in subsection 2.a.
- b. Cross liability endorsement, as provided in subsection 2.d.

Franchisee will carry either or both crime insurance or an employee dishonesty/fidelity bond, requested by County, covering loss of any County fees that Franchisee bills and collects from Customers (including as of the Franchise Date, Solid Waste Fees) and fraudulent and dishonest acts of Franchisee (including its officers and employees). As of the Franchise Date, the amount of the insurance coverage or bond must be \$10,000 which amount County may change to reflect changing amounts of County fees. Deductibles must be no more than \$1,000.

Franchisee may carry “blanket” policies that cover other liabilities of Franchisee, if they otherwise comply with the requirements under this Agreement. Franchisee will give County a certified copy of the relevant provisions of the blanket policy to evidence the issuance and effectiveness of the policy, the amount and character of coverage, and the presence of the policy provisions required under this Agreement.

Each policy must also provide that any loss otherwise payable under the policy must be payable notwithstanding any act or omission of County or Franchisee.

County retains the right to require Franchisee to reduce any deductibles or self-insured retention ("SIR") as they apply to County or to require Franchisee to provide a bond, letter of credit, or certificate of deposit guaranteeing payment of all retained losses and related costs, including expenses, or both, related to investigations, claims administrations, and defense. The bond must be executed by a corporate surety licensed to transact business in the State of California; the letter of credit must be issued by a bank or other financial institution acceptable to the County. Franchisee assumes the defense obligations of the insurer providing insurance under this Agreement, for all lawsuits against County, for the following period of time:

- (1) beginning immediately upon filing any suit or claim that the insurer would be required to defend, until
- (2) the deductible or SIR has been met and the insurer provides defense of the County.

EXHIBIT 12.01e(2): FRANCHISEE OR ANY OF ITS CONTRACT MANAGERS

Franchisee Representative identifies the following individuals by name of corporate position as individuals meeting the definition of "Franchisee or any of its Contract Managers." Upon change in individuals, Franchisee Representative will amend this Exhibit in its next Quarterly Report.

If the Franchisee amends the identification, the Parties will respectively substitute this amended Exhibit. The dated signature of each Party Representative on such amended form will be deemed evidence that Notice was given under Section 18.01 and that the new attachment supersedes the prior attachment.

By: 
Franchisee Representative


Date: 

EXHIBIT 13.01a: SERVICE FEE FLOORS

RESIDENTIAL RATES		COMMERCIAL RATES							
CANS, CARTS, VOLUME		BINS			DEBRIS BOXES		COMPACTOR		
Size ²	"A"	Size ²	"A"	"B"	Size ²	"B"	Size ²	"B"	
1 35-gal. Can	\$16.00 ⁴	1 cy	\$105	\$24.20	10 cy	\$366	10 cy	\$336	
2 35-gal. Cans	\$21.00 ⁴	2 cy	\$144	\$33.20	20 cy	\$613	20 cy	\$672	
1 95-gal. Toter	\$32.20	3 cy	\$185	\$42.60	30 cy	\$839	30 cy	\$1,009	
2 95-gal. Toters	\$44.40	4 cy	\$216	\$50.00	40 cy	\$1,168	40 cy	\$1,340	
1 cubic yard (cy)	\$25.90 ⁵	6 cy	\$280	\$64.60					

Notes:

1. Service Fee Floors are subject to adjustment under Section 13.01c1.
2. Sizes are nominal values, not precise volumes. Fees for nominal container volumes that fall in between or higher than those listed will be determined by linear interpolation or extrapolation, respectively.
3. Service fee categories identified above are as follows: "A" = cost per month; "B" = cost per dump.
4. Customer-provided can.
5. Or, approximately equivalent to 6 35-gal. cans.

EXHIBIT 13.02c: SOLID WASTE FEE

See attached.

EXHIBIT 13.01a: SERVICE FEE FLOORS

Franchisee will not charge Customers Service Fees that are less than those identified below:

RESIDENTIAL RATES		COMMERCIAL RATES							
CANS, CARTS, VOLUME		BINS			DEBRIS BOXES		COMPACTOR		
Size ²	"A"	Size ²	"A"	"B"	Size ²	"B"	Size ²	"B"	
1 35-gal. Can	\$16.70 ⁴	1 cy	\$109	\$25.20	10 cy	\$381	10 cy	\$350	
2 35-gal. Cans	\$21.90 ⁴	2 cy	\$150	\$34.60	20 cy	\$638	20 cy	\$700	
1 95-gal. Toter	\$33.50	3 cy	\$193	\$44.40	30 cy	\$874	30 cy	\$1,051	
2 95-gal. Toters	\$46.20	4 cy	\$225	\$52.10	40 cy	\$1,216	40 cy	\$1,396	
1 cubic yard (cy)	\$27.00 ⁵	6 cy	\$292	\$67.30					

Notes:

1. Rates will be adjusted annually in accordance with the formula set forth in section 13.01c1.
2. Sizes are nominal values, not precise volumes. Fees for nominal container volumes that fall in between or higher than those listed will be determined by linear interpolation or extrapolation, respectively, and rounded to the nearest three significant figures.
3. Service fee categories identified above are as follows: "A" = cost per month; "B" = cost per dump.
4. Customer-provided can.
5. Or, approximately equivalent to six 35-gallon cans.

COUNTY-APPROVED EXISTING AGREEMENTS:

- 1.
- 2.
- 3.
- 4.
- 5.

**ATTACHMENT TO
EXHIBIT 13.02c: SOLID WASTE FEE**

(1) Bureau of Land Management	Annual fee
McGee Creek Maintenance Station	\$240.00
Warehouse on Hwy 182 behind storage facility	\$120.00
Campgrounds:	
Crowley Lake Campground – 47 sites	\$705
(2) Multi-agency	
Topaz Interagency Fire Control Station	\$180.00
Mono Basin Interagency Fire Control Station	\$180.00
(3) Humbolt - Toiyabe National Forest	
Wheeler Guard Station at Little Walker	\$60.00
Housing Complex at N. Bridgeport Valley	\$600.00
Campgrounds:	
Desert Creek – 13 sites	\$195.00
Bootleg – 63 sites	\$945.00
Chris Flat – 15 sites	\$225.00
Sonora Bridge – 23 sites	\$345.00
Leavitt Meadows – 16 sites	\$240.00
Obsidian – 14 sites	\$180.00
Buckeye – 65 sites	\$975.00
Honeymoon Flat – 47 sites	\$705.00
Robinson Creek – 54 sites	\$810.00
Paha – 22 sites	\$330.00
Crag – 72 sites	\$1,080.00
Lower Twin Lakes – 15 sites	\$225.00
Green Creek – 13 sites	\$195.00
Trumbull Lake- 45 sites	\$675.00
(4) Inyo National Forest	
Mono Lake Ranger District Housing and Admin.	\$360.00
Mono Lake Ranger District Visitor Center in Lee Vining	\$630.00
Campgrounds:	
Aerie Crag – 15 sites	\$240.00
Gull Lake – 11 sites	\$165.00
June Lake – 27 sites	\$405.00
Oh! Ridge – 144 sites	\$2,160.00
Reversed Creek – 16 sites	\$240.00
Silver Lake – 62 sites	\$930.00
Agnew Meadows – 20 sites	\$300
Big Meadow – 11 sites	\$165
Big Springs – 26 sites	\$390
Coldwater – 76 sites	\$1,140

Deadman – 30 sites	\$450
East Fork – 129 sites	\$1,935
French Camp – 84 sites	\$1,260
Hartley Springs – 20 sites	\$300
Holiday – 47 sites	\$705
Iris Meadow – 13 sites	\$195
Lake George – 16 sites	\$240
Lake Mary – 48 sites	\$720
McGee Creek – 27 sites	\$405
Minaret Falls – 25 sites	\$375
Mosquito Flat Trailhead – 10 sites	\$150
New Shady Rest – 93 sites	\$1,395
Old Shady Rest – 46 sites	\$690
Pine City – 10 sites	\$150
Pine Glen – 18 sites	\$270
Pine Grove – 10 sites	\$150
Pumice Flat – 16 sites	\$240
Reds Meadow – 52 sites	\$780
Rock Creek Lake – 26 sites	\$390
Sherwin Creek – 85 sites	\$1,275
Tuff – 33 sites	\$495
Twin Lakes – 93 sites	\$1,395
Upper Soda Springs – 28 sites	\$420

(5) U.S. Marine Corps

MWTC Pickle Meadows Training Center	\$6,180
Housing – Coleville	\$6,600

EXHIBIT 14.01: COMPENSATORY AND LIQUIDATED DAMAGES

Compensatory Damages. If the County in its sole discretion chooses not to exercise its right to terminate this Agreement when, except for events of force majeure, Franchisee does not deliver Solid Waste to the Designated Disposal Facility under Section 7.01, then the Franchisee will pay the County within 10 days of request the following amounts:

- (i) the County Reimbursement Costs to provide necessary persons for monitoring of Franchisee's compliance with said delivery requirements, including following Franchisee's vehicles on Service routes; and
- (ii) The County's Reimbursement Cost of enforcing or securing specific performance of Franchisee's delivery obligation; and
- (ii) For each ton of Solid Waste collected by Franchisee that Franchisee delivers to a facility or site other than the Designated Disposal Facility ("**Undelivered Tons**"), as demonstrated by weigh bills at said other facility or site, reports by any monitoring party, or such other evidence as may be deemed satisfactory by the County, the Capacity Payment under Exhibit 7.01b. The County may estimate the number of Undelivered Tons based on prior disposal records, Customer lists, or other means.

Liquidated Damages.

Within 10 days of County assessment, Franchisee will pay the following liquidated (or compensatory) damages for each of the corresponding breaches determined by County. County may assess damages for each instance of breach, upon its occurrence, even if Franchisee subsequently remedies that breach. (Franchisee may have the opportunity to cure the breach before it becomes an Event of Default.)

References in the chart below to "per incident per day" refer to the first occurrence and then continued occurrence on successive days. *For example, failure to correct a missed pickup would result in liquidated damages on the day of the scheduled pickup and each following day until corrected.*

The following is a schedule of liquidated damages for breaches of this Agreement.

DESCRIPTION OF BREACH	DAMAGES
Failure to correct a missed pick-up (4.01c(1)(iv) and 4.01c(2)(iv)) more than 3 times in any month.	Up to \$100 per failure
Failure to return emptied container to its proper location (4.01c(1)(iii)) more than 5 times in any month.	Up to \$100 per failure
Failure to give Residential Customers written notice of the availability of cart or can service (4.01c(1)(iii)).	Up to \$100 per failure

Failure to commence or discontinue Franchise Services (4.01c(1)(i) and 4.01c(2)(i)); or to deliver, repair or replace, or pick up Containers (4.01c(1)(iii) and 4.01c(2)(iii)); change size or number of Containers (4.01e); supply locks (4.01e), or clean, paint, and maintain Containers (4.01e).	Up to \$100 per failure per day.
Failure to comply with authorized collection hours (4.01d).	Up to \$100 per failure per day.
Failure to give any Customer timely notice of change in Collection schedule (4.01d).	Up to \$100 per failure.
Proven Discourteous behavior by Franchisee's employees reported by or complained of by customers to Franchisee or County (4.03a).	Up to \$100 per incident.
Failure, after reasonable notice, to compensate, repair or replace damaged pavements, utilities and/or customer property caused by Franchisee or its personnel (4.03d).	Up to \$250 per failure.
Failure to clean up spillage or litter caused by Franchisee (4.03b, c). Failure to properly cover materials in Collection Vehicles (4.03c) or to maintain or identify Vehicles (5.02).	Up to \$100 per failure per location.
Failure to maintain a toll-free telephone number or required office hours (4.05a).	Up to \$100 per failure per day.
Failure to timely respond and resolve each complaint under the complaint resolution protocol (4.05e).	Up to \$250 per failure.
Failure to record a complaint (4.05d and 10.01). Failure to give County access to records of complaints or to include copies of complaint logs in Quarterly Reports (4.05d and 10.02).	Up to \$250 per failure.
Failure to timely submit general Customer correspondence and promotional materials, news releases, public education or community relations materials to County for County review (4.06).	Up to \$100 per occurrence and additionally up to \$100 per day for each day prior to retraction or correction of misinformation.
Failure to give Customers a written Subscription Order (4.10).	Up to \$100 per failure per day.
Failure to meet with County (5.07). Failure to return County phone calls, e-mails, or other correspondence from County (8.07).	Up to \$100 per failure per day.

<p>Failure to maintain or timely submit complete Reports and/or documents to the County (such as Quarterly and Annual Reports [10.02], Financial Reports [10.03], Route Maps and Route Changes [5.01a and b], Service Asset Inventory [5.02g], Contingency Plan [5.05], Hazardous Waste Screening Protocol [5.06], or Insurance certificates or policies [Article 11].)</p>	<p>Up to \$100 per failure or per day that a Report or document is late.</p>
<p>Failure to charge Service Fees in compliance with Service Fee Floors or Service Fees (13.01).</p>	<p>Up to \$500 per failure per day.</p>
<p>Failure to perform any other Performance Obligation under this Agreement.</p>	<p>Up to \$100 per failure per day.</p>

EXHIBIT 16.09: COUNTY-APPROVED SUBFRANCHISEES

**AGREEMENT AND FIRST AMENDMENT TO THE PRIMARY FRANCHISE
AGREEMENT BETWEEN THE COUNTY OF MONO AND
D&S WASTE REMOVAL, INC.,
FOR COLLECTION OF SOLID WASTE
FROM RESIDENTIAL AND COMMERCIAL CUSTOMERS
IN UNINCORPORATED MONO COUNTY**

This Agreement and First Amendment is entered into on January 22, 2013, by and between the County of Mono (hereinafter, "County"), a political subdivision of the State of California, and D&S Waste Removal, Inc. (hereinafter, "Contractor"), for the purposes of amending that certain Agreement between the County and Contractor dated July 1, 2011. The County and Contractor are referred to herein collectively as "the parties."

I. Recitals.

A. On July 1, 2011, the parties entered into an agreement with respect to the provision of residential and commercial solid waste collection services in the unincorporated areas of Mono County. The agreement is referred to herein as the "Franchise Agreement." The Franchise Agreement is incorporated herein by this reference as though fully set forth; and,

B. Pursuant to Section 13.01b of the Franchise Agreement, the Service Fees set forth in Exhibit 13.01a (hereinafter, the "Service Fee Floors") may be adjusted as designated by the Board following a gate fee adjustment; and,

C. In accordance with Section 13.01b, the parties wish to amend the Franchise Agreement to adjust the Service Fee Floors set forth in Exhibit 13.01a of the Franchise Agreement using the Designated Disposal Site gate fee adjustment effective January 1, 2013 adopted by the Board December 11, 2012.

II. Terms and Conditions.

The parties hereto agree as follows:

1. The Service Fee Floors set forth in the current Exhibit 13.01a shall be adjusted upward by 1.6 percent, and rounded to three significant figures as shown on the amended Exhibit 13.01a, which is attached hereto and incorporated by this reference. The amended Exhibit 13.01a shall replace and supersede the current Exhibit 13.01a.

3. All other provisions of the Franchise Agreement shall remain in full force and effect.

III. Execution.

IN WITNESS of the foregoing, the parties have signed this Agreement and Amendment through their duly-authorized representatives, as set forth below:

County:



Jim Arkens
Mono County Administrative Officer

Contractor:



Darrol Brown, President
D&S Waste Removal, Inc.

Approved as to Form:



Mono County Counsel

EXHIBIT 13.01a: SERVICE FEE FLOORS

Franchisee will not charge Customers Service Fees that are less than those identified below:

RESIDENTIAL RATES		COMMERCIAL RATES							
CANS, CARTS, VOLUME		BINS			DEBRIS BOXES		COMPACTOR		
Size ²	"A"	Size ²	"A"	"B"	Size ²	"B"	Size ²	"B"	
1 35-gal. Can	\$17.00 ⁴	1 cy	\$111	\$25.60	10 cy	\$387	10 cy	\$356	
2 35-gal. Cans	\$22.30 ⁴	2 cy	\$152	\$35.20	20 cy	\$649	20 cy	\$711	
1 95-gal. Toter	\$34.00	3 cy	\$196	\$45.10	30 cy	\$887	30 cy	\$1,068	
2 95-gal. Toters	\$46.90	4 cy	\$229	\$52.90	40 cy	\$1,236	40 cy	\$1,418	
1 cubic yard (cy)	\$27.40 ⁵	6 cy	\$297	\$68.40					

Notes:

1. Rates will be adjusted annually in accordance with the formula set forth in section 13.01c1.
2. Sizes are nominal values, not precise volumes. Fees for nominal container volumes that fall in between or higher than those listed will be determined by linear interpolation or extrapolation, respectively, and rounded to the nearest three significant figures.
3. Service fee categories identified above are as follows: "A" = cost per month; "B" = cost per dump.
4. Customer-provided can.
5. Or, approximately equivalent to six 35-gallon cans.

COUNTY-APPROVED EXISTING AGREEMENTS:

- 1.
- 2.
- 3.
- 4.
- 5.



OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE June 12, 2018

Departments: Board of Supervisors

TIME REQUIRED 30 Minutes (20 minute presentation;
10 minute discussion) **PERSONS APPEARING** John Peters

SUBJECT Motion to Reconsider Provisions
within Mono County Code Chapter
7.92 "Smoking Policies and
Restrictions" **BEFORE THE BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Motion pursuant to Board Rule 30 to reconsider provisions added to Mono County Code Chapter 7.92 by Mono County Ordinance ORD18-03 (April 17, 2018), that prohibit the sale of certain flavored cigars, cigarettes and chewing tobacco currently being sold within the unincorporated areas of the County and/or to make such other changes to Chapter 7.92 as the Board deems necessary or appropriate.

RECOMMENDED ACTION:

Hear report from Supervisor Peters, staff and members of the public. Consider and potentially approve motion to reconsider. If motion to reconsider is approved, direct staff to agendize ordinance amending Chapter 7.92 consistent with direction provided, for consideration by the Board at a regularly-scheduled meeting. Provide any other desired direction to staff.

FISCAL IMPACT:

None.

CONTACT NAME: Stacey Simon

PHONE/EMAIL: 760-924-1704 / ssimon@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download

[Staff Report](#)

[ORD18-03](#)

History

Time	Who	Approval
6/7/2018 7:18 AM	County Administrative Office	Yes
6/7/2018 3:28 PM	County Counsel	Yes
6/7/2018 12:19 PM	Finance	Yes



JOHN PETERS, DISTRICT FOUR SUPERVISOR
BOARD OF SUPERVISORS
COUNTY OF MONO

P.O. BOX 715, BRIDGEPORT, CALIFORNIA 93517

(760) 932-5530 • FAX (760) 932-5531

Shannon Kendall, Clerk of the Board

DATE: June 12, 2018

TO: Honorable Board of Supervisors

FROM: John Peters, District 4 Supervisor

SUBJECT: Motion Pursuant to Board Rule 30 to Reconsider Certain Provisions of Mono County Code 7.92 Pertaining to the County's Smoking and Tobacco Policy.

Recommendation

- a. Hear report from Supervisor Peters, staff and members of the public.
- b. Consider and potentially approve motion to reconsider provisions of Mono County Code Chapter 7.92 relating to the sale of flavored cigars, cigarettes and chewing tobacco and any other changes the Board deems necessary or appropriate.
- c. If motion to reconsider is approved, direct staff to agendize ordinance amending Chapter 7.92 consistent with direction provided, for consideration by the Board at a regularly-scheduled meeting.
- d. Provide any other direction to staff.

Fiscal impact

None.

Discussion

On April 17, 2018, the Board approved Mono County Ordinance No. ORD18-03, Amending Chapter 7.92 of the Mono County Code Pertaining to the County's Smoking and Tobacco Policy. The new provisions prohibit the sale of flavored cigars, cigarettes and chewing tobacco within the unincorporated areas of the County. Subsequent to adoption, I received feedback expressing significant dissatisfaction over these specific provisions, which has led me to request a reconsideration pursuant to Board Rule 30.



ORDINANCE NO. ORD18-03

**AN ORDINANCE OF THE MONO COUNTY BOARD OF SUPERVISORS
AMENDING CHAPTER 7.92 OF THE MONO COUNTY CODE
PERTAINING TO THE COUNTY'S SMOKING
AND TOBACCO POLICY**

WHEREAS, Chapter 7.92 of the Mono County Code contains regulations and prohibitions pertaining to second-hand smoke and tobacco; and

WHEREAS, the National Institute on Drug Abuse has concluded that nicotine in tobacco products is a powerfully addictive drug, which has been identified as the most widespread example of drug dependence in the U.S.; and

WHEREAS, the Mono County Board of Supervisors acknowledges that substantial scientific evidence exists that shows a causal relationship between smoking and/or exposure to second-hand smoke and serious health conditions; and

WHEREAS, the Mono County Board of Supervisors acknowledges that secondhand aerosol emitted from electronic smoking devices and secondhand marijuana smoke has been identified by the Office of Environmental Health Hazard Assessment's (OEHHA) Reproductive and Cancer Hazard Assessment Branch as a health hazard; and

WHEREAS, the federal Family Smoking Prevention and Tobacco Control Act (FSPTCA), enacted in 2009, prohibited candy- and fruit-flavored cigarettes, largely because these flavored products were marketed to youth and young adults; and

WHEREAS, it is in the public interest to ban the sale of such flavored tobacco products in the unincorporated areas of Mono County; and

WHEREAS, the Mono County Board of Supervisors now wishes to update Chapter 7.92 of the Mono County Code to reflect these and other findings.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF MONO ORDAINS as follows:

SECTION ONE: Chapter 7.92 of the Mono County Code is hereby amended in its entirety to read as set forth in Attachment "A", attached hereto and incorporated herein by this reference.

SECTION TWO: This ordinance shall become effective 30 days from the date of its adoption and final passage, which appears immediately below. The Clerk of the Board of Supervisors shall post this ordinance and also publish the ordinance in the manner prescribed by Government Code section 25124 no later than 15 days after the date of its adoption and final passage. If the

1 Clerk fails to so publish this ordinance within said 15-day period, then the ordinance shall not take
2 effect until 30 days after the date of publication.

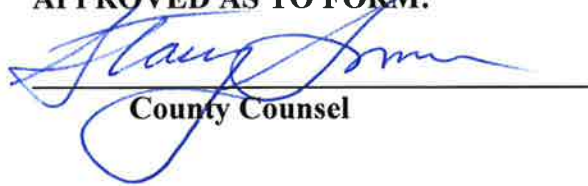
3 **PASSED, APPROVED and ADOPTED this 17th day of April, 2018, by**
4 **the following vote, to wit:**

5 **AYES:** Supervisors Corless, Gardner, and Peters.
6 **NOES:** None.
7 **ABSTAIN:** Supervisor Stump.
8 **ABSENT:** None.



Bob Gardner, Chair
Mono County Board of Supervisors

10
11 **ATTEST:**
12 
13 **Clerk of the Board**

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15 **APPROVED AS TO FORM:**
16 
17 **County Counsel**

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ATTACHMENT A

SMOKING POLICIES AND RESTRICTIONS

Sections:

- 7.92.010** **Definitions.**
- 7.92.020** **Prohibitions – locations where smoking is prohibited.**
- 7.92.030** **Reasonable smoking distance required – 20 feet.**
- 7.92.040** **PLACEHOLDER.**
- 7.92.050** **Signage.**
- 7.92.060** **Duty of person, employer, business or nonprofit entity.**
- 7.92.070** **Sale of flavored tobacco products prohibited.**
- 7.92.80.1** **Penalties and enforcement.**

7.92.010 **Definitions.**

- A. “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from Cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, "Cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.
- B. “County” shall mean the County of Mono.
- C. “County Building” shall mean any County-owned building including, but not limited to, the Bridgeport courthouse, Bridgeport annexes I and II, the Bridgeport sheriff and probation department buildings, the County road shops and all community and senior centers.
- D. “Business” means any sole proprietorship, partnership, joint venture, corporation, association, or any other entity formed for profit-making purposes or that has an Employee, as defined in this section.
- E. “Characterizing Flavor” means a distinguishable taste or aroma, other than the taste or aroma of Tobacco, imparted by Tobacco, either prior to or during use of the Tobacco Product or any byproduct produced by the Tobacco Product, including, but not limited to, tastes or aromas relating to menthol, mint, wintergreen, any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, nut or spice; provided, however, that a Tobacco Product shall not be determined to have a Characterizing Flavor solely because of the use of additives or flavorings or the provision of ingredient information.

ATTACHMENT A

- F. "Dining Area" means any area available to or customarily used by the general public, that is designed, established, or regularly used for consuming food or drink.
- G. "Electronic Smoking Device" means an electronic device that can be used to deliver an inhaled dose of nicotine, Tobacco, Cannabis, or any other substances, including any component, part or accessory of such a device, whether or not sold separately.
- H. "Employee" means any Person who is employed; retained as an independent contractor by any Employer, as defined in this section; or any Person who volunteers his or her services for an Employer, association, nonprofit, or volunteer entity.
- I. "Employer" means any Person, partnership, corporation, association, nonprofit or other entity which employs or retains the service of one or more Persons, or supervises volunteers.
- J. "Enclosed Area" means:
1. an area in which outside air cannot circulate freely to all parts of the area, and includes an area that has:
 - a. any type of overhead cover whether or not that cover includes vents or other openings and at least three walls or other vertical constraints to airflow including, but not limited to, vegetation of any height, whether or not those boundaries include vents or other openings; or
 - b. four walls or other vertical constraints to airflow including, but not limited to, vegetation that exceeds six feet in height, whether or not those boundaries include vents or other openings.
- K. "Flavored Tobacco Product" means any Tobacco Product that imparts a Characterizing Flavor.
- L. "Labeling" means written, printed, or graphic matter upon any Tobacco Product or any of its Packaging, or accompanying such Tobacco Product.
- M. "Manufacturer" means any Person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a Tobacco Product; or imports a finished Tobacco Product for sale or distribution into the United States.
- N. "Multi-Unit Residence" means any residential structure with two (2) or more Units and has at least one or more shared walls, floors, or ceilings. Additionally, a residential structure that has two (2) or more Units and has a shared ventilation system is considered a Multi-Unit Residence.

A Multi-Unit Residence **does not** include the following:

1. a single-family residence with a detached in-law or secondary dwelling unit;
2. a single, contiguous residence in which rent is shared by the residents; and

ATTACHMENT A

3. A hotel or motel that meets the requirements of California Civil Code section 1940, subdivision (b) (2).
- O. "Multi-Unit Residence Common Area" means any indoor or outdoor common area of a Multi-Unit Residence accessible to and usable by more than one residence, including but not limited to halls, lobbies, laundry rooms, outdoor eating areas, play areas, swimming pools and recreation areas.
- P. "Nonprofit Entity" means any entity that meets the requirements of California Corporations Code Section 5003 as well as any corporation, unincorporated association or other entity created for charitable, religious, philanthropic, educational, political, social or similar purposes, the net proceeds of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A public agency is not a Nonprofit Entity within the meaning of this section.
- Q. "Packaging" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a Tobacco Product is sold or offered for sale to a consumer.
- R. "Place of Employment" means any area under the legal or de facto control of an Employer, Business or Nonprofit Entity that an Employee or the general public may have cause to enter in the normal course of operations, but regardless of the hours of operation, including, for example, indoor and outdoor work areas, construction sites, vehicles used in employment or for Business purposes, taxis, Employee lounges, conference and banquet rooms, bingo and gaming facilities, long-term health facilities, warehouses, and private residences that are used as childcare or health care facilities subject to licensing requirements.
- S. "Person" means any natural Person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- T. "Playground" means any park or Recreational Area designated in part to be used by children that has play or sports equipment installed or has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds, or on County property.
- U. "Public Place" means any place, public or private, open to the general public regardless of any fee or age requirement, including, for example, bars, restaurants, clubs, stores, stadiums, parks, Playgrounds, taxis and buses.
- V. "Reasonable Distance" means a distance of at least twenty (20) feet to ensure that occupants of a building and those entering or existing the building are not exposed to secondhand smoke created by smokers outside of the building.
- W. "Recreational Area" means any area, public or private, open to the public for recreational purposes regardless of any fee requirement, including, for example, parks, gardens, sporting facilities, stadiums, and Playgrounds, but excluding those areas where the County lacks jurisdictional authority to regulate.
- X. "Service Area" means any area designed to be or regularly used by one or more

ATTACHMENT A

Persons to receive or wait to receive a service, enter a Public Place, or make a transaction whether or not such service includes the exchange of money, including, for example, ATMs, bank teller windows, telephones, ticket lines, bus stops, and cab stands.

- Y. "Smoke" or "Smoking" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated Tobacco Product or Cannabis intended for inhalation, whether natural or synthetic, in any manner or in any form including but not limited to a cigar, cigarette, cigarillo, vaporizer, joint, pipe, hookah or Electronic Smoking Device. "Smoke" includes the use of an Electronic Smoking Device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.
- Z. "Smoking Product" means any substance or product containing nicotine, Tobacco or Cannabis that is meant to be used in conjunction with an e-cigarette or any other type of smoking or vaporizing contraption including but not limited to joints, cigarettes, cigars, bongs or pipes. "Smoking Product" also means, Indian cigarettes called "bidis", and cartridges and liquid solutions for e-cigarettes, which may be utilized for smoking, chewing, inhaling or other manner of ingestion.
- AA. "Tobacco Paraphernalia" means any item designed or marketed for the consumption, use, or preparation of Tobacco Products.
- BB. "Tobacco" or "Tobacco Product" means:
1. Any product containing, made, or derived from tobacco leaf or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff.
 2. Any electronic device that delivers nicotine or other similar substances to the Person inhaling from the device, including, but not limited to an electronic cigarette, electronic cigar, electronic pipe, or electronic hookah.
 3. Notwithstanding any provision of subsections (a) and (b) to the contrary, "Tobacco Product" includes any component, part, or accessory intended or reasonably expected to be used with a Tobacco Product, whether or not sold separately. "Tobacco Product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.
- CC. "Tobacco Retailer" means any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, Tobacco, Tobacco Products or Tobacco Paraphernalia. "Tobacco Retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of Tobacco Products or Tobacco

ATTACHMENT A

Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

DD. "Unit" means a personal dwelling space, even where lacking cooking facilities or private plumbing facilities, and includes any associated exclusive-use Enclosed Area or unenclosed area, such as for example, a private balcony, porch, deck or patio. "Unit" includes, without limitation, an apartment; a condominium; a townhouse; a room in a motel or hotel; a dormitory room.

7.92.020 Prohibitions – locations where smoking is prohibited.

- A. Except as otherwise provided in this Chapter, Smoking is prohibited in the following enclosed and unenclosed locations in the County:
1. All areas where smoking is prohibited by state or federal law, including, but not limited to, indoor workplaces, bars and restaurants (California Labor Code Section 6404.5); state, County, and city buildings (California Government Code Sections 7596 through 7598); tot lots and Playgrounds (California Health and Safety Code Section 104495); and pursuant to (California Health and Safety Code Section 11362.3).
 2. County vehicles.
 3. Public parks.
 4. Recreational Areas.
 5. Service Areas.
 6. Dining Areas.
 7. Public Places, when being used for a public event, including a sporting event, farmer's market, parade, craft fair, or any event which may be open to or attended by the general public, provided that Smoking is permitted on streets and sidewalks being used in a traditional capacity as pedestrian or vehicular thoroughfares, unless otherwise prohibited by this Chapter or other law.
- B. Nothing in this Chapter prohibits any Person or Employer with legal control over any property from prohibiting Smoking on any part of such property.

7.92.030 Reasonable smoking distance required – 20 Feet.

Smoking shall occur at a Reasonable Distance of at least twenty (20) feet outside any Enclosed Area and from entrances, operable windows, and ventilation systems of Enclosed Areas where Smoking is prohibited, to ensure that secondhand smoke does not enter the area through entrances, windows, ventilation systems or any other means so that those indoors and those entering or leaving the building are not involuntarily exposed to secondhand smoke, including any secondhand smoke from an Electronic Smoking Device or vapor.

7.92.040 PLACEHOLDER.

ATTACHMENT A

7.92.050 Posting of signs.

Posting of signs shall be the responsibility of the owner, operator, manager or other Person having control of the place where Smoking is prohibited by this Chapter in cooperation with the Mono County Public Health Department. Except in facilities owned or leased by County, state, or federal governmental entities, "No Smoking" signs with letters of not less than one-half inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly posted where Smoking is prohibited in accordance with this Chapter. Where applicable, all signs shall clearly state that Smoking is prohibited within 20 feet of any Enclosed Area as defined in subsection I of section 7.92.010 and within 20 feet of entrances, operable windows and ventilation systems. Any owner, manager, operator, Employer or Employee or other Person having control of a place where Smoking is prohibited by this Chapter shall not be deemed to be in violation of this Chapter if signs have been posted in a manner consistent with the requirements of this section. For purposes of this Chapter, the Mono County Public Health Department shall be responsible for the posting of signs in regulated facilities owned or leased in whole or in part by the County.

7.92.060 Duty of person, employer, business or nonprofit entity.

Notwithstanding any other provision of this Chapter, any owner, landlord, Employer, Business, Nonprofit Entity, or any other Person who controls any property, establishment, or Place of Employment regulated by this chapter may declare any part of such area in which Smoking would otherwise be permitted to be a nonsmoking area.

7.92.070 Sale of flavored tobacco products prohibited.

- A. Except as provided in subsection D, it shall be a violation of this Chapter for any Tobacco Retailer or any of the Tobacco Retailer's agents or Employees to sell or offer for sale, or to possess with intent to sell or offer for sale, any Flavored Tobacco Product.
- B. There shall be a rebuttable presumption that a Tobacco Retailer in possession of Flavored Tobacco Products, including but not limited to individual Flavored Tobacco Products, packages of Flavored Tobacco Products, or any combination thereof, possesses such Flavored Tobacco Products with the intent to sell or offer them for sale.
- C. There shall be a rebuttable presumption that a Tobacco Product is a Flavored Tobacco Product if a Tobacco Retailer, Manufacturer, or any Employee or agent of a Tobacco Retailer or Manufacturer has:
 1. Made a public statement or claim that the Tobacco Product imparts a Characterizing Flavor;
 2. Used text and/or images on the Tobacco Product's Labeling or Packaging to explicitly or implicitly indicate that the Tobacco Product imparts a Characterizing Flavor; or

ATTACHMENT A

3. Taken action directed to consumers that would be reasonably expected to cause consumers to believe the Tobacco Product imparts a Characterizing Flavor.
- D. Any Tobacco Retailer whose inventory includes Flavored Tobacco Products at the time this Chapter becomes effective may continue to sell the Flavored Tobacco Product(s) until the supply is exhausted but shall not thereafter order new supplies.

7.92.080 Penalties and enforcement.

- A. Unless the applicable section of this Chapter provides that violation is a misdemeanor, any Person or Business violating any provision of this Chapter, upon conviction thereof, shall be guilty of an infraction and subject to a fine (not including court-imposed mandatory penalties) of \$100.00 for the first violation, \$200.00 for the second violation, and \$500.00 for any subsequent violation. For purposes of this Chapter, each day of noncompliance shall be considered a separate violation.
- B. The provisions of this Chapter may be enforced through civil and/or criminal proceedings including, but not limited to, action for nuisance abatement pursuant to Mono County Code Chapter 7.20, administrative citation pursuant to Mono County Code Chapter 1.12, following the procedures set forth in subsection D, and/or injunctive relief. In any enforcement action, the County may seek reimbursement for the costs of investigation, inspection or monitoring leading to the establishment of the violation, and for the reasonable costs of preparing and bringing the enforcement action. The remedies provided by this section 7.92.080 are nonexclusive, cumulative and in addition to any other remedy the County may have at law or in equity.
- C. The Mono County Public Health Director or his/her designee ("Director") is authorized to enforce, on behalf of the County, the provisions of this Chapter, and to refer such enforcement to the Mono County Code Compliance Division as provided in subsection D below. Any Person may request that the Director investigate a violation of this Chapter by filing a written complaint with the Public Health Department.
- D. The following procedures may be followed by the Director upon receipt of a written complaint and shall be followed prior to referring enforcement to Mono County Code Compliance:
 1. The Director shall contact the owner, operator or manager of the establishment, (the "establishment") or Person that is the subject of the complaint to investigate the nature and extent of the violation and may conduct such additional investigation as may be necessary, to determine whether the violation occurred.
 2. If the Director concludes that a violation occurred, he or she shall provide to the owner, operator or manager of the establishment or Person committing the violation a copy of the provisions of this Chapter and such advisory assistance to avoid future violations as may be necessary to achieve compliance.
 3. Upon receipt of a second written complaint involving the same Person or establishment, the Director shall attempt to meet with the owner, operator or manager or Person alleged to have violated this Chapter to further investigate

ATTACHMENT A

the matter and shall conduct such additional investigation as may be necessary. If it is determined that a subsequent violation has occurred, the Director shall mail, certified mail, postage prepaid, return receipt requested, a written directive to the owner, operator, manager or other Person, explaining in detail the steps required in order to achieve future compliance and advising that the County may initiate enforcement proceedings pursuant to Chapters 1.12 or 7.20, or pursue such other enforcement as is authorized by law, in the event of a subsequent violation.

4. Upon receipt of a third written complaint regarding the same Person or establishment, the Director may refer the matter to Mono County Code Compliance for further investigation and enforcement pursuant to Chapters 1.12 and/or 7.20, provided that the Code Compliance Division confirms that it has sufficient resources available to process the complaint.
 5. Any violation determined by the Code Compliance Division to have occurred following issuance of a Notice of Violation in accordance with Chapter 1.12, shall constitute cause for issuance of an Administrative Citation under that Chapter, except that the amount of the penalty imposed for each violation shall be as set forth in subsection 7.92.080.A. and the hearing officer for any administrative appeal shall be a member of the Board of Supervisors or its designee.
- E. The Director, and Code Compliance Specialist if applicable, shall maintain clear and thorough records and logs of all investigations and communications made in relation to every written complaint filed with the Public Health Department pursuant to this section.



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE June 12, 2018

Departments: Information Technology

TIME REQUIRED 30 minutes (20 minute presentation;
10 minute discussion) **PERSONS APPEARING BEFORE THE BOARD** Nate Greenberg

SUBJECT Mono County Land Mobile Radio System Update

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

This agenda item will provide an update on the work performed on the Mono County Land Mobile Radio System since December 2017 and outline the road map for the coming season.

RECOMMENDED ACTION:

Informational item only.

FISCAL IMPACT:

None at this time.

CONTACT NAME: Nate Greenberg

PHONE/EMAIL: (760) 924-1819 / ngreenberg@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

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Presentation
Staff Report

History

Time	Who	Approval
6/7/2018 7:11 AM	County Administrative Office	Yes
6/5/2018 10:47 AM	County Counsel	Yes

6/7/2018 12:09 PM

Finance

Yes

Mono County Land Mobile Radio System (MCLMRS)

June 2018 Update



PHASED APPROACH

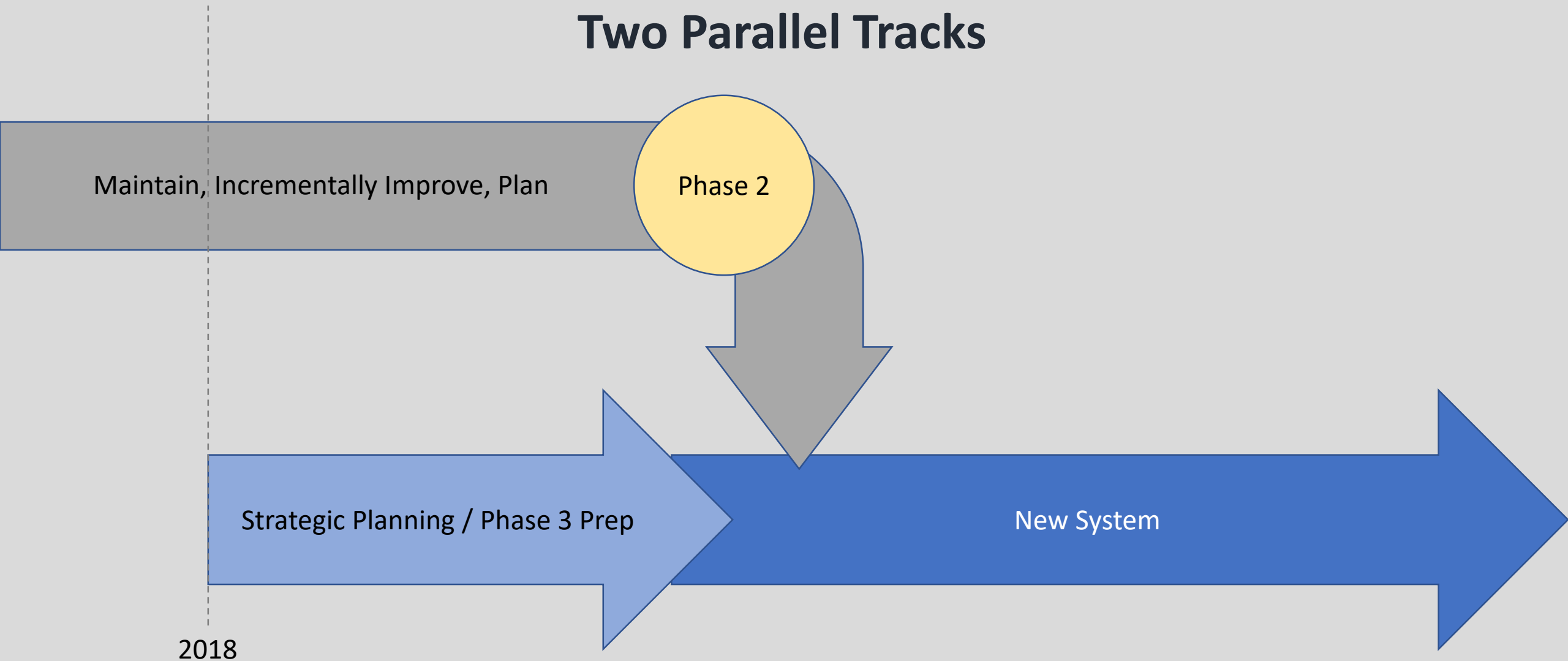
MCSD / Nielsen's Equipment

PHASE 0		PHASE 1		PHASE 2		PHASE 3	
Main Focus Areas	1. Technical 2. Operations	Main Focus Areas	1. Technical 2. Operations	Main Focus Areas	1. Policy 2. Funding 3. Governance	Main Focus Areas	1. Technical 2. Funding 3. Governance
Funding	~ \$150k - Radio budget	Funding	~ \$250k - Radio budget	Funding	~ \$TBD - Radio Budget - Cost-Share	Funding	~ \$TBD - Cost-Share
Source(s)		Source(s)		Source(s)		Source(s)	
Lead/Oversight	IT Director	Lead/Oversight	IT Director	Lead/Oversight	Interim Steering Committee	Lead/Oversight	Executive Committee
Priorities <ul style="list-style-type: none"> Review existing contracts & budgets Issue RFP and select new radio vendor Develop pragmatic work plan with short-term priorities Perform basic high-priority work/repairs Evaluate deficiencies 		Priorities <ul style="list-style-type: none"> Stabilize system – fix broken infrastructure Programmatic Maintenance (PM) & stock program Determine internal budget management practices Establishing governance for Mid-Term Begin Strategic Planning 		Priorities <ul style="list-style-type: none"> Build internal capacity Establish interim Governance & multi-agency collaborative Streamline support Design new system Seek out grant funding Develop long-term Strategic Plan Incremental system upgrades 		Priorities <ul style="list-style-type: none"> Continue to grow internal capacity Further improve support structures Implement new system and replace subscriber infrastructure Leverage Executive Committee for long-term funding and maintenance program 	
2014	2015	2016	2016	2018	2018	2020	2020



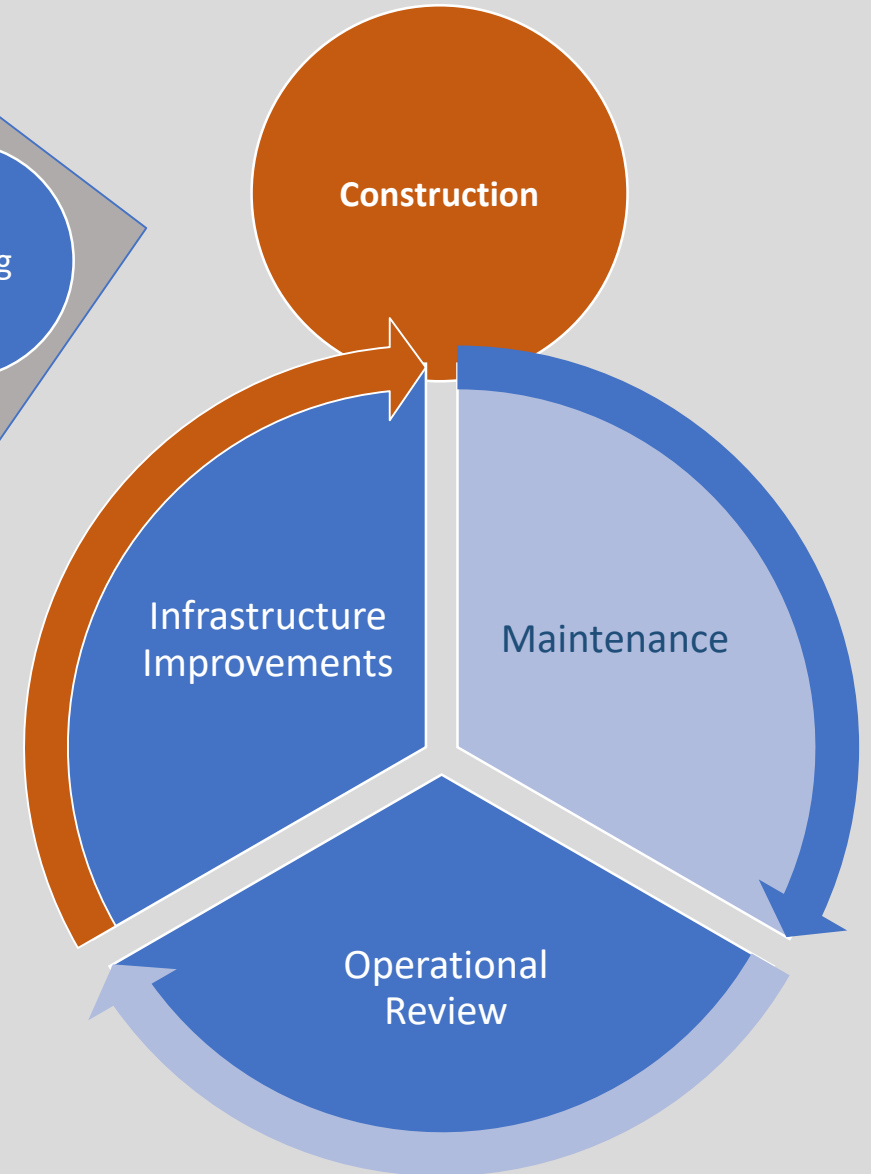
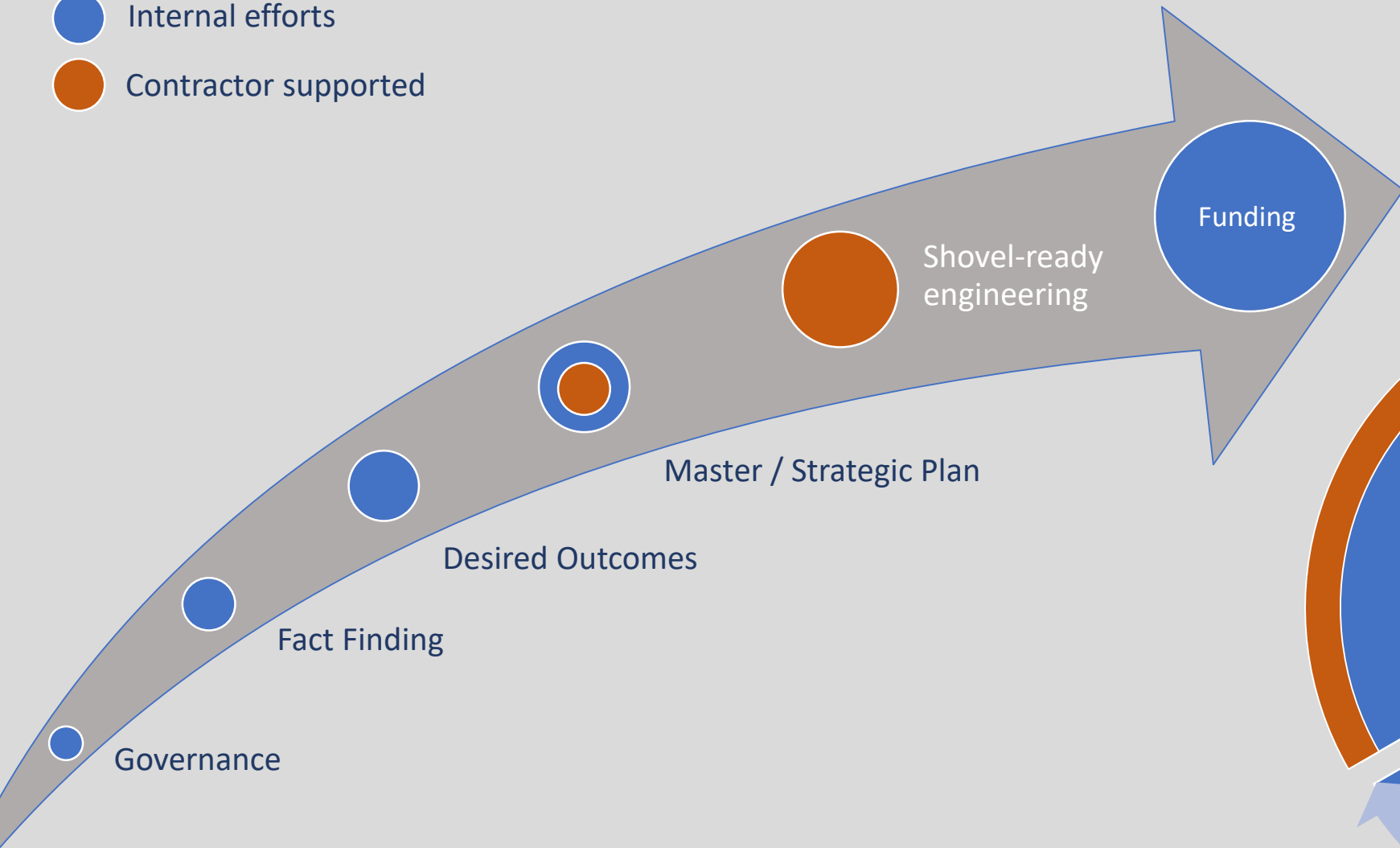
HOW WE GET THERE

Two Parallel Tracks



HOW WE GET THERE

- Internal efforts
- Contractor supported



ESTABLISHED PRIORITIES & NEXT STEPS

- 1 Increase staff capacity
- 2 Improve governance & establish authority
- 3 Begin Strategic & Master Planning processes
- 4 Determine appropriate ongoing budget allocation(s)
- 5 Focus on Phase 2 Priorities and develop Spring-Fall plan

PROGRESS UPDATE

SHORT-TERM OVERSIGHT

GOVERNANCE COMMITTEE

Mission	Support the operations and management of the existing Mono County Land-Mobile Radio System (MCLMRS) while working toward a modern and reliable multi-agency interoperable communication system which is supported by a clear organizational structure and funding source.
Purpose	<ol style="list-style-type: none">1. Provide oversight and guidance regarding the operations and management of the Mono County Land-Mobile Radio System.2. Assist the Technical Group with fiscal and organizational resources necessary to maintain and operate existing MCLMRS.

TECHNICAL COMMITTEE

Mission	Define technical problems and present reasonable solutions that ensure the proper operation and function of the Mono County Land-Mobile Radio System.
Purpose	<ol style="list-style-type: none">1. Serve as an oversight body that presents issues and reviews potential solutions associated with the MCLMRS2. Provide guidance and recommendations relative to incremental enhancements to existing MCLMRS

Defined standing authority established for each group

PROGRESS UPDATE

GOVERNANCE COMMITTEE

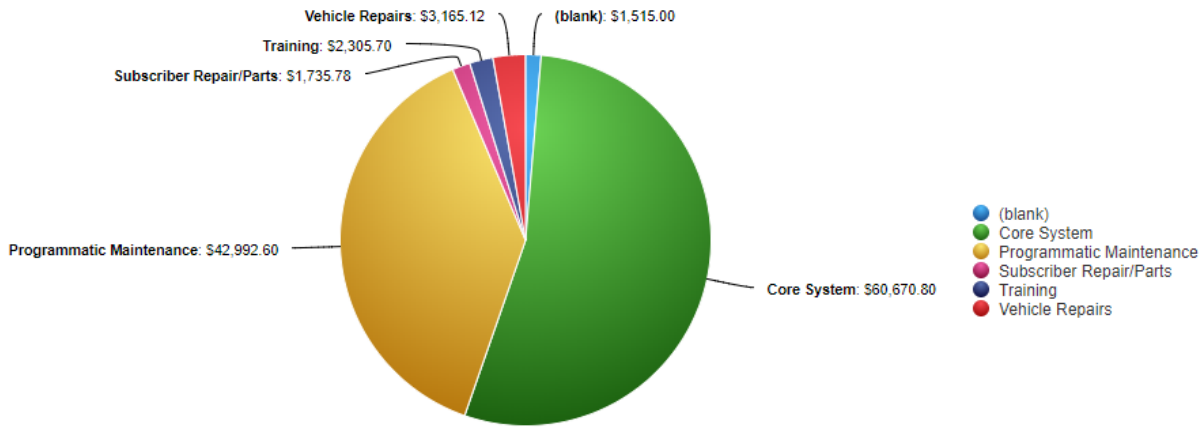
- Stakeholder membership
- Communication structure
 - Defined Standing Authority
- Work Plan review
- Financing models
- JPA and future governance structure

TECHNICAL COMMITTEE

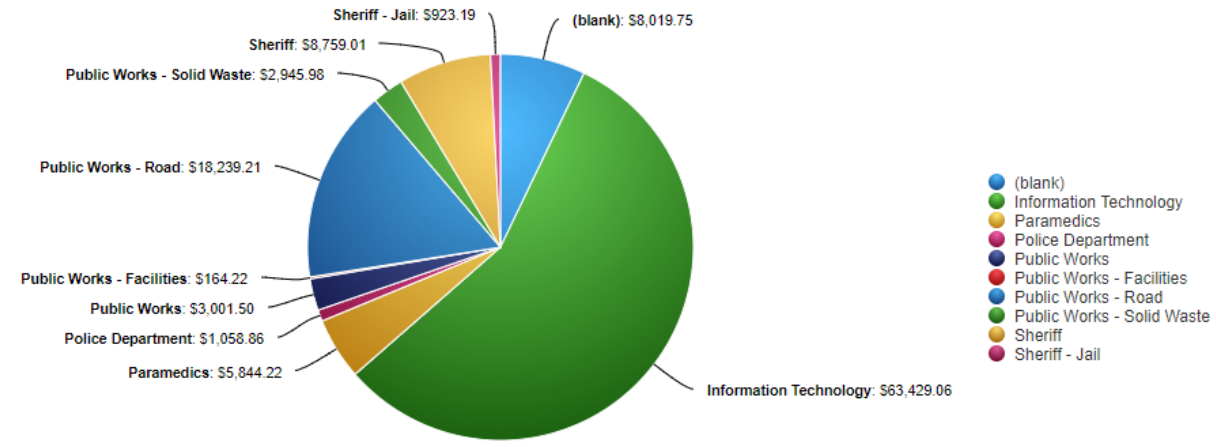
- Short-term Work Plan vetting
- Communication structure
 - Issue reporting
- Mid-term Roadmap
 - Plan/concept review
- Long-term Planning
 - Pain Points & Desired Outcomes
 - Standards discussion
 - Site planning & coverage

ASSET MANAGEMENT & PREVENTATIVE MAINTENANCE

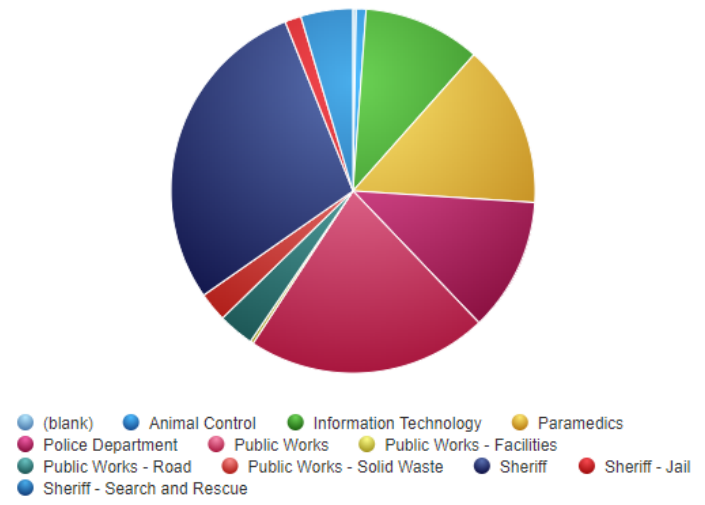
Expenses by Type



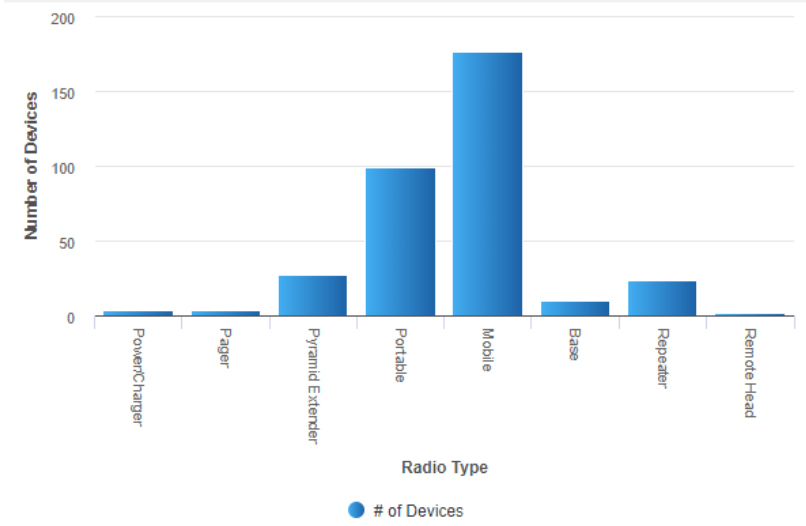
Expenses By Department



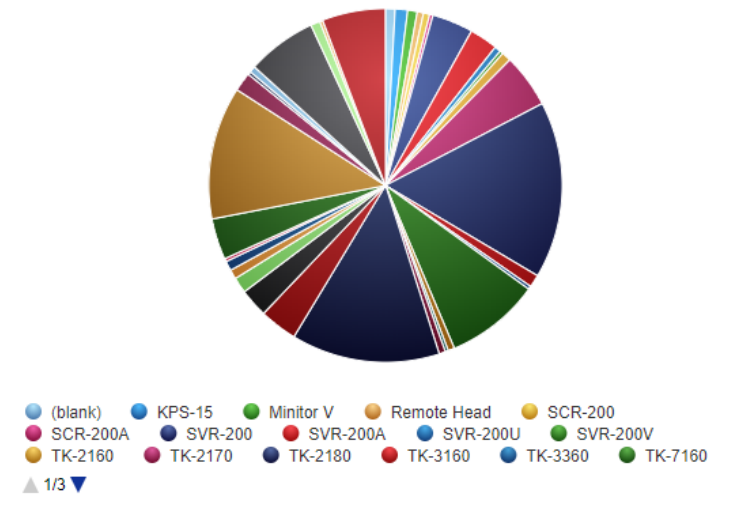
Devices by Department



Devices by Type



Devices by Model



TECHNICAL

GOVERNANCE

TECHNOLOGY

- Multicast Project
- Conway Summit D395 interface
- PTT integration
- Voting Project
- Documentation
- Standardize Programming
- Crowley Sub upgrade
- New system requirements

TECHNOLOGY

- NextGen repeater testing
- Expand RoIP coverage

SITE WORK

- Basic solar upgrade
- Replace charge controllers
- Replace power supplies
- Site monitoring
- Site improvement plans
- Conway building repairs

SITE WORK

1. Casa Diablo
2. Antelope Mountain
3. Sweetwater Summit

MAINTENANCE

- Subscriber PM
- Remaining FDs
 - Remaining County Depts.
 - Remaining Town Depts.
 - High value assets
 - Programming

Device replacement

- Strategy development
- Replace equip
- Purchase processes

Mountaintops

- Schedule
- Punchlist

GOVERNANCE

- Hire Comm. Spec
- Interim Interagency MOU
- Desired operating state

GOVERNANCE

- JPA formation

FISCAL

- 18-19 workplan & budget
- Mid-term cost assessment
- Funding source evaluation

FISCAL

- EMPG leftovers

WORK PLAN & ROAD MAP

Work Plan (Short Term)

- Contracts drafted with two main vendors
- 118 identified projects/tasks – most of which focused on 2018-2019
- Divvied up between Delta Wireless & Mono County
- Work is getting scheduled for remainder of summer

Road Map (Long Term)

- Coverage mapping
- Site review and conceptual planning conversations with several vendors
- Working toward engineering for each site



THANK YOU!

Questions/Comments/Feedback





**INFORMATION TECHNOLOGY
COUNTY OF MONO**

PO Box 7657 | 437 OLD MAMMOTH ROAD, STE. 228 MAMMOTH LAKES, CA 93546
(760) 924-1819 • FAX (760) 924-1697 • ngreenberg@mono.ca.gov

Nate Greenberg
Information Technology Director

June 12, 2018

To Honorable Board of Supervisors
From Nate Greenberg, Information Technology Director
Subject Mono County Land Mobile Radio System (MCLMRS) Update

Recommendation

Informational item only.

Discussion

This agenda item will provide an update on the work performed on the Mono County Land Mobile Radio System since December 2017 and outline the roadmap for the coming season of work.

Fiscal Impact

None at this time.

Strategic Plan Alignment

Mono County Strategic Priorities

- 1A** Improve Emergency Operations & Response
- 1E** Infrastructure
- 3D** Fiscal Resiliency

IT Strategic Initiatives

- I. Business Operations and Efficiency
- II. Communications, Broadband, and Accessibility
- III. Infrastructure Resiliency and Security



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE June 12, 2018

Departments: Information Technology

TIME REQUIRED 5 minutes

PERSONS APPEARING BEFORE THE BOARD Nate Greenberg

SUBJECT Delta Wireless Contract Renewal

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Delta Wireless provides engineering and technical assistance to the Information Technology Department in the management of the Mono County Land Mobile Radio System (MCLMRS). This item renews a Time & Materials agreement for FY 18-19 in the amount of \$150,000 which covers both labor and capital equipment purchases.

RECOMMENDED ACTION:

Approve County entry into proposed contract with Delta Wireless and authorize the County Administrative Officer to execute said contract on behalf of the County. Provide any desired direction to staff.

FISCAL IMPACT:

Up to \$150,000 which is fully within the FY 2018-2019 Radio & Communications budget.

CONTACT NAME: Nate Greenberg

PHONE/EMAIL: (760) 924-1819 / ngreenberg@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

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Staff Report
Delta Contract

History

Time	Who	Approval
6/7/2018 7:39 AM	County Administrative Office	Yes

6/7/2018 3:34 PM

County Counsel

Yes

6/7/2018 12:11 PM

Finance

Yes



**INFORMATION TECHNOLOGY
COUNTY OF MONO**

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(760) 924-1819 • FAX (760) 924-1697 • ngreenberg@mono.ca.gov

Nate Greenberg
Information Technology Director

June 12, 2018

To Honorable Board of Supervisors
From Nate Greenberg, Information Technology Director
Subject Renew radio support services agreement with Delta Wireless for FY 18-19

Recommendation

Authorize the County Administrative Officer to sign Delta Wireless Contract for the provision of radio system support and service on an as-needed basis through June 30, 2019.

Discussion

Delta Wireless provides engineering and technical assistance to the Information Technology Department in the management of the Mono County Land Mobile Radio System (MCLMRS). This item renews a Time & Materials agreement for FY 18-19 in the amount of \$150,000 which covers both labor and capital equipment purchases.

The Director of Information Technology will oversee the management of the contract and work closely with the vendor and stakeholders to effectively prioritize projects throughout the Fiscal Year.

Fiscal Impact

Up to \$150,000 which is expected in the FY 2018-2019 adopted Radio Department budget.

Strategic Plan Alignment

Mono County Strategic Priorities

- 1A Improve Emergency Operations & Response
- 1E Infrastructure
- 3D Fiscal Resiliency

IT Strategic Initiatives

- I. Business Operations and Efficiency
- II. Communications, Broadband, and Accessibility
- III. Infrastructure Resiliency and Security

**AGREEMENT BETWEEN THE COUNTY OF MONO AND
DELTA WIRELESS, INC. FOR THE PROVISION OF
RADIO SYSTEM SUPPORT, SERVICE AND TRAINING
ON AN AS-NEEDED BASIS**

INTRODUCTION

WHEREAS, the County of Mono, a political subdivision of the State of California (hereinafter referred to as "County"), may from time-to-time have the need for the radio system support, service and training services of Delta Wireless, Inc., of Stockton, CA (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK

Contractor shall furnish the services, perform the work, and provide the associated materials and equipment for the County described in such Scope of Work Letters as are issued from time-to-time to Contractor by the Director of Information Technology, or an authorized representative thereof, during the term of this Agreement; such Letters will be substantially in the form as shown in Attachment A and, in order to be binding on Contractor, must be signed by an authorized representative of Contractor. All such duly-issued and signed Scope of Work Letters are incorporated herein by reference.

The County makes no guarantee or warranty, of any nature, concerning the minimum level or amount of services or work that will be requested of Contractor by the County under this Agreement. The County by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if the County should have some need for such services or work during the term of this Agreement.

Services and work provided at the County's request by Contractor under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those to which reference is made in this Agreement.

This Agreement is subject to the following Exhibits (as noted) which are attached hereto, following all referenced Attachments, and incorporated by this reference. In the event of a conflict between the terms of an attached Exhibit and this Agreement, the terms of the Exhibit shall govern:

- Exhibit 1:** General Conditions (Construction)
- Exhibit 2:** Prevailing Wages (as applicable to any individual Scope of Work letter(s))
- Exhibit 3:** Bond Requirements
- Exhibit 4:** Invoicing, Payment, and Retention
- Exhibit 5:** Trenching Requirements
- Exhibit 6:** FHWA Requirements
- Exhibit 7:** CDBG Requirements
- Exhibit 8:** HIPAA Business Associate Agreement
- Exhibit 9:** Other _____

2. TERM

The term of this Agreement shall be from July 1, 2018, through June 30, 2019, unless sooner terminated as provided below.

3. CONSIDERATION

A. Compensation. The County shall pay Contractor in accordance with the "Schedule of Fees" (set forth in Attachment B, attached hereto and by reference incorporated herein) for the services and work described in any Scope of Work Letter issued pursuant to this Agreement.

B. Travel and Per Diem. Except as otherwise set forth in Attachment B, Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work requested by the County under this Agreement.

C. No Additional Consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from the County any additional consideration, compensation, salary, wages, or other type of remuneration for services or work rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit Upon Amount Payable Under Agreement. Neither the total sum of all payments made by the County to Contractor for services and work performed under this Agreement, nor the total sum of all payments made by the County to Contractor for services or work performed pursuant to any specific Scope of Work Letter, shall exceed \$150,000 (hereinafter referred to as "Contract Limit"). The County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the Contract Limit.

E. Billing and Payment. Contractor shall submit to the County, on a monthly basis, an itemized statement of all services and work described in the applicable Scope of Work Letter, which were done at the County's request. The statement to be submitted will cover the period from the first day of the preceding month through and including the last day of the preceding month. Alternatively, Contractor may submit a single request for payment corresponding to a single incident of service or work performed at the County's request. All statements submitted in request for payment shall identify the date on which the services and work were performed and describe the nature of the services and work which were performed on each day. Invoicing shall be informative but concise regarding services and work performed during that billing period. Upon finding that Contractor has satisfactorily completed the work and performed the services as requested, the County shall make payment to Contractor within 30 days of its receipt of the itemized statement. Should the County determine the services or work have not been completed or performed as requested and/or should Contractor produce an incorrect statement, the County shall withhold payment until the services and work are satisfactorily completed or performed and/or the statement is corrected and resubmitted.

If Exhibit 4 ("Invoicing, Payment, and Retention") is attached to this Agreement, then the language contained in Exhibit 4 shall supersede and replace this paragraph 3.E. in its entirety.

F. Federal and State Taxes.

(1) Except as provided in subparagraph (2) below, the County will not withhold any federal or state income taxes or social security from any payments made by the County to Contractor under the terms and conditions of this Agreement.

(2) The County shall withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one-thousand fifteen hundred dollars (\$1,500.00).

(3) Except as set forth above, the County has no obligation to withhold any taxes or payments from sums paid by the County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. The County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by the County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the State Franchise Tax Board.

4. WORK SCHEDULE

Upon the County's issuance of a "Notice to Proceed" with respect to a specific Scope of Work Letter, Contractor's obligation is to perform, in a timely manner, the services and work identified in that Scope of Work Letter. It is understood by Contractor that its performance of those services and work will require a varied schedule. Contractor, in arranging its own schedule, will coordinate with the County to ensure that all services and work requested by the County will be performed within the time frame set forth in the Scope of Work Letter, unless circumstances outside Contractor's control cause delay and contractor provides timely notice of such circumstances.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS

Any licenses, certificates, or permits required by the federal, state, County, or municipal governments for Contractor to provide the services and work described in Attachment A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, contractor's licenses, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide the County, upon request, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment A. Where there is a dispute between Contractor and the County as to what licenses, certificates, and permits are required to perform the services identified in Attachment A, the County reserves the right to make such determinations for purposes of this Agreement.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, support services, and telephone service as is necessary for Contractor to provide the services and work identified in Attachment A to this Agreement. The County is not obligated to reimburse or pay Contractor for any expense or cost incurred by Contractor in procuring or maintaining such items. The costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

7. COUNTY PROPERTY

A. Personal Property of the County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, uniforms, etc., provided to Contractor by the County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. Contractor will use reasonable care to protect, safeguard, and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to the County.

8. WORKERS' COMPENSATION

Contractor shall provide Statutory Workers' Compensation insurance coverage and Employer's Liability coverage for not less than \$1 million (\$1,000,000.00) per occurrence for all employees engaged in services or operations under this Agreement. Any insurance policy limits in excess of the specified minimum limits and coverage shall be made available to County as an additional insured. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of County for all work performed by Contractor, its employees, agents, and subcontractors.

9. INSURANCE

A. Contractor shall procure and maintain, during the entire term of this Agreement or, if work or services do not begin as of the effective date of this Agreement, commencing at such other time as may be authorized in writing by the County Risk Manager, the following insurance (as noted) against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by Contractor, its agents, representatives, employees, or subcontractors:

General Liability. A policy of Comprehensive General Liability Insurance which covers all the work and services to be performed by Contractor under this Agreement, including operations, products and completed operations, property damage, bodily injury (including death) and personal and advertising injury. Such policy shall provide limits of not less than \$1,000,000.00 per claim or occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project or the general aggregate limit shall be twice the required occurrence limit.

Automobile/Aircraft/Watercraft Liability Insurance. A policy of Comprehensive Automobile/Aircraft/Watercraft Liability Insurance for bodily injury (including death) and property damage which provides total limits of not less than \$300,000.00 per claim or occurrence applicable to all owned, non-owned and hired vehicles/aircraft/watercraft. If the services provided under this Agreement include the transportation of hazardous materials/wastes, then the Automobile Liability policy shall be endorsed to include Transportation Pollution Liability insurance covering materials/wastes to be transported by Contractor pursuant to this Agreement. Alternatively, such coverage may be provided in Contractor's Pollution Liability policy.

Professional Errors and Omissions Liability Insurance. A policy of Professional Errors and Omissions Liability Insurance appropriate to Contractor's profession in an amount of not less than \$1,000,000.00 per claim or occurrence/ \$2,000,000.00 general aggregate. If coverage is written on a claims-made form then: (1) the "retro date" must be shown, and must be before the beginning of contract work; (2) insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the contract work; and (3) if coverage is cancelled or non-renewed, and not replaced with another claims-made policy form with a "retro date" prior to the contract effective date, then Contractor must purchase "extended reporting" coverage for a minimum of five years after completion of contract work.

Pollution Liability Insurance. A policy of Comprehensive Contractors Pollution Liability coverage applicable to the work being performed and covering Contractor's liability for bodily injury (including death), property damage, and environmental damage resulting from "sudden accidental" or "gradual" pollution and related cleanup costs arising out of the work or services to be performed under this Agreement. Coverage shall provide a limit no less than \$1,000,000.00 per claim or occurrence/ \$2,000,000.00 general aggregate. If the services provided involve lead-based paint or asbestos identification/remediation, the Pollution Liability policy shall not contain lead-based paint or asbestos exclusions.

B. Coverage and Provider Requirements. Insurance policies shall not exclude or except from coverage any of the services and work required to be performed by Contractor under this Agreement. The required polic(ies) of insurance shall be issued by an insurer authorized to sell such insurance by the State of California, and have at

least a "Best's" policyholder's rating of "A" or "A+". Prior to commencing any work under this agreement, Contractor shall provide County: (1) a certificate of insurance evidencing the coverage required; (2) an additional insured endorsement for general liability applying to the County of Mono, its agents, officers and employees made on ISO form CG 20 10 11 85, or providing equivalent coverage; and (3) a notice of cancellation or change of coverage endorsement indicating that the policy will not be modified, terminated, or canceled without thirty (30) days written notice to the County.

C. Deductible, Self-Insured Retentions, and Excess Coverage. Any deductibles or self-insured retentions must be declared and approved by Mono County. If possible, the Insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to Mono County, its officials, officers, employees, and volunteers; or the Contractor shall provide evidence satisfactory to Mono County guaranteeing payment of losses and related investigations, claim administration, and defense expenses. Any insurance policy limits in excess of the specified minimum limits and coverage shall be made available to County as an additional insured.

D. Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance (including Workers' Compensation) meeting all the requirements stated herein and that County is an additional insured on insurance required of subcontractors.

E. Requirements Based on Scope of Work. County reserves the right to add to or modify these requirements, including limits, based on the nature of the risk or other special circumstances associated with any individual Scope of Work Letter issued under this Agreement.

10. STATUS OF CONTRACTOR

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as an independent contractor, and not as an agent, officer, or employee of the County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of, or exercise any right or power vested in, the County, except as expressly provided by law or set forth in Attachment A of this Agreement. No agent, officer, or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and the County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor (unless otherwise specified herein) shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to the County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to the County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of the County.

11. DEFENSE AND INDEMNIFICATION

Contractor shall defend, indemnify, and hold harmless County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including reasonable litigation costs and attorney's fees, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, or Contractor's agents, officers, employees or any one employed by any of them, or anyone for whom those negligent acts or omissions, recklessness, or willful misconduct any of them may be liable. Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use.

Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

12. RECORDS AND AUDIT

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, and federal, state, County, and municipal law, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, micrographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of the County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which the County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, the County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

13. NON-DISCRIMINATION

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, ancestry, national origin, physical handicap, medical condition, marital status, age, sexual orientation, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

14. TERMINATION

This Agreement may be terminated by the County without cause, and at will, for any reason by giving to Contractor thirty (30) calendar days' written notice of such intent to cancel. In addition, without canceling or terminating this Agreement, the County may, without cause and at will, cancel any particular Scope of Work Letter issued to Contractor by giving Contractor 48-hours' written notice of its intent to cancel that Letter. In either event, the County shall pay Contractor for services and work satisfactorily performed by Contractor before delivery of the County's cancellation notice. Contractor may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) calendar days' written notice of such intent to cancel to the County.

Notwithstanding the foregoing, if this Agreement is subject to General Conditions (set forth as an Exhibit hereto), then termination shall be in accordance with the General Conditions and this paragraph 14 shall not apply.

15. ASSIGNMENT

This is an agreement for the services of Contractor. The County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of the County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of the County.

16. DEFAULT

If Contractor abandons the work, or fails to proceed with the work and services requested by the County in a timely manner, or fails in any way as required to conduct the work and services as required by the County, the

County may declare Contractor in default and terminate this Agreement upon five days' written notice to Contractor. Upon such termination by default, the County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

17. WAIVER OF DEFAULT

Waiver of any default by either party to this Agreement shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph 24 below.

18. CONFIDENTIALITY

Contractor agrees to comply with various provisions of the federal, state, and County laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such privileged, restricted or confidential information and records. Disclosure of such information or records shall be made by Contractor only with the express written consent of the County.

19. CONFLICTS

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement. Contractor agrees to complete and file a conflict of interest statement.

20. POST-AGREEMENT COVENANT

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

21. SEVERABILITY

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or County statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

22. FUNDING LIMITATION

The ability of the County to enter into this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, the County has the option to terminate, reduce, or modify this Agreement, or any of its terms within 10 days of its notifying Contractor of the termination, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements (except the requirement of mutual consent) of paragraph 24 below.

23. VENUE

This Agreement shall be governed under the laws of the State of California and venue for any litigation under this Agreement shall be the County of Mono, State of California.

24. AMENDMENT

This Agreement may be extended, modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form, and executed with the same formalities as this Agreement or in accordance with delegated authority therefor, and attached to the original Agreement to maintain continuity.

25. NOTICE

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the term of this Agreement, which Contractor or the County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail or email (if provided below), to the respective parties as follows:

County of Mono:
Nate Greenberg
Director, Information Technology
PO Box 7657
Mammoth Lakes, CA 93546
ngreenberg@mono.ca.gov

Contractor:
Delta Wireless
David Naasz, President
1700 W Freemont Street
Stockton, CA 95203
dnaasz@deltawireless.com

26. ENTIRE AGREEMENT


This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS AS SET FORTH BELOW.


COUNTY OF MONO:

By: _____
Name: Bob Gardner
Title: Chair, Board of Supervisors
Date: _____

CONTRACTOR:

By: 
Name: David Naasz
Title: President, Delta Wireless
Date: 5/11/18
Tax ID: 68-0371097

APPROVED AS TO FORM:


County Counsel
4/17/18
Date

APPROVED BY RISK MANAGEMENT:

Risk Management Date

ATTACHMENT A

AGREEMENT BETWEEN THE COUNTY OF MONO AND DELTA WIRELESS, INC. FOR THE PROVISION OF RADIO SYSTEM SUPPORT, SERVICE AND TRAINING SERVICES ON AN AS-NEEDED BASIS

TERM:

FROM: July 1, 2018

TO: June 30, 2019

SCOPE OF WORK:

Pursuant to individual Scope of Work Letters, as described below, Contractor shall provide all labor, equipment, materials, supplies, research, transportation, taxes, and cover all other costs required to perform radio system support, service and training for the County. In general, project work shall consist of the following:

Provide technical support (via telephone or on-site) and training for radio services, and perform other services, as requested in individual Scope of Work Letters issued by the County Information Technology Director or his designee.

Training will be mutually scoped by both County and Delta Wireless, then quoted by Delta Wireless based on time and travel demands. Utilizing the information developed, County will issue a Scope of Work Letter for training as needed.

WORK SCHEDULE:

Requests for services or work and scheduling of work tasks shall be coordinated with the County Information Technology Director, or an authorized designee and/or as set forth in the Scope of Work Letter.

WORK REQUESTS (SCOPE OF WORK 'LETTERS'):

The County Information Technology Director or his designee shall submit a formal work request to Contractor which clearly indicates the service and deliverables which are expected. Contractor shall respond to this work request with a proposal for the requested work and quote to perform said services. Work is authorized to begin once the quote provided has been authorized by the County Information Technology Director or his designee.

ATTACHMENT B

AGREEMENT BETWEEN THE COUNTY OF MONO AND DELTA WIRELESS, INC. FOR THE PROVISION OF RADIO SYSTEM SUPPORT, SERVICE AND TRAINING SERVICES ON AN AS-NEEDED BASIS

TERM:

FROM: July 1, 2018

TO: June 30, 2019

SCHEDULE OF FEES:

The County shall pay Contractor for services and work performed under this Agreement in accordance with Contractor's Schedule of Fees, which is set forth below:

Neither the total sum of all payments made by the County to Contractor for services and work performed under this Agreement, nor the total sum of all payments made by the County to Contractor for services or work performed pursuant to any specific Scope of Work Letter, shall exceed \$150,000. Contractor shall charge and be paid based on actual work performed pursuant to the Scope of Work Letters.

Support and service work will be billed in 15-minute increments of \$28.75, or \$115/hr. Travel time and costs associated with bringing Contractor personnel on-site will also apply. Training costs will be quoted based on the time requirements and must be pre-approved by the County Information Technology Director as set forth in individual Scope of Work Letters as specified in Attachment A.

EXHIBIT 2

AGREEMENT BETWEEN THE COUNTY OF MONO AND DELTA WIRELESS, IINC. FOR THE PROVISION OF RADIO SYSTEM SUPPORT, SERVICE AND TRAINING SERVICES

PREVAILING WAGES AS OF: JULY 1, 2018-JUNE 30, 2019

A. Determination.

The services and work to be provided by Contractor under this Agreement constitute a public work within the meaning of California Labor Code Sections 1720 and 1720.3. Accordingly, and as required by Section 1771 of the California Labor Code, Contractor and any subcontractor under him, shall pay not less than the general prevailing rate of per diem wages, and not less than the general prevailing rate of per diem wages for holiday and overtime work, to all workers employed in the execution of those services and work requested by the County as described in Attachment A of this Agreement that constitute a public work. California Labor Code Section 1771 is incorporated herein by this reference, and a copy of that Section is included at the end of this Exhibit.

B. Prevailing Wage Rate.

The general prevailing rate of per diem wages applicable to each class of worker employed in the execution of those services and work that constitute a public work under this Agreement has been determined by the Director of the California Department of Industrial Relations (hereinafter referred to as "Director"). Copies of the Director's determination are on file at the Mono County Department of Public Works office, 74 North School Street, Bridgeport, California, and are available to any interested party upon request.

C. Apprentices.

Pursuant to Section 1777.5 of the California Labor Code, properly registered apprentices performing services and work that constitute a public work, if any, shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he or she is employed, and shall be employed only at the work of the craft or trade to which he or she is registered. California Labor Code Section 1777.5 is incorporated herein by this reference, and a copy of that section is included at the end of this Exhibit.

D. Penalty for Non-Payment of Prevailing Wages.

Pursuant to Section 1775 of the California Labor Code, Contractor, and any subcontractor under him, shall, as a penalty to the County, forfeit not more than fifty dollars (\$50.00) for each calendar day, or portion thereof, for each worker paid less than the general rate of per diem wages for the performance of services and work that constitute a public work, as determined by the Director, for the work or craft for which the worker is employed in the performance of services and work provided under this Agreement that constitute a public work, except as provided by subdivision (b) of Section 1775 of the California Labor Code. California Labor Code Section 1775 is incorporated herein by this reference, and a copy of that section is included at the end of this Exhibit.

E. Payroll Records.

Pursuant to Section 1776 of the California Labor Code, Contractor, and any subcontractor under him, shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the performance of the services and work requested by the County, as described in the Scope of Work (Attachment A) of this Agreement.

F. Inspection of Payroll Records.

Contractor, and any subcontractor under him, shall comply with each of the additional requirements set forth in California Labor Code Section 1776, regarding: (1) the form of records; (2) the provision of records upon request to the County, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the California Department of Industrial Relations; and, (3) the inspection of records by the public. California Labor Code Section 1776 is incorporated herein by this reference, and a copy of that section is included at the end of this Exhibit.

G. Posting of Prevailing Wages at Job Site.

Pursuant to California Labor Code Section 1773.2, Contractor shall post at each job site in connection with this Agreement a copy of the Director's determination of the general prevailing rate of per diem wages for each classification of worker required in the execution of those services and work requested by the County, as described in the Scope of Work (Attachment A) of this Agreement that constitute a public work.

H. Hours.

Pursuant to Section 1810 of the California Labor Code, the time of service of any worker employed by Contractor, or by any subcontractor under him, in the performance of services and work requested by the County, as described in the Scope of Work (Attachment A) of this Agreement that constitute a public work, is limited and restricted to eight hours during any one calendar day, and 40 hours during any one calendar week, except as otherwise provided by the California Labor Code.

I. Overtime.

Pursuant to California Labor Code Section 1815, the performance of services and work, as described in the Scope of Work (Attachment A) of this Agreement that constitute a public work by employees of Contractor, or employees of any subcontractor under him, in excess of eight hours per calendar day, and 40 hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight hours per calendar day at not less than one and one-half (1½) times the basic rate of pay. California Labor Code Section 1815 is incorporated herein by this reference, and a copy of that section is included at the end of this Exhibit.

J. Records of Hours.

Contractor, and any subcontractors under him, shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by him or her in connection with the performance of the services and work requested by the County that constitute a public work, as described in the Scope of Work (Attachment A) of this Agreement. The record shall be kept open at all reasonable hours to the inspection of the County and to the Division of Labor Standards Enforcement as required by Labor Code Section 1812.

K. Penalty for Violation of Work Hours.

Pursuant to California Labor Code Section 1813, Contractor, and any subcontractors under him, shall, as a penalty to the County, forfeit twenty-five dollars (\$25.00) for each worker employed by the respective contractor or subcontractor in the execution of the services and work requested by the County that constitute a public work, as described in the Scope of Work (Attachment A) of this Agreement, for each calendar day during which the worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of the California Labor Code. California Labor Code Section 1813 is incorporated herein by this reference, and a copy of that section is included at the end of this Exhibit.

L. Registration with DIR and Compliance Monitoring.

Under Labor Code section 1725.5, no contractor or subcontractor may be listed in a bid proposal (with limited exceptions stated in Labor Code section 1771.1) or awarded a contract for a public works project unless registered with the Department of Industrial Relations. This project is subject to compliance monitoring and

enforcement by the Department of Industrial Relations.

CALIFORNIA LABOR CODE:
Sections 1771, 1775, 1776, 1777.5, 1813, and 1815

§ 1771. Payment of general prevailing rate

Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

§ 1775. Penalties for violations

- (a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.
- (2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:
 - (i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.
 - (ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.
- (B) (i) The penalty may not be less than ten dollars (\$10) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.
- (ii) The penalty may not be less than twenty dollars (\$20) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.
- (iii) The penalty may not be less than thirty dollars (\$30) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.
- (C) When the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.
- (D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

-
- (E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.
- (b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:
- (1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - (2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.
 - (3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.
 - (4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.
- (c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

§ 1776. Payroll records; retention; noncompliance; penalties; rules and regulations

- (a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
- (1) The information contained in the payroll record is true and correct.
 - (2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.
- (b) The payroll records enumerated under subdivision (a) shall be certified and furnished directly to the Labor Commissioner in accordance with subdivision (a) of Section 1771.4, and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:
- (1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f)

(1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

§ 1777.5. Employment of apprentices; wages; standards; number; apprenticeable craft or trade; exemptions; contributions

- (a) Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.
- (b) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.
- (c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:
- (1) The apprenticeship standards and apprentice agreements under which he or she is training.
 - (2) The rules and regulations of the California Apprenticeship Council.
- (d) When the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).
- (e) Prior to commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the

contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

- (f) The apprenticeship program that can supply apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.
- (g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates where the contractor agrees to be bound by those standards, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.
- (h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Chief of the Division of Apprenticeship Standards, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.
- (i) A contractor covered by this section that has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or that has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).
- (j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Chief of the Division of Apprenticeship Standards may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.
- (k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:
 - (1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.
 - (2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.
 - (3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.
 - (4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.
- (l) When an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be

required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

- (m)(1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.
- (2) At the conclusion of the 2002-03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Division of Apprenticeship Standards for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The funds shall be distributed as follows:
 - (A) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.
 - (B) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and geographic area for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices registered in each program.
 - (C) All training contributions not distributed under subparagraphs (A) and (B) shall be used to defray the future expenses of the Division of Apprenticeship Standards.
- (3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the Apprenticeship Training Contribution Fund is hereby continuously appropriated for the purpose of carrying out this subdivision and to pay the expenses of the Division of Apprenticeship Standards.
- (n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.
- (o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).
- (p) All decisions of an apprenticeship program under this section are subject to Section 3081.

§ 1813. Forfeiture for violations; contract stipulation; report of violations

The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

§ 1815. Overtime

Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1-1/2 times the basic rate of pay.



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE June 12, 2018

Departments: County Counsel

TIME REQUIRED 30 minutes (20 minutes presentation; 10 minutes discussion) **PERSONS APPEARING BEFORE THE BOARD** Stacey Simon

SUBJECT County Counsel's Office Presentation

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Presentation by Mono County Counsel Stacey Simon providing an overview of the County Counsel's office and highlighting accomplishments for the current year and goals for next fiscal year.

RECOMMENDED ACTION:

None (informational only). Provide any desired direction to staff.

FISCAL IMPACT:

None.

CONTACT NAME: Stacey Simon

PHONE/EMAIL: 760-924-1704 (Mammoth) 760-932-5417 (Bridgeport) / ssimon@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

<p>Click to download</p> <p>No Attachments Available</p>
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History

Time	Who	Approval
6/7/2018 6:59 AM	County Administrative Office	Yes
6/7/2018 3:14 AM	County Counsel	Yes
5/9/2018 4:20 AM	Finance	Yes



**OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS**

REGULAR AGENDA REQUEST

Print

MEETING DATE June 12, 2018

TIME REQUIRED

SUBJECT Closed Session--Human Resources

**PERSONS
APPEARING
BEFORE THE
BOARD**

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Stacey Simon, Leslie Chapman, Dave Butters, Janet Dutcher, and Anne Larsen. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39--majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono County Public Safety Officers Association (PSO), and Mono County Sheriff Department's Management Association (SO Mgmt). Unrepresented employees: All.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

<p>Click to download</p> <p>No Attachments Available</p>
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History

Time

Who

Approval



OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE June 12, 2018

Departments: CAO, Finance

TIME REQUIRED 3 Hours

**PERSONS
APPEARING
BEFORE THE
BOARD**

Leslie Chapman, Janet Dutcher

SUBJECT 2018 - 19 Budget Hearing

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Public hearing and adoption of the 2018-19 CAO Recommended Budget as presented or amended.

RECOMMENDED ACTION:

1. Conduct public budget hearing, 2. Adopt resolution R18-_____, A Resolution of the Mono County Board of Supervisors Adopting the Final Mono County Budget for Fiscal Year 2018-2019, as presented or amended, and 3. Approve the County Position Allocation list as presented or amended. The Mono County Recommended Budget for fiscal year 2018-19 is available on the Mono County Website: <https://monocounty.ca.gov/auditor/page/2018-19-recommended-budget>. The document may also be accessed on the Mono County website home page by clicking the "2018-19 Recommended Budget" link under "Spotlight."

FISCAL IMPACT:

CAO Recommended budget includes \$101,543,569 in expenditures, \$95,018,557 in revenues and relies on \$6,525,012 in carryover fund balance. The General Fund component includes \$37,206,514 in expenditures, \$35,719,865 in revenues, and relies on \$1,486,649 in carryover fund balance.

CONTACT NAME: Leslie Chapman

PHONE/EMAIL: 760-932-5414 / lchapman@mono.ca.gov

SEND COPIES TO:

MINUTE ORDER REQUESTED:

YES NO

ATTACHMENTS:

Click to download

[Resolution](#)

History

Time	Who	Approval
6/7/2018 10:59 AM	County Administrative Office	Yes
6/7/2018 2:47 AM	County Counsel	Yes
6/7/2018 12:27 PM	Finance	Yes



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RESOLUTION NO. R18-____
BOARD OF SUPERVISORS, COUNTY OF MONO

**A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS
ADOPTING THE FINAL MONO COUNTY BUDGET FOR FISCAL YEAR 2018-2019**

WHEREAS, the final Mono County budget for fiscal year 2018-2019 (the “budget”) has been prepared under direction of the County Administrative Officer after consultation with the Finance Director, department heads, officers and certain employees; and

WHEREAS, the budget has been prepared in the form and manner required by law; and

WHEREAS, budget hearings of the Board of Supervisors have been noticed and held; and

WHEREAS, the final budget is attached hereto and incorporated into this resolution by this reference pursuant to Government Code Section 29090.

NOW, THEREFORE BE IT RESOLVED AND ORDERED by the Mono County Board of Supervisors as follows:

1. The budget incorporated by reference meets the requirements of Government Code Section 29000 et. Seq.
2. Pursuant to Government Code Section 29091, the several amounts of proposed financing uses specified in the budget are hereby appropriated at the object level except fixed assets, which are appropriated at the sub-object level pursuant to Government Coe Section 29008.
3. The budget is hereby adopted as the Mono County Final Budget for Fiscal Year 2018-2019.

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4. A copy of this Resolution, together with the attached budget, shall be filed forthwith by the Finance Director in the Office of the Clerk of the Board of Supervisors and in the Office of the Controller of the State of California.

APPROVED AND ADOPTED this 12th day of June 2018, by the following vote of said board:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**

**BOB GARDNER, CHAIR
BOARD OF SUPERVISORS
COUNTY OF MONO**

ATTEST:

APPROVED AS TO FORM

SHANNON KENDAL,
CLERK OF THE BOARD

STACEY SIMON,
COUNTY COUNSEL